

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TONY R. KUNZ, M.D., RESPONDENT

09-16-09P12:20 RCVD

FILE Nos. 02-05-295, 02-07-285 & 02-08-366

**STATEMENT OF CHARGES AND SETTLEMENT AGREEMENT
(Combined)**

COMES NOW the Iowa Board of Medicine (Board), and Tony R. Kunz, M.D., (Respondent), on October 1, 2009, 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. 19801 on July 14, 1975.
2. Respondent's Iowa medical license will next expire on January 1, 2011.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged under Iowa Code sections 147.55(2), 148.6(2)(g) and 272C.10(2) and 653 IAC 23.1(2)(f) for failing to conform to the minimal standard of acceptable and prevailing practice for appropriate chronic pain management in Iowa.

STATEMENT OF MATTERS ASSERTED

5. Respondent practices family medicine in Oskaloosa, Iowa.
6. The Board received information which indicates that Respondent violated the standard of practice for appropriate chronic pain management when he prescribed excessive controlled substances including: Lortab; MSContin; Tramadol; Percocet; OxyContin; Hydrocodone; and Methadone, to numerous patients, including patients with known drug abuse histories, between 2005 and the present.

SETTLEMENT AGREEMENT

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the standards of practice for appropriate pain management when he prescribed excessive controlled substances to numerous patients, including patients with known drug abuse histories in violation of the laws and rules governing the practice of medicine in Iowa. 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.

8. **CIVIL PENALTY:** Respondent shall pay a **\$2,500** civil penalty. The civil penalty shall be paid within twenty days of the date of this Order and 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.

9. **CONTROLLED SUBSTANCES CME:** Respondent shall complete Board-approved continuing medical education for the appropriate prescribing of controlled substances for the treatment of chronic pain within sixty days of the date of this Order.

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

- A. **Monitoring Program:** Respondent shall establish a monitoring program with Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-3654. Respondent shall fully comply with all requirements of the monitoring program.
- 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. Respondent shall pay the Board a \$300 auditing fee each quarter for the audits performed by the Board. The auditing fee shall be submitted to the Board with each quarterly report required below.
- C. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms of his probation not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- D. **Board Appearances:** Respondent shall appear before the Board annually or upon request of the Board during the period 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)(2).

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: Shantel Billington, 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.

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

12. 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.

13. Periods of residence or practice outside the state of Iowa shall not apply to the duration of probation unless Respondent obtains prior written approval of the Board.

14. This Order constitutes the resolution of a contested case proceeding.

15. 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.

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

17. 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.

18. Respondent agrees that the State's counsel may present this Order to the Board.

19. 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.

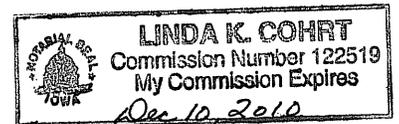
20. The Board's approval of this Order shall constitute a **Final Order** of the Board.



Tony R. Kunz, M.D., Respondent

Subscribed and sworn to before me on September 11, 2009.

Notary Public, State of Iowa.



This Order is approved by the Board on October 1, 2009.



Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686