

BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

DAVID H. SEGAL, M.D., RESPONDENT

FILE Nos. 02-11-622, 02-12-542, 02-13-042, 02-13-189 & 02-13-325

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SETTLEMENT AGREEMENT

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COMES NOW the Iowa Board of Medicine (Board), and David H. Segal, M.D., (Respondent), on *December 16*, 2016, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Settlement Agreement to resolve the pending charges in this matter.

STATEMENT OF MATTERS ASSERTED

1. **Iowa Medical License:** Respondent was issued Iowa medical license No. 38342 on April 13, 2009, and Respondent's Iowa medical license is active and will next expire on October 1, 2018.
2. **Jurisdiction:** The Board has jurisdiction pursuant to Iowa Code Chapters 147, 148 and 272C.
3. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced neurological surgery in Cedar Rapids, Iowa.

4. **Statement of Charges:** On May 15, 2015, the Board filed a Statement of Charges alleging that Respondent violated the laws and rules governing the practice of medicine in Iowa, including the following:

**Professional Incompetency:** The Board alleged that Respondent demonstrated professional incompetency when he failed to provide appropriate neurosurgical care to numerous patients in Cedar Rapids, Iowa, including the following:

- A. **Epidural Blood Patches:** Respondent inappropriately utilized epidural blood patches to manage postoperative spinal fluid leaks discovered following spinal surgery.
- B. **Neurostimulator Management:** Respondent's patients experienced excessive infections following neurostimulator placement and Respondent failed to appropriately manage the infections.
- C. **Call Coverage Arrangements:** Respondent failed to establish appropriate coverage arrangements for his patients in his absence putting his patients at risk of harm.

**Pre-signed Prescriptions:** The Board alleged that Respondent maintained pre-signed prescriptions which were intended to be completed and issued at a later time in Cedar Rapids, Iowa.

5. **Respondent's Answer:** Respondent filed an Answer denying the allegations. However, Respondent enters into this Settlement Agreement to resolve the contested charges.

6. **Discontinued Surgery Practice:** In May 2016, Respondent discontinued his surgical practice due to his health condition of Parkinsonism, which impacts the steadiness of his hands during surgery. Respondent continues to provide non-surgical medical services including, but not limited to, medical consultations, medical record reviews, and independent medical examinations.

7. **Overpayment for Medical Services:** During the pendency of this matter, it was discovered overpayments were made to Respondent's practice for medical services. Respondent has remitted funds to satisfy the overpayments discovered to the various payors in the amount of \$11,579.83.

#### **SETTLEMENT AGREEMENT**

8. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate neurosurgical care regarding epidural blood patches, neurostimulator management and call coverage arrangements and when he maintained pre-signed prescriptions which were intended to be completed and issued at a later time, in Cedar Rapids, Iowa. Respondent is hereby **WARNED** that violating the laws and rules governing the practice of medicine in Iowa in the future may result in further disciplinary action against his Iowa medical license.

9. **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.

10. **SURGERY PRACTICE:** Respondent voluntarily agrees that he will not engage in the practice of surgery under his Iowa medical license. Respondent's license is otherwise without restriction.

11. **PROFESSIONAL ETHICS PROGRAM:** Respondent shall successfully complete the Professional/Problem Based Ethics (PROBE) program sponsored by the Center for Personalized Education for Physicians (CPEP), 720 S. Colorado Blvd., Suite 1100N, Denver, CO 80246, 303-577-3232, within one hundred and twenty (120) 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.

12. 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.

13. Respondent shall submit a written statement to the Board which demonstrates that he has shared a copy of this order with each hospital and clinic where Respondent practices medicine within thirty (30) days of the date of this order.

14. Respondent voluntarily submits this order to the Board for consideration.

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

16. This order constitutes the resolution of a contested case proceeding.

17. Respondent understands that by entering into this order, he has the 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.

18. 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.

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

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

21. 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.

22. 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.

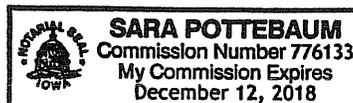
23. The Board's approval of this order shall constitute a **Final Order** of the Board.

  
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David H. Segal, M.D., Respondent

Subscribed and sworn to before me on December 14, 2016.

Notary Public, State of Iowa.





This Order is approved by the Board on December 16, 2016.

*Diane L. Clark*

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Diane L. Clark, R.N., M.A., Chair  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> 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**

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**STATEMENT OF CHARGES**

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COMES NOW the Iowa Board of Medicine on May 15, 2015, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license number 38342 on April 13, 2009. Respondent's Iowa medical license is active and will next expire on October 1, 2016.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on July 30-31, 2015, before the Board. The hearing shall begin at 8:30 a.m. each day and shall be located in the conference room at the Board office at 400 SW 8<sup>th</sup> 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 pre-hearing matters, and be present to assist and advise the Board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on June 17, 2015, 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 to the public 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, 2<sup>nd</sup> 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 Notice of Hearing. 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., the Board's Legal Director at 515-281-7088 or to Assistant Attorney General Julie Bussanmas 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)(a),(b),(c), (d), (e), and (f), by demonstrating one or more of the following:

- a. Willful or repeated gross malpractice;
- b. Willful or gross negligence;
- c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- d. 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;
- 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; or
- f. 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 Iowa.

12. **Pre-signed Prescriptions:** Respondent is charged pursuant to Iowa Code section 148.6(b)(i) and 653 IAC 23.1(29) for a willful or repeated violation of a lawful rule or regulation adopted by the Board when he maintaining pre-signed prescriptions which were intended to be completed and issued at a later time.

## STATEMENT OF THE MATTERS ASSERTED

13. **Practice Setting:** Respondent is an Iowa-licensed physician who practices neurological surgery in Cedar Rapids, Iowa.

14. **Professional Incompetency:** The Board alleges that Respondent demonstrated professional incompetency in violation the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate neurosurgical care to numerous patients in Cedar Rapids, Iowa, including, but not limited to, the following:

- A. **Epidural Blood Patches:** Respondent inappropriately utilized epidural blood patches to manage postoperative spinal fluid leaks discovered following spinal surgery.
- B. **Neurostimulator Management:** Respondent's patients experienced excessive infections following neurostimulator placement and Respondent failed to appropriately manage the infections.
- C. **Call Coverage Arrangements:** Respondent failed to establish appropriate coverage arrangements for his patients in his absence putting his patients at risk of harm.

15. **Pre-signed Prescriptions:** The Board alleges that Respondent violated the laws and rules governing the practice of medicine in Iowa when he maintained pre-signed prescriptions which were intended to be completed and issued at a later time for patients in Cedar Rapids, Iowa.

#### E. SETTLEMENT

16. 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

17. On May 15, 2015, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



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