

November 16, 2016

Summary of October 27-28, 2016, Board Meeting

This is a summary of the October 27-28, 2016, meeting of the Iowa Board of Medicine.

Cases Reviewed: The Board reviewed 133 cases.

New Investigative Cases: The Board reviewed 59 new investigative cases.

Statement of Charges: Upon a determination by the Board that probable cause exists to take formal disciplinary action against a licensee, the Board may file a Statement of Charges which contains the allegations of the Board.

The Board approved one (1) Statement of Charges.

1. An Iowa-licensed physician who formerly practiced neurosurgery in Iowa City, Iowa, and currently practices in Manteca, California, had formal disciplinary charges filed against him by the Board on October 28, 2016. The Board alleged that the physician engaged in sexual harassment and/or unethical or unprofessional conduct in violation of the laws and rules governing the practice of Iowa when he engaged in unwanted conduct of a sexual nature toward a female co-worker in Iowa City, Iowa, between March and October 2014, including unwanted sexual comments and unwanted hugging; touching; fondling; and kissing of the female co-worker. A hearing is scheduled on January 13, 2017.

Combined Statement of Charges and Settlement Agreements: If the Board determines that probable cause exists for formal disciplinary action against a licensee, the Board and the licensee may enter into a combined Statement of Charges and Settlement Agreement to resolve the matter. The combined Statement of Charges and Settlement Agreements contain the Board's allegations and the disciplinary sanctions.

The Board approved three (3) combined Statements of Charges and Settlement Agreements.

1. An Iowa-licensed physician who formerly practiced family medicine in Olathe, Kansas, entered into a combined Statement of Charges and Settlement Agreement with the Board on October 28, 2016. On June 2, 2016, the physician entered into a Consent Order with the Kansas Board of Healing Arts (Kansas Board). The Kansas Board alleged that the physician, as to an adult female patient, engaged in gross negligence; professional incompetence; improper consensual sexual contact with a

patient which exploits the physician-patient relationship; improper prescribing for other than medically accepted or lawful purpose and failure to maintain appropriate medical records. Under the terms of the June 2, 2016, Consent Order, the physician contested the allegations but acknowledged that, if proven, the allegations would provide the Kansas Board with grounds to impose discipline. The physician voluntarily surrendered his Kansas medical license and agreed that the voluntary surrender shall be treated as a revocation for all purposes including reporting such action. Under the terms of the October 28, 2016, combined Statement of Charges and Settlement Agreement, the physician voluntarily surrendered his Iowa medical license.

2. An Iowa-licensed physician who formerly practiced neurology in Iowa City, Iowa, and currently practices in Brunswick, Maine, entered into a combined Statement of Charges and Settlement Agreement with the Board on October 28, 2016. The Board charged the physician with engaging in unprofessional conduct and violating appropriate professional boundaries. The Board alleged that the physician engaged in sexual relations with a female co-worker and later prescribed non-controlled medications to her on multiple occasions between September 2013 and March 2014 without performing appropriate examinations and without maintaining appropriate medical records while practicing medicine in Iowa City, Iowa. Under the terms of the October 28, 2016, combined Statement of Charges and Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also placed him on probation for a period of five years subject to counseling and Board monitoring.
3. An Iowa-licensed physician who practices orthopedic surgery in Guthrie Center, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on October 28, 2016. The Board charged the physician with violating the laws and rules governing the practice of medicine in Iowa when he mistakenly performed left carpal tunnel release surgery on a female patient in Guthrie Center, Iowa, on October 23, 2015, when the patient was scheduled to undergo left middle trigger finger release surgery. The physician recognized the error after the left carpal tunnel release surgery had been performed and performed the appropriate procedure. The physician informed the patient of the error immediately after the procedure. Under the terms of the October 28, 2016, combined Statement of Charges and Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$2,500 civil penalty. The physician also submitted a written corrective action plan to the Board describing the steps he has taken to avoid such errors in the future.

Settlement Agreements: After the Board has determined that probable cause exists to take formal disciplinary action and formal disciplinary charges have been filed, the Board and the licensee may enter into a Settlement Agreement to resolve the pending disciplinary charges rather than hold a formal disciplinary hearing.

