

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

N. JOHN PREVO, D.O., RESPONDENT

File Nos. 03-09-017

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SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board), and N. John Prevo, D.O., (Respondent), and on January 14, 2009, 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 Iowa medical license no. 02366 on July 14, 1989.
2. Respondent's Iowa medical license is active and will next expire on October 1, 2010.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

STATEMENT OF THE MATTERS ASSERTED

4. Respondent formerly practiced occupational medicine in West Des Moines, Iowa.

5. On February 15, 1990, the Board placed Respondent on probation for a period of five years subject to substance abuse counseling and monitoring. On July 20, 1992, the Board terminated the terms and conditions of probation.

6. On February 11, 2005, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP). Respondent agreed to meet regularly with an IPHP-approved physician mentor to assess Respondent's cognitive functioning.

7. On January 9, 2009, the IPHP referred Respondent to the Board for violating his IPHP Physician Health Contract.

8. On February 12, 2009, the Board charged Respondent with violating his IPHP Physician Health Contract and suffering from substance abuse and a physical, neuropsychological or mental health condition which may impair his ability to practice medicine.

9. On August 24-25, 2009, Respondent completed a comprehensive physical, neuropsychological, mental health and substance abuse evaluation at a Board-approved assessment program. After careful consideration of the assessment report, the Board determined that Respondent suffers from a physical, neuropsychological or mental health condition which impairs his ability to practice medicine with reasonable skill and safety. The Board determined that Respondent is not safe to practice medicine at this time.

SETTLEMENT AGREEMENT

10. **CITATION AND WARNING:** Respondent is hereby **CITED** for failing to

comply with his IPHP Physician Health Contract 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 disciplinary action, including suspension or revocation of his Iowa medical license.

11. **PRACTICE PROHIBITION:** Respondent shall not engage in any aspect of the practice of medicine until he receives written approval from the Board. Respondent shall demonstrate that he is safe to return to the practice of medicine prior to receiving Board-approval to return to the practice of medicine. Prior to seeking to return to the practice of medicine, Respondent shall complete the following requirements:

- A. Respondent shall pay a **\$5,000** civil penalty. 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;
- B. Respondent shall undergo a comprehensive physical and neurological evaluation with a Board-approved neurologist and submit a written assessment report which indicates that he is safe to return to the practice of medicine; and
- C. Respondent shall undergo a comprehensive physical, neuropsychological and substance abuse evaluation under the direction of a Board-approved assessment program and submit a written assessment report which indicates that Respondent is safe to return to the practice of medicine.

12. **INDEFINITE PROBATION:** Should the Board approve Respondent's return to the practice of medicine, Respondent shall be placed on **indefinite probation** subject to certain terms and conditions including, but not limited to, the following:

- A. **Board 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. **Alcohol Prohibition:** Respondent shall not consume alcohol.
- C. **Controlled or Prescription Drug Restriction:** Respondent shall not use any controlled or prescription drug in any form unless the controlled or prescription drug has been prescribed for Respondent's use by another duly licensed treating physician or other qualified treating health care provider. Respondent shall provide the Board written notice within 72 hours of the use of any controlled or prescription drug. Respondent shall inform any treating physician or other treating health care provider of his history of drug abuse prior to receiving any prescription drug.
- D. **Drug Screening Program:** Respondent shall continue to submit to the Board's drug screening program. Respondent agrees to comply with all requirements of the drug-screening program. Respondent shall provide random blood or urine specimens when required. Respondent shall also

provide random blood or urine specimens on demand by an agent of the Board. The specimens shall be used for drug and alcohol screening, all costs of which shall be paid by Respondent.

E. **Substance Abuse Meetings:** Respondent shall attend at least twelve Alcoholics Anonymous (AA) or a similar substance abuse meetings each month, and not less than two each week. Respondent shall document his attendance and include copies of this documentation with his quarterly reports. Respondent shall have at least weekly contact with his AA sponsor.

F. **Substance Abuse Counseling:** Respondent shall submit for Board approval the name and CV of a substance abuse counselor.

- (1) The counselor shall submit written quarterly reports no 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. Respondent is responsible for all costs associated with counseling.

G. **Neurological Medical Treatment:** Respondent shall submit for approval the name and CV of a neurologist to provide ongoing neurological care.

(1) The neurologist shall submit written quarterly reports no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

(2) Respondent shall continue neurological medical treatment until discharged by the Board-approved neurologist and until Respondent's discharge from treatment is approved by the Board.

(3) Respondent shall meet with the neurologist as frequently as recommended by the neurologist and approved by the Board. All costs shall be Respondent's responsibility.

