

February 22, 2018

Summary of February 15-16, 2018, Board Meeting

This is a summary of the February 15-16, 2018, meeting of the Iowa Board of Medicine.

Cases Reviewed: The Board reviewed 103 cases.

New Investigative Cases: The Board reviewed 60 new investigative cases.

Combined Statement of Charges and Settlement Agreement: 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 Agreement contains the Board's allegations and the disciplinary sanctions.

The Board approved 5 Combined Statement of Charges and Settlement Agreements.

1. An Iowa-licensed physician who formerly practiced family medicine in Bloomfield, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on February 16, 2018. The Board alleged that the physician engaged in a pattern of sexual misconduct and sexual harassment in violation of the laws and rules governing the practice of medicine between 2007 and 2015 when he made unwanted sexual advances toward female co-workers at the University of Arkansas Medical Sciences Residency Program between August 2007 and April 2008; made unwanted sexual comments and sexual advances toward female co-workers and violated appropriate examination procedures for female patients while practicing medicine at Davis County Hospital in Bloomfield, Iowa, in 2013; made unwanted sexual advances toward female co-workers and performed an inappropriate physical examination on a female patient while practicing medicine at the Department of Veterans Affairs in Chico, California, between April 2014 and April 2015; and had his clinical practice placed in abeyance pending an investigation into allegations of sexual misconduct while practicing medicine at Brooke Army Medical Center, Fort Sam Houston, Texas, in November 2015. Under the terms of the February 16, 2018, 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 ordered the physician to provide written notice and complete a Board-approved professional boundaries program prior to practicing medicine under his Iowa medical license. The Board also ordered the physician to have a Board-approved female healthcare professional chaperone continually present when treating female patients or when minor children are only accompanied by a female, while practicing medicine under his Iowa medical license. The Board also placed the physician on probation for a period of five years subject to Board

monitoring, including polygraph examinations, professional boundaries counseling and a worksite monitor.

2. An Iowa-licensed physician who formerly practiced pain management in Des Moines and West Des Moines, Iowa, and currently practices addiction medicine in Des Moines, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on February 16, 2018. The Board alleged that the physician violated the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pain management to multiple patients in Des Moines and West Des Moines, Iowa, between 2011 and 2016. Under the terms of the February 16, 2018, 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 physician also agreed that he shall not prescribe, administer or dispense controlled substances for the treatment of chronic pain under his Iowa medical license. The Board also ordered the physician to complete a Board-approved medical record keeping course and placed him on probation for a period of three years subject to Board monitoring, including prescribing audits.
3. An Iowa-licensed physician who practices family medicine in Mason City, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on February 16, 2018. The Board alleged that the physician violated the laws and rules governing the practice of medicine in Iowa when she failed to provide appropriate pain management to multiple patients in Mason City, Iowa, between 2010 and 2017. Under the terms of the February 16, 2018, combined Statement of Charges and Settlement Agreement, the Board issued the physician a Citation and Warning and ordered her to pay a \$5,000 civil penalty. The Board also prohibited the physician from prescribing, administering or dispensing controlled substances for the treatment of chronic pain under her Iowa medical license and ordered her to complete a Board-approved medical record keeping course. The Board also placed the physician on probation for a period of three years subject to Board monitoring, including prescribing audits.
4. An Iowa-licensed physician who practices family medicine in Bloomfield, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on February 16, 2018. The Board alleged that the physician violated the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pain management to multiple patients in Bloomfield, Iowa, between 2001 and 2016. Under the terms of the February 16, 2018, 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 prohibited the physician from prescribing, administering or dispensing controlled substances for the treatment of chronic pain under his Iowa medical license and ordered him to complete a Board-approved medical record keeping course. The Board also placed the physician on probation for a period of three years subject to Board monitoring, including prescribing audits.
5. An Iowa-licensed physician who formerly practiced family medicine in Sioux City, and Sergeant Bluff, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on February 16, 2018. The Board alleged that the physician

engaged in a pattern of sexual misconduct and sexual harassment in violation of the laws and rules governing the practice of medicine in Iowa. The Board alleged that the physician hugged a female patient during office visits, made comments of a sexual nature to the female patient while providing medical care and sent Facebook messages with photographs of a sexual nature to the female patient in Sergeant Bluff, Iowa, in 2015. The Board also alleged that the physician frequently rubbed female co-workers on the shoulders, back, and waist while they were working together, sent inappropriate Facebook messages and text messages, including photographs of a sexual nature, to female co-workers and attempted to kiss a female co-worker while practicing medicine in Sergeant Bluff, Iowa, between 2011 and January 2016. Under the terms of the February 16, 2018, 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 ordered the physician to complete a Board-approved sexual misconduct/sexual harassment evaluation. The Board also ordered the physician to have a Board-approved female chaperone or female health care professional continually present when treating female patients, or minor children who are only accompanied by a female. The Board also prohibited the physician from using social media to contact any patient outside of the physician-patient relationship. The Board also placed the physician on probation for a period of three years subject to Board monitoring, including polygraph examinations, professional boundaries counseling and a worksite monitor.