The Board approved one (1) Settlement Agreement.

1. An Iowa-licensed physician who formerly practiced pain management in Des Moines, Iowa, entered into a Settlement Agreement with the Board on October 28, 2016. On August 23, 2012, the Board filed disciplinary charges against the physician alleging that he violated the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pain management to numerous patients in Des Moines, Iowa, between 2004 and 2012. On September 21, 2012, the physician entered into a Stipulated Order with the Board and agreed not to engage in any aspect

of the practice of medicine until this matter has been resolved with the Board. Under the terms of the October 28, 2016, Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also permanently prohibited him from prescribing, administering or dispensing controlled substances for the treatment of chronic pain. The Board lifted the suspension of his Iowa medical license but he must successfully complete a Board-approved comprehensive clinical competency evaluation or successfully complete a residency/retraining program to demonstrate his medical competency, and complete a professional ethics program and a medical record keeping course before he can return to the practice of medicine. The Board also placed the physician on probation for a period of five years subject to Board monitoring including a Board-approved practice plan, controlled substance prescribing audits and a Board-approved practice monitoring plan.

Consent Agreements: If the Board receives information which indicates that a physician has been disciplined by another licensing authority or has violated the laws and rules governing the practice of medicine in another jurisdiction, the Board may require a license applicant to enter into a Consent Agreement in order to obtain an Iowa medical license.

The Board approved one (1) Consent Agreement.

1. An Iowa-licensed physician who formerly practiced medicine in Payson, Arizona, and intends to practice in Shenandoah, Iowa, entered into a Consent Agreement with the Board on October 28, 2016. On September 4, 2003, the physician entered into a Public Consent Agreement for Decree of Censure with the Arizona Medical Board (Arizona Board) after the Arizona Board concluded that the physician failed to appropriately evaluate, diagnose and treat a patient's gastric ulcer, and improperly discharged the patient from the emergency room with deteriorating vital signs. The Arizona Board issued the physician a Decree of Censure and he agreed to pay a \$1,000 fine. The physician was subsequently disciplined in Ohio based on the Arizona disciplinary action. Under the terms of the October 28, 2016, Consent Order, the Iowa Board granted the physician a permanent Iowa medical license and issued him a Citation and Warning for being disciplined by the Arizona and Ohio Boards for failure to provide appropriate medical care to a single patient.

Board Appearances: The Board may ask a licensee to appear before the Board to discuss concerns when the Board determines that a face-to-face meeting will assist the Board during the investigative process.

The Board met with four (4) physicians to discuss the following concerns:

1. Concerns that a physician failed to maintain timely medical records for numerous patients and failed to comply with a Board audit of the continuing medical education credits required for renewal of the physician's Iowa medical license in a timely manner.
2. Concerns that a physician breached appropriate professional boundaries when she treated patients outside of the appropriate clinical setting.
3. Concerns about a physician's pain management and prescribing practices for numerous patients.
4. Concerns about a physician's thoracic and cardiac surgical treatment for numerous patients.

Confidential Letters of Warning or Education: When the Board determines that probable cause does not exist to take formal disciplinary action against a licensee the Board may send a confidential, non-disciplinary, letter to the licensee expressing concerns and requesting that the licensee take corrective action, including further education.

The Board voted to issue 12 confidential Letters of Warning or Education due to the following areas of concern:

1. Concerns that a physician failed to maintain timely medical records for numerous patients and failed to comply with a Board audit of the continuing medical education credits required for renewal of the physician's Iowa medical license in a timely manner.
2. Concerns that a physician breached appropriate professional boundaries when she treated patients outside of the appropriate clinical setting.
3. Concerns about a physician's prescribing practices, pain management and medication management for multiple patients.
4. Concerns about a physician's evaluation, testing and treatment of a patient who experienced an acetaminophen overdose.
5. Concerns that a physician failed to comply with a Board audit of the continuing medical education credits required for renewal of the physician's Iowa medical license in a timely manner.
6. Concerns that a physician failed to comply with a Board audit of the continuing medical education credits required for renewal of the physician's Iowa medical license in a timely manner.
7. Concerns about a physician's treatment of a patient who experienced a urinary tract infection and antibiotic resistant E. coli.
8. Concerns about a physician's treatment of a patient who experienced a dog bite and subsequent infection.
9. Concerns about a physician's pain management, prescribing practices and monitoring of a patient who experienced an acute hydrocodone overdose.
10. Concerns about a physician's pain management, prescribing practices and monitoring of a patient who experienced an acute hydrocodone overdose.
11. Concerns about a physician's pain management, prescribing practices and monitoring of a patient who experienced an acute hydrocodone overdose.
12. Concerns about a physician's anticoagulation management and monitoring for a patient.

