

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ERIC F. OPHEIM, D.O., RESPONDENT

FILE Nos. 03-12-243 & 03-13-367

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

COMES NOW the Iowa Board of Medicine (Board), and Eric F. Opheim, D.O., (Respondent), on May 15, 2015, 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. 03462 on August 19, 2002.
2. Respondent's Iowa medical license is active and will next expire on May 1, 2016.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

STATUTES AND RULES INVOLVED

COUNT I

4. **SEXUAL HARASSMENT:** Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 13.7(6) and 23.1(10) with engaging in sexual harassment in violation of the laws and rules governing the practice of medicine in Iowa. Sexual harassment is defined as verbal or physical conduct of a sexual nature which interferes with another health care worker's performance or creates an intimidating, hostile or offensive work environment.

COUNT II

5. **UNETHICAL OR UNPROFESSIONAL CONDUCT:** Respondent is charged pursuant to Iowa Code sections 147.55(3) 148.6(2)(i) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unethical or unprofessional conduct. Engaging in unethical or unprofessional conduct includes, but is not limited to, the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within this state or elsewhere; or a violation of the standards and principles of medical ethics or 653 IAC 13.7 (147,148,272C) or 653 IAC 3.20 (147,148) as interpreted by the board.

STATEMENT OF THE MATTERS ASSERTED

6. **PRACTICE SETTING:** Respondent is an Iowa-licensed physician who formerly practiced family medicine in Grundy Center, Iowa, and currently practices in Newton, Iowa.

7. **SEXUAL HARASSMENT AND UNETHICAL OR UNPROFESSIONAL CONDUCT:** The Board alleges that Respondent engaged in a pattern of sexual harassment and unethical or unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa, including the following:

- A. Respondent engaged in a sexual relationship with a female co-worker to whom he also prescribed medications.
- B. Respondent exchanged inappropriate text messages and photographs with female co-workers and exposed himself to a female co-worker.

8. **PROFESSIONAL BOUNDARIES EVALUATION:** At the direction of the Board, on September 5, 2014, Respondent completed a comprehensive physical, neuropsychological, mental health and professional boundaries evaluation at the Behavioral Medicine Institute of Atlanta (BMI), a Board-approved evaluation program. After careful consideration of the evaluation report, the Board concluded that Respondent may practice medicine subject to terms and conditions of this Order.

SETTLEMENT AGREEMENT

9. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in a pattern of sexual harassment and unethical or unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that engaging in such conduct 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** within twenty (20) days of the date of this order. The civil penalty shall be made payable to the Treasurer of Iowa, and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

11. **PROFESSIONAL BOUNDARIES PROGRAM:** Respondent shall successfully complete a Board-approved professional boundaries program within ninety (90) days of the date of this order. Respondent is responsible for all costs associated with the program.

12. **FIVE YEARS PROBATION:** Respondent is 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 monitoring program with Mary Knapp, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, #515-281-5525. Respondent shall fully comply with all requirements of the

monitoring program.

- B. **BMI Recommendations:** Respondent shall fully comply with all recommendations made by BMI.
- C. **Professional Boundaries Program Recommendations:** Respondent shall fully comply with all recommendations made by the Board-approved sexual misconduct/professional boundaries program.
- D. **Principles of Medical Ethics, Staff Surveillance Forms and Patient Satisfaction Surveys:**
 - 1) Respondent shall post the Principles of Medical Ethics in his medical practice as directed by the Board;
 - 2) Respondent shall utilize Staff Surveillance Forms in his medical practice as directed by the Board; and
 - 3) Respondent shall utilize Patient Satisfaction Surveys in his medical practice as directed by the Board.
- E. **Counseling:** Respondent shall participate in Board-approved professional boundaries counseling under the following conditions:
 - 1) Respondent shall submit the name and CV of an Iowa-licensed counselor for Board-approval.
 - 2) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board.

- 3) Respondent shall continue counseling until his discharge is approved by the Board.
- 4) Respondent shall ensure that the counselor shall submit written quarterly reports to the Board concerning Respondent's progress no later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.
- 5) Respondent is responsible for all costs associated with the counseling.

F. **Worksite Monitoring Program:** Within thirty (30) days of the date of this Order, Respondent shall establish a worksite monitoring program under the following conditions:

- 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.
- 4) The worksite monitor shall inform the Board immediately if there is evidence of sexual misconduct, unprofessional conduct or a violation of the terms of this Order.

- 5) The worksite monitor may be asked to appear before the Board in-person, or by telephone or video conferencing. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).
- 6) Respondent shall ensure that the worksite monitor submits quarterly reports to the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- G. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms and conditions of this Order, including attendance at meetings with his counselor. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of Respondent's probation.
- H. **Board Appearances:** Respondent shall make an appearance before the Board upon request. Respondent 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).
- I. **Monitoring Fee:** Respondent shall make a payment of \$200 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: Mary Knapp, Monitoring Coordinator, 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.

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

14. Respondent shall submit a list of each facility where Respondent practices medicine and a written statement to Mary Knapp, Compliance Monitor, which demonstrates that he has shared a copy of this order with each facility within thirty (30) days of the date of this order.

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

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

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

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

20. By entering into this Order, Respondent understands that he has the right to legal counsel in this matter, 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.

21. 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.

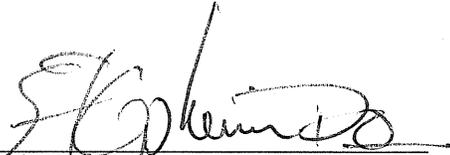
22. Periods in which Respondent does not practice medicine under his Iowa medical license or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.

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

24. This 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.

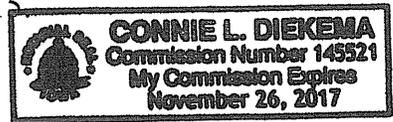
25. This Order is subject to approval of the Board. If the Board fails to approve this Order it shall be of no force or effect to either party.

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


Eric F. Opheim, D.O., Respondent

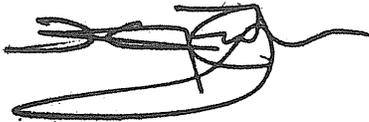
Subscribed and sworn to before me on 3/31, 2015





Notary Public, State of IA.

This Order is approved by the Board on May 15, 2015.



Hamed H. Tewfik, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686