H. **Written Physician Monitoring Plan:** Respondent shall submit a written physician mentoring plan for Board approval with the name and CV of a physician who regularly works with and observes Respondent in the practice of medicine to serve as his practice monitor. The Board shall share a copy of all Board orders relating to this matter with the practice monitor. The practice monitor shall provide a written statement indicating that the monitor has read and understands all Board orders in this matter and agrees to act as the physician mentor under the terms of this Order. The practice monitor shall agree to inform the Board immediately if there is evidence of professional misconduct, a violation of this Order, or a violation of the laws and rules governing the practice of medicine in Iowa.

- (1) The practice monitor shall submit written quarterly reports no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order;
- (2) Respondent shall continue meeting with the practice monitor until discharge is approved by the Board;
- (3) Respondent shall meet with the practice monitor twice a week for at least one hour.

I. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with the terms of this Settlement Agreement. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of the Order.

J. **Board Appearances:** Respondent shall make appearances before the Board or a Board committee annually or upon request. 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)(d).

K. **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 from Respondent required by 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.C.

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

14. 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 25.

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

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

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 Settlement Agreement.

18. This Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

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

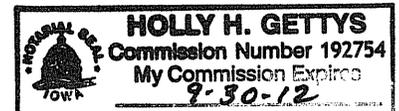
N. John Prevo, D.O., Respondent

N. John Prevo, D.O., Respondent

Subscribed and sworn to before me on December 15, 2009.

Notary Public, State of Iowa: Holly H. Gettys

This Order is approved by the Board on January 14, 2009.



A handwritten signature in black ink, reading "Siros S. Shirazi". The signature is written in a cursive style with a horizontal line underneath it.

Siroos S. Shirazi, M.D., Chairman
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

N. JOHN PREVO, D.O., RESPONDENT

File Nos. 03-09-017

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on February 12, 2009, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2)(2007). Respondent was issued Iowa medical license no. 02366 on July 14, 1989. Respondent's Iowa medical license is active and will next expire on October 1, 2010.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on March 25, 2009, 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 to the public 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 Notice of Hearing. Board members may only receive information about the case when all parties have 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 under Iowa Code section 272C.3(k) (2007) and 653 IAC 23.1(35) with violating a Physician Health Contract that he entered into with the Iowa Physician Health Program (IPHP).

COUNT II

11. Respondent is charged pursuant to Iowa Code sections 147.55(4), 148.6(2)(h) and 272C.10(4) and 653 IAC 23.1(6) with substance abuse which impairs his ability to practice medicine with reasonable skill and safety.

COUNT III

12. Respondent is charged pursuant to Iowa Code sections 147.55(4), 148.6(2)(h) and 272C.10(4) and 653 IAC 23.1(8) with a physical or mental impairment. A physical or mental impairment includes, but is not limited to, any physical, neurological or mental condition which may impair his ability to practice medicine with reasonable skill and safety.

D. STATEMENT OF MATTERS ASSERTED

13. Respondent currently practices occupational medicine in West Des Moines, Iowa.

14. On November 16, 1989, the Board filed formal disciplinary charges against Respondent alleging that he engaged in substance abuse between July 1, 1987, and July 31, 1989, which impaired his ability to practice medicine in a safe and skillful manner.

15. On February 15, 1990, Respondent entered into an Informal Settlement with the Board to resolve the pending disciplinary charges. Respondent was placed on probation for a period of five years subject to substance abuse counseling and monitoring.

16. On July 20, 1992, the Board terminated the terms and conditions of probation.

17. On February 11, 2005, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP) and he agreed to fully comply with the IPHP requirements for substance abuse treatment, counseling and monitoring. Respondent agreed to meet regularly with an IPHP-approved physician mentor to assess Respondent's cognitive functioning.

18. On August 27, 2008, the IPHP noticed Respondent to the Board for violating the terms of the Physician Health Contract that he entered into with the IPHP after he tested positive for abusable medications and he admitted using frozen urine samples and providing non-witnessed drug tests in an attempt to avoid detection of substance abuse.

19. On January 9, 2009, the IPHP referred Respondent to the Board for consideration of disciplinary action for violating the terms of the Physician Health Contract that he entered into with the IPHP when he failed to meet with his IPHP physician mentor as required.

20. The Board received information which indicates that Respondent suffers from a physical, neurological or mental health condition which impairs his ability to practice medicine with reasonable skill and safety.

E. SETTLEMENT

21. 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

22. On February 12, 2009, the Iowa Board of Medicine found probable cause to file this Statement of Charges.


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