

BEFORE THE BOARD IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

HEATHER M. MARTHERS, M.D., RESPONDENT

FILE No. 02-08-442

TERMINATION ORDER

Date: April 8, 2016.

1. Respondent was issued Iowa medical license No. 36499 on February 3, 2006.
2. Respondent's Iowa medical license is active and will next expire on February 1, 2017.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. **Practice Setting:** Respondent is an Iowa-licensed physician who practices obstetrics and gynecology in Washington, Iowa.
5. **Combined Statement of Charges and Settlement Agreement:** On April 19, 2012, Respondent entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged Respondent with failing to conform to the minimal standard of acceptable and prevailing practice of medicine in Iowa after four patients suffered urologic injuries during three hysterectomies and a trans-obturator sling procedure and she inappropriately prescribed Detrol LA to two patients with postoperative urinary

retention in Washington, Iowa, between January 2007 and March 2008. The Board issued Respondent a Citation and Warning and ordered her to pay a \$2,500 civil penalty. The Board also placed Respondent on probation for a period of five years subject to Board monitoring, including a Board-approved practice monitor.

6. **Compliance with Iowa Order:** On April 8, 2016, the Board determined that Respondent has fully complied with the terms and conditions established by the Board and voted to terminate the terms of probation.

THEREFORE IT IS HEREBY ORDERED: that the terms and conditions of Respondent's probation are terminated and Respondent's Iowa medical license is returned to its full privileges, free and clear of all restrictions.

This Order is issued by the Board on April 8, 2016.



Allison H. Schoenfelder, M.D., Vice Chair
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

HEATHER M. MARTHERS, M.D., RESPONDENT

FILE No. 02-08-442

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

COMES NOW the Iowa Board of Medicine (Board), and Heather M. Marthers, M.D., (Respondent), on April 19, 2012, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this combined Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license No. 36499 on February 3, 2006.
2. Respondent's Iowa medical license is active and will next expire on February 1, 2013.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged pursuant to 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 of medicine in Iowa.

STATEMENT OF MATTERS ASSERTED

5. Respondent is an Iowa-licensed physician who practices obstetrics and gynecology in Washington, Iowa.

6. The Board received information which raises serious concerns that four patients suffered urologic injuries during three hysterectomies and a trans-obturator sling procedure performed by Respondent in Washington, Iowa, between January 2007 and March 2008.

7. The Board received information which raises serious concerns that Respondent inappropriately prescribed Detrol LA to two patients with postoperative urinary retention in Washington, Iowa, in September 2007 and March 2008, respectively.

8. At the direction of the Board, Respondent completed a comprehensive clinical competency evaluation at the Center for Personalized Education for Physicians (CPEP), in Denver, Colorado, on December 12-13, 2011.

SETTLEMENT AGREEMENT

9. **CITATION AND WARNING:** Respondent is hereby **CITED** for failing to conform to the prevailing standard of care in her treatment of six patients between January 15, 2007, and July 7, 2008. Respondent is hereby **WARNED** that failure to conform to the prevailing standard of care in the practice of medicine in Iowa in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

10. **CIVIL PENALTY:** Respondent shall pay a **\$5,000 civil penalty**. The civil penalty shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director. The civil penalty shall be deposited in the State General Fund.

11. **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 (30) days of the date of this Order, Respondent shall establish a Board 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. 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. **Recommendations of CPEP and the Board:** Respondent shall fully comply with all recommendations made by CPEP following the comprehensive clinical competency evaluation.
- C. **Practice Monitoring Program:** Respondent shall fully comply with the written practice monitoring plan agreed upon by the parties.
- 1) Respondent shall submit the name and CV of an Iowa-licensed, board-certified, obstetrician and gynecologist to serve as practice monitor.
 - 2) The Board shall provide the practice monitor a copy of the practice monitoring plan, all CPEP reports and the Board material in this matter.

- 3) The practice monitor shall provide a written statement indicating that he/she has read and understands all material provided by the Board and agrees to serve as the practice monitor under the terms of the practice monitoring plan. The practice monitor shall meet with Respondent regularly, review selected patient records and ensure that Respondent provides appropriate care and treatment to patients. The practice monitor shall contact the Board immediately if there is evidence that Respondent has provided substandard medical care to patients. The practice monitor shall agree to submit written quarterly reports not later than 1/20, 4/20, 7/20 and 10/20 of each year of this order. The practice monitor may be asked to appear before the Board in-person, or by telephone or video conferencing. The practice monitor shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).
- 4) In the event Respondent fails to comply with the written practice monitoring program, the Board will issue a notice to Respondent that her 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 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.

D. Worksite Monitoring Program: Within thirty (30) days of the date of this Order, Respondent shall establish a worksite monitoring program with the Board.

- 1) Respondent shall submit for Board approval the name of a physician who regularly observes and/or supervises Respondent in the practice of medicine.
- 2) The Board shall provide a copy of all Board orders relating to this matter to the worksite monitor.
- 3) The worksite monitor shall provide a written statement indicating that they have read and understand this Order and agrees to serve under the terms of this Order. The worksite monitor shall agree to inform the Board immediately if there is evidence of professional misconduct, sexual misconduct, substance abuse or a violation of the terms of this Order. The worksite monitor shall submit quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order. The worksite monitor may be asked to appear before the Board in-person, or by telephone or video conferencing. The worksite monitor shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).
- 4) If Respondent fails to establish a worksite monitoring program within thirty days of the date of this Order or fails to fully comply with the worksite monitoring program, 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.

- E. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with the terms and conditions of this Order not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- F. **Board Appearances:** Respondent agrees to appear before the Board annually or upon request for the duration of the period of probation. Respondent shall be given reasonable notice of the date, time and location for the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).
- G. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report required under this Order. 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.
- H. **Termination of Probation:** Respondent may seek termination of the terms and conditions of probation after one year of full compliance with this order.

12. Respondent voluntarily submits this Order to the Board for consideration.
13. In the event Respondent violates or fails to comply with any of the terms or conditions of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 12.2.
14. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.
15. This Order constitutes the resolution of a contested case proceeding.
16. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board. 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.
17. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Order.
18. 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.
19. This Order is subject to approval by the Board. If the Board fails to approve this Order, it shall be of no force or effect to either party.

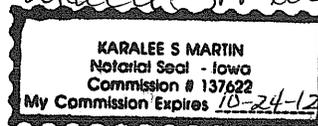
20. The Board's approval of this Order shall constitute a **Final Order** of the Board.

Heather Marthers, MD
Heather M. Marthers, M.D., Respondent

Subscribed and sworn to before me on April 17, 2012.

Notary Public, State of Iowa.

Karalee Martin



This Order is approved by the Board on April 19, 2012.

Siroos S. Shirazi

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