BEFORE THE IOWA BOARD OF MEDICINE

****

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

DANIEL A. HEPPLEWHITE, D.O., RESPONDENT

FILE No. 03-10-402

****

STATEMENT OF CHARGES AND SETTLEMENT AGREEMENT
(Combined)

****

COMES NOW the Iowa Board of Medicine (Board) and Daniel A. Hepplewhite, D.O., (Respondent), on April 26, 2013, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this combined Statement of Charges and Settlement Agreement to resolve this matter.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 02417 on June 4, 1990.

2. Respondent's Iowa medical license is active and will next expire on March 1, 2015.

3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. **Improper Pain Management:** Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 13.2 for violating the standards of practice for appropriate pain management.

STATEMENT OF MATTERS ASSERTED

5. Respondent is an Iowa-licensed physician who practices general medicine in Altoona, Iowa.

6. The Board alleges that Respondent violated the laws and rules governing the practice of medicine when he deviated from the standards of practice for appropriate pain management of patients in Altoona, Iowa, between 2001 and the present, including one or more instances of the following:

A. Respondent failed to obtain and/or document a thorough history and physical, which includes a description of the etiology of the patient's pain.

B. Respondent failed to appropriately document his initial decision to use opioid therapy.

C. Respondent prescribed controlled substances to patients without attempting smaller opioid trials.

D. Respondent failed to generate written treatment plans which describe the goals and objectives of opioid therapy.

E. Respondent failed to document appropriate periodic review of the patient's functional improvement.

F. Respondent prescribed early refills and/or replaced lost or stolen prescriptions without documenting the potential for drug abuse, misuse or diversion.

7. Respondent is filing an Answer concurrent with this Statement of Charges denying the charges and allegations against him. However, Respondent wishes to enter into this combined Statement of Charges and Settlement Agreement to resolve this matter and avoid a contested case hearing.

SETTLEMENT AGREEMENT

8. **CITATION AND WARNING**: Respondent is hereby **CITED** for violating the laws and rules governing the practice of medicine in Iowa when he deviated from the standards of practice for appropriate pain management. Respondent is hereby **WARNED** that such practice in the future may result in further formal disciplinary action, including suspension or revocation of his Iowa medical license.

9. **CIVIL PENALTY:** Respondent shall pay a **$5,000 civil penalty** within twenty (20) days of the date of this order. The civil penalty shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

10. **CHRONIC PAIN MANAGEMENT:** Respondent agrees that he shall abstain from prescribing, administering or dispensing controlled substances for the treatment of chronic pain under his Iowa medical license. Pursuant to 653 IAC 13.2(1), *"Chronic pain* means persistent or episodic pain of a duration or intensity that adversely affects the functioning or well-being of a patient when (1) no relief or cure for the cause of pain is

possible; (2) no relief or cure for the cause of pain has been found; or (3) relief or cure for the cause of pain through other medical procedures would adversely affect the well-being of the patient. If pain persists beyond the anticipated healing period of a few weeks, patients should be thoroughly evaluated for the presence of chronic pain."

11. **BOARD-APPROVED PRESCRIBING COURSE:** On March 16, 2013, Respondent successfully completed a Board-approved prescribing course for the appropriate treatment of chronic pain.

12. **FIVE YEARS PROBATION**: Respondent shall be placed on **probation for a period of five (5) years** subject to the following terms and conditions:

A. **Board Monitoring Program**: Within thirty days of the date of this Order, Respondent shall establish a Board monitoring program with Mary Knapp, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-5525. Respondent shall fully comply with all requirements of the monitoring program. If Respondent fails to establish a Board monitoring program within thirty days of the date of this Order or fails to fully comply with the Board monitoring plan, the Board will issue a notice to Respondent that the license will be suspended within thirty (30) days of the date the notice is served on Respondent. The suspension shall occur automatically and without further Board action, unless Respondent files with the Board a request for hearing on the notice within ten (10) days of the date the notice is served.

B. **Prescribing Audits:** Respondent shall fully comply with Board-approved audits of his controlled substance prescribing during the period of this Order. Respondent shall submit the names of all patients he has prescribed controlled substances for each quarter. From that list, the Board shall select 10 patients quarterly. Respondent shall provide the Board copies of the medical records for each patient selected for review.

C. **Quarterly Reports**: Respondent shall file sworn quarterly reports attesting to his compliance with all the terms of this Order no later than 1/10, 4/10, 7/10 and 10/10 of each year for the duration of the period of this Order.

D. **Board Appearances**: Respondent shall appear before the Board annually or upon request of the Board during the period of this order. Respondent shall be given notice of the date, time and location of the appearances. The appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).

E. **Monitoring Fee:** Respondent shall make a payment of $100 to the Board each quarter for the duration of his probation to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with all quarterly reports required during his probation. The monitoring fee shall be sent to: Mary Knapp, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The monitoring fee shall be considered repayment receipts as defined in Iowa Code section 8.2.

F. **Termination of Probation:** Respondent may seek termination of his probation after three years from the date of this Order. Respondent must demonstrate full compliance with the terms and conditions of this Order. Early termination of the probation is at the discretion of the Board.

13. Respondent shall submit a written statement to the Board which demonstrates that he has shared a copy of this order with all medical licensing boards where Respondent holds a license, whether active or not, within thirty (30) days of the date of this order.

14. Respondent shall submit a written statement to the Board which demonstrates that he has shared a copy of this order with all hospitals and clinics where Respondent practices medicine within thirty (30) days of the date of this order.

15. Pursuant to 653 IAC 21.6, if applicable, Respondent shall notify all physician assistant supervisees within one workday upon receiving disciplinary action from the Board or any other change in status that affects the physician's eligibility to supervise a physician assistant.

16. Respondent voluntarily submits this Order to the Board for consideration.

17. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

18. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Order. This Order constitutes the resolution of a contested case proceeding.

19. Respondent understands that by entering into this combined Statement of Charges and Settlement Agreement, Respondent cannot obtain a copy of the investigative file. Pursuant to Iowa Code section 272C.6(4), a copy of the investigative file may only be provided to a licensee after a Statement of Charges is filed but before the final resolution of those charges.

20. In the event Respondent fails to comply with any of the terms of this Order, the Board may initiate action to suspend or revoke Respondent's license or to impose other license discipline as authorized in Iowa Code chapters 148 and 272 and 653 IAC 25.

21. Periods in which Respondent does not practice medicine or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.

22. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

23. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank.

24. The Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

25. This Order is subject to approval of the Board. If the Board fails to approve this Order it shall be of no force or effect to either party.

26. The Board's approval of this Order shall constitute a **Final Order** of the Board.

Daniel A. Hepplewhite, D.O., Respondent

Subscribed and sworn to before me on April 9, 2013.

Notary Public, State of Iowa.

DEBRA A. McCLONEY
Commission Number 180459
My Commission Expires
7/25/13

This Order is approved by the Board on April 26, 2013.

Jeffrey T. Snyder, M.D., Vice Chair
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686