Monitoring Committee: The Monitoring Committee monitors licensees who are subject to a disciplinary order and require monitoring.

The Monitoring Committee reviewed nine (9) physicians who are being monitored by the Board and held two (2) physician appearances.

Screening Committee: The Screening Committee reviews cases that are lower priority to determine whether investigation is warranted.

The Screening Committee reviewed 28 cases.

Licensure Committee: The Licensure Committee reviews applications for licensure, renewal and reinstatement and licensure policies and issues. Most applications are approved by Board staff, but potentially problematic applications are reviewed by the committee, which determines whether a license should be issued, renewed or reinstated.

Action:

- Reviewed six (6) medical licensure applications. Two (2) permanent licenses, one (1) administrative medicine license, and two (2) temporary licenses were granted. One (1) consent agreement to publicly recognize an applicant's discipline in another state was approved. One (1) application was left open to obtain further information or allow the applicant to withdraw.
- Approved letters of warnings to four (4) applicants who failed to provide truthful, accurate or complete information on the applications.

In other action the Board:

- Approved a recommendation by staff that fees for licensure and other Board services not be changed in the fiscal year ending June 30, 2017. The Board annually reviews its fee schedule as directed by Iowa Code Section 147.80(2) to ensure that fees collected cover the agency's operating costs. The Board has not increased fees since FY2006. The Board's FY 2017 operating budget is \$4,609,861. Since FY2007, the Board has deposited \$887,500.00 in Iowa's General Fund from civil penalties collected in disciplinary actions.
- Approved a recommendation by a Board subcommittee that a specific administrative rule prohibiting an Iowa-licensed physician from engaging in sexual orientation change efforts (conversion therapy) on patients under age 18 is not necessary at this time. The subcommittee was asked to review conversion therapy practices, regulations and standards of care and to make a recommendation on rulemaking.
- Initiated rulemaking to amend 653 Iowa Administrative Code Chapter 17, "Licensure of Acupuncturists." The rulemaking updates requirements for licensure, renewal and reinstatement; identifies diagnostic and treatment modalities performed by acupuncturists; provides definitions of additional terms associated acupunctural services; revises requirements for the display, distribution and retention of a disclosure sheet which contains information for patients; establish requirements for the delegation of certain aspects of treatment; and establishes a requirement that licensees report changes in their full legal name.
- Reappointed Raymond Harre, M.D., Davenport, and Sasha Khosravi, D.O., Grimes, to the Iowa Physician Health Committee. Their third, three-year terms on the committee will begin January 1, 2017. The committee oversees the Iowa Physician Health Program, a confidential monitoring program which supports physicians who self-report mental health issues, physical disabilities or substance use disorders. On October 1, 2016, there were 55 physicians under contract in the program and another 13 potential participants in the review process.
- Received reports from the Iowa Attorney General's Office on four (4) disciplinary cases under judicial review.

In addition, Chair Diane Clark announced the appointment of Board member Charles Wadle, D.O., to serve on the Board of Psychology's prescribing psychologist rules subcommittee pursuant to Section 11 of Senate File 2188. Ms. Clark also appointed Board member Kyle Ulveling, M.D., to serve on the Board of Medicine's subcommittee on rules for the appropriate supervision of a physician assistant.

A press release describing public disciplinary action taken by the Board was distributed and posted on the Board's Website on November 2, 2016. If you have questions about this summary or the press release, please contact Kent M. Nebel, J.D., Legal Director, at (515) 281-7088 or kent.nebel@iowa.gov.