

BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

KIRAN R. PANDEY, M.D., RESPONDENT

FILE No. 02-2016-500

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SETTLEMENT AGREEMENT

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COMES NOW the Iowa Board of Medicine (Board) and Kiran R. Pandey, M.D., (Respondent), on June 2, 2017, 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.

1. Iowa Medical License: The Board granted Respondent Iowa medical license MD-43485 on June 3, 2016. Respondent's Iowa medical license is active and will next expire on April 1, 2019.

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 internal medicine in Clinton, Iowa.

4. Statement of Charges: On February 17, 2017, the Board filed a Statement of Charges against Respondent. The Board alleged that Respondent violated the laws and rules governing the practice of medicine in Iowa when he engaged in sexual misconduct, unethical or unprofessional conduct and professional incompetency while treating a female patient in Clinton, Iowa, in September 2016. The Board alleged that Respondent touched the female patient's breasts and genitals in a sexual and/or unprofessional

manner and made comments of a sexual nature to the female patient while purporting to perform physical examinations. The Board also alleged that Respondent performed physical examinations on the female patient that were not the appropriate type of examination for her medical condition; failed to perform appropriate examinations; performed physical examinations without proper informed consent or permission; and performed physical examinations without a chaperone present.

5. Respondent's Answer: Respondent filed an Answer with the Board denying the allegations in the Statement of Charges.

#### SETTLEMENT AGREEMENT

6. CITATION AND WARNING: Respondent is hereby CITED for engaging in a sexual misconduct, unethical or unprofessional conduct and professional incompetency in violation of the laws and rules governing the practice of medicine.

Respondent is hereby WARNED that engaging in such conduct will not be tolerated.

7. CIVIL PENALTY: Respondent shall pay a \$10,000 civil penalty within twenty (20) days of the date of this order. The civil penalty shall be made payable to the Treasurer of Iowa, and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

8. VOLUNTARY SURRENDER: Respondent voluntarily surrenders Iowa medical license MD-43485 to resolve this matter.

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

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

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

12. Respondent understands that by entering into this Order, he has the right to

legal counsel, 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.

13. 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.

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

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

16. 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.

17. 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.

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



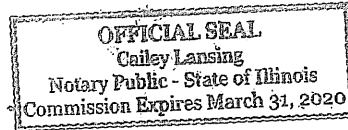
\_\_\_\_\_  
Kiran R. Pandey, M.D., Respondent

Subscribed and sworn to before me on May 25, 2017.

State of Illinois  
County of Sangamon

Signed and attested before me on May 25, 2017  
by Kiran Raj Pandey

[Signature]  
(Signature of Notary Public)



Notary Public, State of Illinois, County of Sangamon

This Order is approved by the Board on June 2, 2017.

[Signature]

Kyle G. Ulveling, M.D., Chair  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686

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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

KIRAN R. PANDEY, M.D., RESPONDENT

FILE Nos. 02-2016-500

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STATEMENT OF CHARGES

\*\*\*\*\*

COMES NOW the Iowa Board of Medicine (Board) on February 17, 2017, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license MD-43485 on June 3, 2016. Respondent's Iowa medical license is active and will next expire on April 1, 2017.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on April 28, 2017, before the Iowa Board of Medicine. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Iowa Board of Medicine 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 Notice of Hearing you are required by 653 Iowa Administrative Code 25.10 to file an Answer. In that Answer, you should also 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 prehearing matters, and be present to assist and advise the board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on March 1, 2017, 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 Iowa Administrative Code Chapter 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 Iowa Administrative Code 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 may contact Kent M. Nebel, J.D., Legal Director, at 515-281-7088 or to Assistant Attorney General Julie Bussanmas at 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 (2005) and 653 Iowa Administrative Code Chapter 25.25.

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 Iowa Administrative Code 25.20.

## C. SECTIONS OF STATUTES AND RULES INVOLVED

### COUNT I

11. **Sexual Misconduct:** Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 23.1(10), 23.1(5) and 13.7(4)(a) with engaging in sexual misconduct in violation of the laws and rules governing the practice of medicine in Iowa:

- A. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient or with the patient's parent or guardian if the patient is a minor.

### COUNT II

12. **Unethical or Unprofessional Conduct:** Respondent is charged pursuant to Iowa Code sections 147.55(3), 148.6(2)(i) 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 (147, 148, 272C) or 653 IAC 13.20 (147, 148) as interpreted by the board.



### COUNT III

13. **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) - (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 by the physician 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;
- 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 or osteopathic medicine and surgery in the state of Iowa;

## STATEMENT OF THE MATTERS ASSERTED

14. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced internal medicine in Clinton, Iowa.
15. **Circumstances:** On September 2, 2016, Female Patient A was admitted to the hospital in Clinton, Iowa, with a fever; malaise; loss of appetite; myalgias, and severe abdominal pain.
  - A. **First Examination:** On September 3, 2016, Respondent entered Female Patient A's hospital room alone and closed the door behind him. Respondent touched Patient A's breasts and vaginal area in a sexual and/or unprofessional manner while purporting to perform a physical examination and asked her if it hurt or felt good like a massage.
  - B. **Second Examination:** Respondent returned a few hours later, entered Female Patient A's hospital room alone and closed the door behind him. Respondent touched Patient A's breasts in a sexual and/or unprofessional manner while purporting to perform a physical examination and then left the room.
  - C. **Third Examination:** On September 4, 2016, Respondent returned to Female Patient A's hospital room. He was alone and he closed the door behind him. Respondent touched Patient A's breasts and anus in a sexual and/or unprofessional manner while purporting to perform a physical examination and abruptly left the room when a nurse entered the room.

16. **Sexual Misconduct:** The Board alleges Respondent engaging in sexual misconduct in violation of the laws and rules governing the practice of medicine in Iowa when he touched Female Patient A's breasts and genitals in a sexual manner, and made comments of a sexual nature to Patient A, during physical examinations.

17. **Unethical or Unprofessional Conduct:** The Board alleges Respondent engaged in unethical or unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa when he acted in an unethical or unprofessional manner while performing physical examinations on Female Patient A.

18. **Professional Incompetency:** The Board alleges Respondent engaged in professional incompetency in violation of the laws and rules governing the practice of medicine in Iowa when he: performed physical examinations on Patient A that were not the appropriate type of examination for her medical condition; failed to perform the appropriate examination, performed physical examinations without proper informed consent or permission, and performed physical examinations without a chaperone present.

#### **E. SETTLEMENT**

19. **Settlement.** This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 Iowa Administrative Code 25.17. 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**

20. On February 17, 2017, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

A handwritten signature in black ink, appearing to read "K. Ulveling MD". The signature is written in a cursive style with a horizontal line underneath the first few letters.

Kyle Ulveling, M.D., Secretary  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686