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. 03-13-198, 03-13-634, 03-14-258, 03-14-311 & 03-14-616

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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 February 5, 2016 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, 2016.

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

SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

4. **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) (e) by demonstrating the following:

e. 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.

STATEMENT OF MATTERS ASSERTED

5. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced family medicine in Sumner, Iowa, and currently practices in Sibley, Iowa, and Sioux Falls, South Dakota.

6. **Comprehensive Clinical Competency Evaluation:** On May 15, 2015, the Board ordered Respondent to successfully complete a Board-approved confidential comprehensive clinical competency evaluation at the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado, based on the following:

A. **Improper Diagnosis and Treatment of Lung Cancer:** Respondent failed to provide appropriate diagnosis and treatment to a patient who was subsequently diagnosed with stage IV lung cancer. Respondent failed to perform appropriate evaluation and treatment, including chest x-rays, to determine the cause of the patient's persistent cough, chest pain and shortness of breath,

resulting in the delayed diagnosis and treatment of lung cancer.

B. **Improper Diagnosis and Treatment of Lyme Disease:**

1) Respondent diagnosed and treated numerous patients for Lyme disease without performing appropriate diagnostic testing.

2) Respondent diagnosed and treated numerous 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).

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

4) Respondent treated numerous patients for Lyme disease with long-term antibiotics despite the fact that such treatment is not recognized by the CDC, such treatment does not conform to the minimal standard of acceptable and prevailing practice of medicine in Iowa and that serious adverse effects of such treatment have been documented.

C. **Inadequate Medical Record Keeping:**

1) Respondent failed to maintain appropriate medical records.

2) Many of Respondent's medical records are incomplete.

3) Respondent failed to complete her medical records in a timely manner.

4) Respondent failed to maintain her medical records in an organized and secure manner.

D. **Improper Office Practices:**

1) Respondent inappropriately reused disposable ear covers for otoscopes.

2) Respondent allowed inadequately trained individuals to dispense sample medications without appropriate supervision and/or documentation.

E. **Improper Telemedicine Services:** Respondent treated numerous patients for Lyme disease and other health conditions via Skype, including prescribing medications, without performing appropriate evaluations, testing and monitoring, and without maintaining appropriate medical records.

F. **CPEP Evaluation Report:** CPEP concluded that Respondent demonstrated a broad fund of knowledge in outpatient family medicine with significant gaps in many of the areas covered as well as in pharmacology and infectious disease. Her clinical judgment and reasoning were variable, ranging from acceptable to inadequate. The consultants noted concerns about Respondent's prescribing of controlled substances as well as her evaluation and management of Lyme disease. Respondent's communication skills were inadequate with Simulated Patients (SPs); her communication with peers was professional. Her documentation in patient charts submitted for review was marginal with need for improvement; her documentation of the SP encounters was adequate with room for improvement. Based on the findings of the Assessment, CPEP

recommended that Respondent participate in a structured, individualized education intervention to address the identified areas of need.

7. **Respondent's Answer:** Respondent filed an Answer concurrent with this order denying the allegations contained in the Statement of Charges but agreeing to the terms of the Settlement Agreement in an effort to resolve this matter.

SETTLEMENT AGREEMENT

8. **CITATION AND WARNING:** Respondent is hereby **CITED** for demonstrating professional incompetency in the practice of medicine in Iowa 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 her Iowa medical license.

9. **CIVIL PENALTY:** Respondent shall pay a **$5,000** civil penalty. The civil penalty shall be paid within twenty (20) days of the date of this Order by delivery of a check or money order, payable to the Treasurer of Iowa, to the Board. The civil penalty shall be deposited in the State General Fund.

10. **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. Prior to seeking reinstatement of her ability to prescribe, administer or dispense controlled substances for the treatment of chronic pain, Respondent shall successfully complete a Board-approved chronic pain management program.

11. **PROHIBITION – PRACTICE OF TELEMEDICINE:** Respondent is permanently prohibited from engaging in the practice of telemedicine.

12. **PROHIBITION – TREATMENT OF LYME DISEASE:** Respondent is prohibited from engaging in the diagnosis and treatment of Lyme disease until and unless she demonstrates to the Board that she is competent to provide such care with reasonable skill and safety and she receives prior written approval from the Board.

13. **BOARD-APPROVED PRACTICE LOCATION:** Respondent shall provide the Board a list of all of the locations where she practices medicine prior to the Board's approval of this Order. Respondent shall only practice medicine at locations approved by the Board. Respondent shall not practice medicine in any other location unless she receives prior written approval of the Board.

14. **FIVE YEARS PROBATION:** Respondent shall be placed on **probation for a period of five (5) years** subject to the following terms and conditions:

A. **Monitoring Program**: Respondent shall contact Mary Knapp, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, Iowa, 50309-4686, Ph.#515-281-5525 to establish a monitoring program. Respondent shall fully comply with all requirements of the 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. **CPEP Recommendations:** Respondent shall fully comply with all recommendations made by CPEP, including, but not limited to, the following:

1) **Individualized Education Intervention:** Participate in a structured, individualized education intervention to address the identified areas of need.

2) **Experienced Educational Preceptor:** Establish a relationship with an experienced educational preceptor in family medicine.

3) **Continuing Medical Education and Self-Study:** Engage in continuing medical education courses and self-study which include, but are not limited to, the topics indicated in the areas of demonstrated need.

4) **Documentation:** Complete and pass the Personalized Implementation Program (PIP) of the CPEP Medical Record Keeping Course and receive coaching from a Preceptor.

5) **Communication:** Complete a course or coaching from a communication professional that includes SP encounters and immediate coaching and feedback.

6) **Clinical Reassessment:** Complete a clinical reassessment at CPEP at the conclusion of the individualized education intervention

D. **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, board-certified, family physician, to serve as her 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 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).

E. **Worksite Monitoring Program**: Within thirty days of the date of this Order, Respondent 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 and all CPEP reports 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 disruptive behavior or a violation 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.

F. **Quarterly Reports**: Respondent agrees to file sworn quarterly reports attesting to her compliance with the terms and conditions of this Order not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.

G. **Board Appearances**: Respondent agrees to appear before the Board annually or upon request during the period of probation. 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)(e)(3).

H. **Monitoring Fee:** Respondent shall make a payment of $300 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: 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.

15. **June 6, 2014, Statement of Charges and Settlement Agreement:** This Order replaces the Statement of Charges and Settlement Agreement dated June 6, 2014.

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

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

18. 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.

19. 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.

20. By entering into this Order, Respondent understands that he 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.

21. 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.

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

23. Periods of residence or practice outside the state of Iowa or 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. 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.

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

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

27. 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.

28. 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.

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

Mary Pat Rosman

Mary Pat Rosman, D.O., Respondent

Subscribed and sworn to before me on January 28, 2016.

Denise Kuiper

Notary Public, State of Iowa.

NOTARIAL SEAL IOWA
DENISE KUIPER
Commission Number 791756
My Commission Expires
August 28, 2018

This Order is approved by the Board on February 5, 2016.

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