BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MARY PAT ROSMAN, D.O., RESPONDENT

FILE Nos. 03-10-166, 03-10-523 & 03-12-460

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STATEMENT OF CHARGES AND SETTLEMENT AGREEMENT (Combined)

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COMES NOW the Iowa Board of Medicine (Board) and Mary Pat Rosman, D.O., (Respondent), on June 6, 2014, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this combined Statement of Charges and Settlement Agreement to resolve this matter.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 02054 on July 24, 1984.

2. Respondent's Iowa medical license is active and will next expire on July 1, 2014.

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

COUNT I

4. **Improper Pain Management:** Respondent is charged pursuant to Iowa Code sections 148.6(2)(i) and 653 IAC 13.2 for willfully or repeatedly violating a lawful rule or regulation adopted by the Board when she violated the standards of practice for appropriate pain management.

COUNT II

5. **Delinquent Medical Records:** Respondent is charged pursuant to Iowa Code section 148.6(2)(c) and 653 IAC 23.1(10) and 23.1(36) with violating the laws or rules governing the practice of medicine in Iowa when she failed to maintain timely, accurate or complete medical records.

STATEMENT OF MATTERS ASSERTED

6. **Practice Setting:** Respondent is an Iowa-licensed physician who practices family medicine in Sumner, Iowa.

7. **Inappropriate Pain Management:** The Board alleges that Respondent violated the laws and rules governing the practice of medicine in Iowa when she failed to provide appropriate pain management to multiple patients in Sumner, Iowa, between 2009 and 2012, including the following:

A. **Patient Evaluation:** Respondent failed to perform and/or document appropriate patient evaluations. Respondent prescribed high doses of controlled substances in combination with other potentially harmful medications to patients without performing and/or documenting patient evaluations that include a physical examination and a comprehensive medical history prior to the initiation of treatment, including an assessment of the pain, physical and psychological function, diagnostic studies, previous interventions, including medication history, substance abuse history and any underlying or coexisting conditions.

B. **Treatment Plan:** Respondent failed to establish and/or document a comprehensive treatment plan for multiple patients prior to initiation of treatment. Respondent prescribed high doses of controlled substances in combination with other potentially harmful medications to multiple patients over an extended period of time without establishing and/or documenting a comprehensive treatment plan that tailors drug therapy to the individual needs of the patient, clearly stated objectives of the treatment, any further diagnostic evaluations or treatments that are planned and their purposes, any other treatment modalities and rehabilitation programs to be utilized, and the patient's short- and long-term needs for pain relief.

C. **Pain Management:** Respondent prescribed high doses of short and long acting narcotics in combination with other potentially harmful medications to patients over an extended period of time despite the risk of side effects of drug interactions, toxicity, addiction, misuse, abuse and overdose. Respondent continued to prescribe high doses of short and long acting narcotics in combination with other potentially harmful medications to patients over an extended period of time despite evidence of misuse, abuse and overdose, without performing and/or documenting appropriate monitoring and follow-up and without a clear plan for tapering the drugs.

D. **Informed Consent:** Respondent failed to discuss and/or document discussion of the risks and benefits of controlled substances with multiple patients. Respondent prescribed high dose combinations of controlled substances in combination with other potentially harmful medications to patients over an extended period of time without addressing and/or documenting discussion of the risks and benefits of controlled substances with the patient or a person representing the patient.

E. **Periodic Review:** Respondent failed to perform and/or document appropriate periodic review for multiple patients. Respondent failed to periodically review and/or document the periodic review of the course of drug treatment of the patient and the etiology of the pain, including evaluation of the patient's progress toward the objectives established in the treatment plan, the appropriateness of continuing drug therapy and the use of other treatment modalities if periodic reviews indicate the objectives of the treatment plan are not being met or there is evidence of diversion or a pattern of substance abuse.

F. **Consultation/Referral:** Respondent failed to obtain and/or document appropriate consultation and/or referral to specialists for multiple patients. Respondent failed to determine and/or document whether consultation with, or referral to, a physician with expertise in pain, physical medicine, rehabilitation, general surgery, orthopedics, anesthesiology, psychiatry, neurology,

rheumatology, oncology, addiction medicine, or other appropriate consultation when there was evidence of significant adverse effects, lack of response to the medication, diversion or a pattern of substance abuse. The board encourages a multidisciplinary approach to chronic pain management, including the use of adjunct therapies such as acupuncture, physical therapy and massage.

G. **Documentation:** Respondent failed to maintain appropriate documentation for multiple patients. Respondent failed to keep accurate, timely, and complete records, including patient evaluation, diagnostic studies, treatment modalities, treatment plan, informed consent, periodic review, consultation, and any other relevant information about the patient's condition and treatment.

H. **Pain Management Agreements:** Respondent failed to establish physician-patient agreements that specify the rules for medication use and the consequences for misuse. Respondent failed to appropriately enforce pain management agreements after patients violated the terms of the agreements, including evidence of overdose.

I. **Substance Abuse History or Comorbid Psychiatric Disorder:** Respondent failed to address and/or document how he addressed substance abuse and/or comorbid psychiatric disorders for multiple patients. The Board's rules state that a patient's prior history of substance abuse does not necessarily contraindicate appropriate pain management. However, treatment of patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care and communication with the patient, monitoring, documentation, and consultation with or referral to an expert in the management of such patients. The board strongly encourages a multidisciplinary approach for pain management of such patients that incorporates the expertise of other health care professionals.

