BEFORE THE IOWA BOARD OF MEDICINE

****

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

JEFFREY L. PICCIRILLO, D.O., RESPONDENT

FILE Nos. 03-11-157, 03-11-400 & 03-11-502

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SETTLEMENT AGREEMENT

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COMES NOW the Iowa Board of Medicine (Board), and Jeffrey L. Piccirillo, D.O., (Respondent), on June 28, 2013, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), 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, 2014.

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

4. Respondent is an Iowa-licensed physician who formerly practiced orthopedic surgery in Grinnell, Iowa. Respondent currently practices general medicine in Grinnell, Iowa, and Lake in the Hills, Illinois.

5. **Prior Disciplinary Action:** On February 12, 2009, Respondent entered into a Settlement Agreement with the Board to resolve pending disciplinary charges. Under the terms of the 2009 Settlement Agreement Respondent was prohibited from practicing surgery under his Iowa medical license and placed on indefinite probation subject to counseling and Board monitoring. The terms of this 2013 Settlement Agreement do not alter the requirements of the 2009 Settlement Agreement currently in effect.

6. **New Disciplinary Charges:** On September 21, 2012, the Board filed a new Statement of Charges against Respondent alleging that he violated the laws and rules governing the practice of medicine including Professional Incompetency, Practice Harmful and Detrimental to the Public, Sexual Misconduct, and/or Unprofessional Conduct.

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in professional incompetency, practice harmful or detrimental to the public, sexual misconduct and/or unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that such conduct in the future may result in further formal disciplinary action, including revocation of his Iowa medical license.

8. **CIVIL PENALTY:** Respondent agrees to pay a **$10,000** civil penalty for violating the laws and rules governing the practice of medicine.. The civil penalty shall be paid within forty-five (45) days of the date of this Order 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 in the State General Fund.

9. **LYME DISEASE PROHIBITION:** Respondent is prohibited from treating Lyme disease under his Iowa medical license.

10. **BOARD-APPROVED SEXUAL MISCONDUCT EVALUATION:** Respondent shall successfully complete a comprehensive sexual misconduct evaluation at a facility approved by the Board. Respondent shall fully comply with all recommendations. Respondent shall ensure that upon completion of the evaluation, the Board is provided a written report. Respondent is responsible for all costs associated with the evaluation.

11. **CLINICAL COMPETENCY EVALUATION:** Respondent shall successfully complete a comprehensive clinical competency evaluation at the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado, Ph.#303-577-3232. Respondent shall fully comply with the recommendations of CPEP. Respondent shall ensure that upon completion of the evaluation, CPEP provides the Board a written report which identifies any areas of concern or deficiency. Respondent is responsible for all costs associated with the evaluation.

12. **PROFESSIONAL ETHICS PROGRAM:** Respondent shall successfully complete the Professional/Problem Based Ethics (PROBE) program sponsored by the Center for Personalized Education for Physicians (CPEP), 7351 Lowry Blvd., Suite 100, Denver, CO 80230, 303-577-3232. Respondent shall ensure that a report is sent directly to the Board. Respondent is responsible for all costs associated with the program.

13. **Board-Approved Practice Setting:** Respondent shall only practice medicine in a Board-approved practice setting. Prior to seeking Board approval for a practice setting, Respondent

must pay his civil penalty and have completed his sexual misconduct evaluation, clinical competency evaluation and his professional ethics program along with actively complying with any recommendations issued by those evaluations. Respondent shall not change practice settings without obtaining prior written approval from the Board.

14. **INDEFINITE PROBATION**: Respondent shall be placed on **indefinite probation** subject to the terms and conditions established by the Board, including, but not limited to, the following:

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.

B. **Practice Monitoring Plan:** Respondent shall fully comply with the Board approved practice monitoring plan agreed upon by Respondent and the Board.

1) Respondent shall submit the name and CV of an Iowa-licensed physician, to serve as practice monitor.

2) The Board shall provide the practice monitor a copy of this order, the practice monitoring plan, all CPEP reports and all other relevant Board material in this matter.

3) The practice monitor shall provide a written statement indicating that

the practice monitor has read and understands all Board 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 patients records, ensure that Respondent provides appropriate care and treatment to patients and engage in a quality improvement process that addresses the areas of need identified by CPEP.

4) The practice monitor shall contact the Board immediately if there is evidence that Respondent has provided substandard care to patients.

5) The practice monitor shall agree to submit written quarterly reports to the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this order.

6) The practice 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).

C. **Worksite Monitoring Program:** Within thirty days of the date of the Board approving a practice setting for the Respondent, he 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.

4) The worksite monitor shall agree to inform the Board immediately if there is evidence of professional incompetence 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) The worksite monitor shall submit quarterly reports to the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

7) The worksite monitor and practice monitor, with approval of the Board, can be the same Iowa-licensed physician.

D. **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.

E. **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)(e)(3).

F. **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.

15. 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.

16. 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.

17. 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.

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

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

20. By entering into this Order, Respondent understands that he has a right to be represented by 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. This Order constitutes the resolution of a contested case proceeding.

