

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

LAFAYETTE J. TWYNER, M.D., RESPONDENT

FILE Nos. 02-09-560, 02-09-561, 02-10-195, 02-10-201, 02-10-295 & 02-10-568

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on January 13, 2012, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license no. 20281 on July 12, 1976. Respondent's Iowa medical license is active and will next expire on March 1, 2013.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on April 5, 2012, 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 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 February 8, 2012, at 9:30 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, 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 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.

COUNT II

12. **Inappropriate Prescribing:** Respondent is charged pursuant to Iowa Code sections 148.6(2)(i) and 653 IAC 23.1(7) for willfully or repeatedly violating a lawful rule or regulation adopted by the Board when he indiscriminately or promiscuously prescribed, administered or dispensed drugs for other than a lawful purpose.

COUNT III

13. **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 he violated the standards of practice for appropriate pain management.

COUNT IV

14. **Unethical or Unprofessional Conduct:** Respondent is charged pursuant to Iowa Code sections 147.55(3) 148.2(g) 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 or 653 IAC 13.7 or 13.20 as interpreted by the board.

STATEMENT OF THE MATTERS ASSERTED

15. Respondent formerly practiced family medicine in Newton, Iowa.

16. The Board received information which indicates that Respondent engaged in a pattern of willful and repeated violations of the laws and rules governing the practice of medicine in Iowa, placing patients at risk of serious harm, when he prescribed excessive controlled substances to numerous patients, including patients with known drug abuse histories, including but not limited to, the following:

- A. Respondent indiscriminately and/or promiscuously prescribed, administered and/or dispensed controlled substances to numerous patients for other than a lawful purpose on numerous occasions;
- B. Respondent prescribed large quantities of potentially lethal drugs to numerous patients with known substance abuse histories who exhibited drug-seeking behavior on numerous occasions;
- C. Respondent inappropriately and repeatedly prescribed controlled substances without establishing an appropriate physician-patient relationship;
- D. Respondent inappropriately and repeatedly prescribed controlled substances without performing and/or documenting an appropriate physical examination, including comprehensive medical histories, pain assessment, physical and

- psychological function, diagnostic studies, previous interventions, substance abuse histories and underlying and coexisting conditions;
- E. Respondent inappropriately and repeatedly prescribed controlled substances without establishing and/or document appropriate treatment plans; including clear treatment objectives, diagnostic evaluations or treatments performed and/or other treatment modalities;
 - F. Respondent inappropriately and repeatedly prescribed controlled substances without providing and/or documenting appropriate informed consent, including discussion of the risks and benefits of the use of controlled substances;
 - G. Respondent inappropriately and repeatedly prescribed controlled substances without performing and/or documenting appropriate periodic patient reviews to consider the appropriateness of continuing drug therapy, the use of other treatment modalities and any evidence of drug diversion or a pattern of substance abuse;
 - H. Respondent inappropriately and repeatedly prescribed controlled substances without considering and/or documenting consultation or referral to a specialist; including pain medicine, physical medicine, rehabilitation medicine, psychiatry, or other consultation, when there was evidence of significant adverse effects or a lack of response to the controlled substances;
 - I. Respondent inappropriately and repeatedly prescribed controlled substances without maintaining appropriate medical records;
 - J. Respondent inappropriately and repeatedly prescribed controlled substances without maintaining and/or documenting appropriate physician-patient agreements

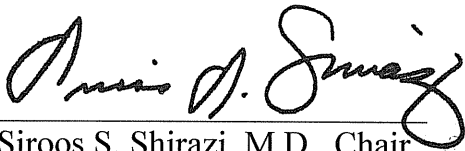
- that specify the rules for medication use and the consequences for misuse;
- K. Respondent inappropriately engaged in fraudulent billing practices; and
 - L. Several patients that Respondent treated with controlled substances died of a drug overdose.

E. SETTLEMENT

17. 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

18. On January 13, 2012, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



Siroos S. Shirazi, M.D., Chair
Iowa Board of Medicine
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Des Moines, Iowa 50309-4686