J. **Drug Testing:** Respondent failed to perform and/or document appropriate drug testing for multiple patients. Respondent prescribed high doses of controlled substances in combination with other potentially harmful medications to patients without performing and/or documenting drug testing to ensure that the patients received appropriate therapeutic levels of prescribed medications and/or despite reason to believe that patients were at risk of drug abuse or diversion.

K. **Termination of Care:** Respondent failed to consider and/or document appropriate consideration of termination of care for multiple patients. The Board's rules state that the physician shall consider termination of patient care if there is evidence of noncompliance with the rules for medication use, drug diversion, or a repeated pattern of substance abuse.

L. **Prescription Monitoring Program:** Respondent failed to utilize and/or document appropriate use of the Iowa Prescription Monitoring Program for multiple patients. The Iowa Board of Pharmacy has established the Iowa Prescription Monitoring Program pursuant to Iowa Code sections 124.551 to 124.558 in March 2009 to assist prescribers and pharmacists in monitoring the prescription of controlled substances to patients. Respondent prescribed high doses of controlled substances in combination with other potentially harmful medications to patients without utilizing and/or documenting the use of the Iowa Prescription Monitoring Program.

8. **Delinquent Medical Records:** The Board alleges that Respondent violated the laws and rules governing the practice of medicine when she failed to maintain timely medical records for numerous patients in Sumner, Iowa, in 2012.

SETTLEMENT AGREEMENT

9. **CITATION AND WARNING**: Respondent is hereby **CITED** for violating the laws and rules governing the practice of medicine in Iowa when she failed to provide appropriate pain management to multiple patients between 2009 and 2012, and failed to maintain timely medical records for multiple patients in 2012 in Sumner, Iowa. Respondent is hereby **WARNED** that such practice in the future may result in further formal disciplinary action, including suspension or revocation of her 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 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.

11. **PROHIBITION - CHRONIC PAIN MANAGEMENT:** Respondent is prohibited from prescribing, administering or dispensing controlled substances for the treatment of chronic pain under her Iowa medical license until and unless she demonstrates to the Board that she is competent to provide such care with reasonable skill and safety and receives written approval from the Board. Pursuant to 653 IAC 13.2(1), *"Chronic pain* means persistent or episodic pain of a duration or intensity that adversely affects the functioning or well-being of a patient when (1) no relief or cure for the cause of pain is possible; (2) no relief or cure for the cause of pain has been found; or (3) relief or cure for the cause of pain through other medical procedures would adversely affect the well-being of the patient. If pain persists beyond the anticipated healing period of a few weeks, patients should be thoroughly evaluated for the presence of chronic pain." This prohibition does not prohibit Respondent from prescribing, administering or dispensing controlled substances for the treatment of acute pain under her Iowa medical license.

12. **CHRONIC PAIN MANAGEMENT PROGRAM:** Prior to seeking reinstatement of her ability to prescribe, administer or dispense controlled substances for the treatment of chronic pain under her Iowa medical license, Respondent shall successfully complete a Board-approved chronic pain management program.

13. **PROFESSIONAL ETHICS PROGRAM:** Respondent shall successfully complete the Professional/Problem Based Ethics (PROBE) program sponsored by the Center for Personalized Education for Physicians (CPEP), in Denver, CO, 303-577-3232, within 180 days of the date of this order. Respondent shall ensure that a report is sent directly to the

Board. Respondent is responsible for all costs associated with the program.

14. **MEDICAL RECORD KEEPING COURSE:** Respondent shall complete a Board-approved medical record keeping course within ninety (90) days of the date of this Order.

15. **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 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. **Prescribing Audits:** Respondent shall fully comply with Board-approved audits of her controlled substance prescribing during the period of this Order. Respondent shall submit the names of all patients she has prescribed controlled substances for each quarter. From that list, the Board shall select 10 patients quarterly. Respondent shall provide the Board copies of the medical records for each patient selected for review. The Board shall compare this information with information obtained from the Iowa Prescription Monitoring Program.

C. **Quarterly Reports**: Respondent shall file sworn quarterly reports attesting to her 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.

D. **Board Appearances**: Respondent shall appear before the Board annually or upon request of the Board during the period of this order. 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).

E. **Monitoring Fee:** Respondent shall make a payment of $300 to the Board each quarter for the duration of her 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 her probation. The monitoring fee shall be sent to: Mary Knapp, 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.

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

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

18. Respondent shall submit a written statement to the Board which demonstrates that she 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.

19. Respondent shall submit a written statement to the Board which demonstrates that she has shared a copy of this order with all hospitals, clinics and/or agencies where Respondent practices medicine within thirty (30) days of the date of this order.

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

21. By entering into this Order, Respondent understands that she has a 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.

22. 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.

23. 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.

24. Respondent understands that the Board is required by Federal law (45 C.F.R. 60.8) to report this Order to the National Practitioner 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's approval of this Order shall constitute a **Final Order** of the Board.

Mary Pat Rosman

Mary Pat Rosman, D.O., Respondent

Ann Wakeman

ANN WEDEMEIER
Commission Number 722232
My Commission Expires
May 2, 2015

Subscribed and sworn to before me on May 21, 2014.

Notary Public, State of Iowa.

This Order is approved by the Board on June 6, 2014.

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