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

24. 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.

25. 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.

26. 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.

27. The Board understands nearly identical charges have been brought by the Illinois board on the same facts forming the basis for the current Iowa statement of charges. This settlement is intended to be a comprehensive resolution of the current Iowa statement of charges. The Board will not initiate reciprocal discipline based on the outcome of the Illinois statement of charges that addresses these same facts.

28. 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 June 25, 2013.

Notary Public, State of Iowa.

DALE A. LAMB
Commission Number 126891
My Commission Expires
November 23, 2015

This Order is approved by the Board on June 28, 2013.

Gregory B. Hoversten, D.O., Chairman
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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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

JEFFREY L. PICCIRILLO, D.O., RESPONDENT

FILE Nos. 03-11-157, 03-11-400 & 03-11-502

****

STATEMENT OF CHARGES

****

COMES NOW the Iowa Board of Medicine on September 21, 2012, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). 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, 2012.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on December 7, 2012, before the Board. The hearing shall begin at 8:00 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. Prehearing Conference. A prehearing conference will be held by telephone on October 10, 2012, at 9:00 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

5. 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.

6. 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: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

7. 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 Julie Bussanmas at 515-281-5637.

B. LEGAL AUTHORITY AND JURISDICTION

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

9. 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.

10. 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

11. **Professional Incompetency:** 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

12. **Practice Harmful or Detrimental to the Public:** 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.

COUNT III

13. **Sexual Misconduct:** Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 23.1(10), 23.1(5) and 13.7(4)(a)-(d) with engaging in sexual misconduct in violation of the laws and rules governing the practice of medicine in Iowa including, but not limited to, the following:

A. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient or with the patient's parent or guardian if the patient is a minor.

B. A physician shall not engage in any sexual conduct with a patient when that conduct occurs concurrent with the physician-patient relationship, regardless of whether the patient consents to that conduct.

C. A physician shall not engage in any sexual conduct with a former patient unless the physician-patient relationship was completely terminated before the sexual conduct occurred. In considering whether that relationship was completely terminated, the board will consider the duration of the physician-patient relationship, the nature of the medical services provided, the lapse of time since the physician-patient relationship ended, the degree of dependence in the physician-patient relationship, and the extent to which the physician used or exploited the trust, knowledge, emotions, or influence derived from the physician-patient relationship.

COUNT IV

14. **Unethical or Unprofessional Conduct:** Respondent is charged pursuant to Iowa Code sections 147.55(3) 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.

D. STATEMENT OF MATTERS ASSERTED

15. Respondent is an Iowa-licensed physician who formerly practiced orthopedic surgery in Grinnell, Iowa. Respondent currently practices general medicine in Grinnell, Iowa, and Lake in the Hills, Illinois.

16. 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.

17. On February 12, 2009, Respondent entered into a Settlement Agreement with the Board to resolve the pending disciplinary charges. Under the terms to the Settlement Agreement, Respondent was: prohibited from practicing surgery under his Iowa medical license; required to complete a Board-approved mental health assessment; placed on indefinite probation subject to Board monitoring; ordered to pay a $5,000 Civil Penalty and issued a Citation and Warning.

18. **Professional Incompetency:** The Board alleges that Respondent violated the laws and rules governing the practice of medicine including, but not limited to, the following:

A. Respondent diagnosed and treated patients for Lyme disease despite the fact that they did not meet the criteria for the laboratory diagnosis of Lyme disease recognized by the Centers for Disease Control and Prevention (CDC).

B. Respondent diagnosed and treated patients for Lyme disease despite the fact that his medical records did not support the laboratory diagnosis of Lyme disease recognized by the CDC.

C. Respondent diagnosed and treated patients for Lyme disease without performing appropriate diagnostic testing.

D. Respondent diagnosed and treated patients for Lyme disease following the use of diagnostic testing that is not recognized by the CDC.

E. Respondent treated patients for Lyme disease with long-term intravenous antibiotics despite the fact that such treatment is not recognized by the CDC or the medical literature and such treatment does not conform to the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

F. Respondent treated patients for Lyme disease with long-term intravenous antibiotics despite the fact that serious adverse effects of such treatment have been documented.

G. Respondent failed to report all of the patients he diagnosed with Lyme disease to the Iowa Department of Public Health in violation of the laws and rules governing the practice of medicine in Iowa. (See 641 IAC 1).

H. Respondent failed to maintain appropriate medical records. Respondent's medical records do not adequately reflect his physical findings for individual patients and/or his medical decision making.

19. **Sexual Misconduct and/or Unprofessional Conduct:** The Board alleges that Respondent engaged in sexual misconduct and/or unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa including, but not limited to, the following:

A. Respondent engaged in a sexual relationship with a female patient.

B. Respondent reportedly forced the female patient to perform a sexual act.

C. Respondent sent sexually explicit photographs to the female patient.

D. Respondent shared other patients' protected health care information with the female patient.

E. SETTLEMENT

20. 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

21. On September 21, 2012, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

Colleen K. Stockdale MD MS

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Colleen K. Stockdale, M.D., M.S., Chairwoman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686