BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

JEFFREY L. PICCIRILLO, D.O., RESPONDENT

FILE Nos. 03-06-430, 03-06-596, 03-06-635, 03-06-636, 03-06-654 & 03-06-674

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SETTLEMENT AGREEMENT

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COMES NOW the Iowa Board of Medicine (the Board), and Jeffrey L. Piccirillo, D.O., (Respondent), on February 12, 2009, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2007), enter into this Settlement Agreement to resolve the contested case currently on file.

1. Respondent was issued license number 3594 to practice medicine and surgery in Iowa on September 1, 2004.

2. Respondent's Iowa medical license is active and will next expire on October 1, 2008.

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

4. Respondent practices orthopedic surgery in Grinnell, Iowa.

5. On January 28, 2008, the Board filed formal disciplinary charges against Respondent alleging that he demonstrated a pattern of professional incompetency and practice harmful or detrimental to the public in his orthopedic surgery practice.

6. **CITATION AND WARNING**: Respondent is hereby **CITED** for engaging in professional incompetence and practice harmful or detrimental to the public in his orthopedic surgery practice. Respondent is hereby **WARNED** that such practice in the future may result in further formal disciplinary action, including revocation of his Iowa medical license.

7. **CIVIL PENALTY:** Respondent shall be assessed a civil penalty in the amount of **$5,000**. The civil penalty shall be paid within twenty (20) 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.

8. **SURGICAL PROHIBITION:** Respondent is prohibited from engaging in the practice of surgery under his Iowa medical license.

9. **NOTICE TO HOSPITALS AND CLINICS**: Respondent shall provide the Board with the name, address and telephone number of the administrative director at all current and future hospitals, clinics and other healthcare facilities where Respondent practices medicine. The Board will provide the administrative director with all Board Orders relating to matter.

10. **MENTAL HEALTH ASSESSMENT:** Respondent completed a mental health assessment with a Board-approved psychiatrist and upon review of the assessment report, the Board concluded that Respondent is safe to practice medicine subject to appropriate mental health counseling and Board monitoring.

11. **INDEFINITE PROBATION**: Respondent shall be placed on **indefinite probation** subject to the following terms and conditions:

A. **Monitoring Program**: Respondent shall contact Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-3654 to establish a monitoring program. Respondent shall fully comply with all requirements of the monitoring program.

B. **Practice Plan:** Respondent has submitted a written practice plan for Board approval. The written practice plan describes Respondent's future practice plans including the areas of practice and the services to be provided. Additionally, Respondent agrees to fully comply with the following terms and conditions:

1) Respondent shall maintain appropriate medical records for all patients;

2) Respondent shall ensure that appropriate evaluations are performed and documented for all patients; and

3) Respondent shall ensure that appropriate follow-up care is provided and documented for all patients.

C. **Psychiatric Care:** Within 7 days of the date of this Order, Respondent shall submit to the Board the name and curriculum vitae of a psychiatrist for Board approval to supervise Respondent's continued treatment and counseling, including management of his medications. Respondent hereby gives the Board a release to share a copy of all Board orders, investigative materials and evaluation/treatment reports relating to this matter with the psychiatrist.

1) As a condition of approval, the psychiatrist shall agree to submit written quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.

2) Respondent shall continue treatment with the psychiatrist until discharged by the Board-approved psychiatrist and until Respondent's discharge from treatment is approved by the Board.

3) Respondent shall meet with his Board-approved psychiatrist as recommended by the psychiatrist and approved by the Board. All costs shall be the responsibility of Respondent.

D. **Mental Health Counseling:** Respondent shall submit to the Board for approval the name and CV of a counselor to provide ongoing mental health counseling.

1) The counselor shall submit written quarterly reports to the Board concerning Respondent's progress not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

2) Respondent shall continue with counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.

3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board. All costs associated with the counseling shall be the responsibility of Respondent.

E. **Worksite Monitor**: Respondent shall submit for Board approval the name of a physician or other Board-approved healthcare professional who regularly observes and/or supervises Respondent in a practice setting to serve as worksite monitor. The Board shall provide the worksite monitor a copy of all Board orders relating to this matter. The worksite monitor shall provide a written statement indicating that the monitor has read and understands the Board orders relating to this disciplinary action and agrees to act as the worksite monitor under the terms of this agreement. The worksite monitor

shall agree to inform the Board immediately if there is evidence of a violation of the terms of this Order or any violation of the laws and rules governing the practice of medicine. The monitor shall agree to submit written quarterly reports to the Board concerning Respondent's progress not later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.

F. **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.

G. **Board Appearances**: Respondent shall appear before the Board annually or upon request of the Board during the period his probation. 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).

H. **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.

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

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

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

16. 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.

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

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.

Jeffrey L. Piccirillo, D.O., Respondent

Subscribed and sworn to before me on January 6, 2009.

Notary Public, State of Iowa.

NOTARIAL SEAL IOWA
MIKE LARSON
Commission Number 177092
My Commission Expires
12-28-09

Mike Larson

This Order is approved by the Board on February 12, 2009.

Yasyn Lee, M.D., Chairperson
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

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STATEMENT OF CHARGES

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COMES NOW the Iowa Board of Medicine on January 28, 2008, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2)(2007). Respondent was issued Iowa medical license no. 3594 on September 1, 2004. Respondent's Iowa medical license is active and will next expire on October 1, 2008.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on March 26, 2008, before the Board. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Board office at 400 SW 8th Street, Suite C, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Statement of Charges you are required by 653 IAC 24.2(5)(d) to file an Answer. In that Answer, you should state whether you will require a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on prehearing matters, and be present to assist and advise the board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 IAC 25. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 653 IAC 25.16. The hearing may be open or closed to the public at the discretion of the Respondent.

5. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Theresa O'Connell Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

6. Communications. You may not contact board members by phone, letter, facsimile, e-mail, or in person about this matter. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Kent M. Nebel, J.D., Legal Director at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

B. LEGAL AUTHORITY AND JURISDICTION

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 148, and 272C.

8. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 148, and 272C and 653 IAC 25.

9. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 653 IAC 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

10. Respondent is charged with professional incompetency pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and (i), and 272C.10(2), and 653 IAC 23.1(2)(c), (d), (e), and (f) by demonstrating one or more of the following:

A. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;

B. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;

C. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or

surgeon in the state of Iowa acting in the same or similar circumstances; and

D. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

COUNT II

11. Respondent is charged under Iowa Code section 147.55(3) and 272C.10(3) and 653 IAC 23.1(3) with engaging in practice harmful or detrimental to the public.

D. STATEMENT OF MATTERS ASSERTED

12. Respondent practices orthopedic surgery in Grinnell, Iowa.

13. The Board alleges that Respondent has demonstrated a pattern of professional incompetency and practice harmful or detrimental to the public in the practice of medicine and surgery by:

A. Failing to demonstrate necessary skill in the practice of orthopedic surgery;

B. Failing to demonstrate necessary clinical judgement in the practice of orthopedic surgery;

C. Failing to provide proper surgical treatment to patients;

D. Failing to maintain appropriate medical records;

E. Failing to perform and/or document appropriate preoperative evaluation of patients; and

F. Failing to provide appropriate postoperative follow-up with patients.

E. SETTLEMENT

14. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 IAC 25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

F. PROBABLE CAUSE FINDING

15. On January 28, 2008, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

Yasyn Lee, M.D., Chairperson
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686