Settlement Agreement: 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 2 Settlement Agreements.

1. An Iowa-licensed physician who formerly practiced family medicine in Missouri Valley, Iowa, entered into a Settlement Agreement with the Board on February 16, 2018. On May 19, 2017, the physician entered into a Stipulated Order: Agreement Not to Prescribe Controlled Substances with the Board. The Board alleged that the physician failed to provide appropriate pain management to patients in Missouri Valley, Iowa, and the physician agreed not to prescribe controlled substances with the exception of testosterone and for patients in residential hospice and nursing home settings, until this matter is resolved. On July 20, 2017, the Board filed a Statement of Charges against the physician alleging that he willfully or repeatedly violated the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate medical care and/or pain management to numerous patients in Missouri Valley, Iowa, between 2011 and 2017, resulting in serious harm to patients and the public. Under the terms of the February 16, 2018, 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 the physician from prescribing, administering or dispensing controlled substances for the treatment of chronic pain and suspended his Iowa medical license indefinitely. Prior to seeking reinstatement of his Iowa medical license, the physician must successfully complete a Board-approved comprehensive clinical competency evaluation, a Board-

approved professional ethics program, and a Board-approved medical record keeping course and appear before the Board. Should the Board choose to reinstate the physician's Iowa medical license, he shall be placed on indefinite probation subject to Board monitoring, including prescribing audits, a Board-approved practice monitoring plan and a worksite monitor.

2. An Iowa-licensed physician who formerly practiced family medicine in Marengo, Iowa, entered into a Settlement Agreement with the Board on February 16, 2018. On April 4, 2013, the physician entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged the physician with engaging in a pattern of unprofessional conduct, dishonesty and/or disruptive behavior between 2005 and 2013. The Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also ordered the physician to complete a Board-approved professional ethics program and placed him on probation for a period of five years subject to Board monitoring, including counseling. On February 6, 2015, the physician entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged the physician with engaging in sexual misconduct when he engaged in a consensual sexual relationship with a female patient in Marengo, Iowa, in 2011. The Board issued the physician a Citation and Warning and ordered him to pay a \$7,500 civil penalty. The Board also ordered the physician to have a Board-approved female healthcare provider chaperone continually present when treating female patients and placed him on indefinite probation subject to sexual misconduct counseling; professional ethics training; polygraph examinations and Board monitoring. On December 15, 2017, the Board filed a Statement of Charges against the physician alleging that he engaged in sexual misconduct when he sent sexually explicit Facebook messages and text messages to a female patient in Marengo, Iowa, in February 2017. Under the terms of the February 16, 2018, Settlement Agreement, the Board issued the physician a Citation and Warning and he voluntarily surrendered his Iowa medical license.

Order: The Board may issue an Order that amends or modifies an existing disciplinary order.

The Board approved 1 Amended Order.

1. An Iowa-licensed obstetrician and gynecologist who formerly practiced cosmetic surgery in Davenport, Iowa, had an order issued by the Board on February 16, 2018. On July 29, 2016, the Board filed a Statement of 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 cosmetic surgical care to multiple patients in Davenport, Iowa, between 2013 and 2015. The physician subsequently completed a clinical competency evaluation and the evaluation program determined that the physician demonstrated significant deficiencies in cosmetic surgery and he is not able to remain in independent practice while he remediates his skills. Further, upon additional evaluation, it was determined that the physician suffered from a medical condition which impairs his ability to practice medicine with reasonable skill and safety. On or about October 6, 2017, the State filed a Motion to Amend Charges and Motion for Emergency Adjudicative Order. The State argued that it received new information regarding the physician's ability to practice cosmetic surgery with

reasonable skill and safety. The State argued that the evaluation program indicated that the deficiencies identified during the clinical competency evaluation are significant enough that the physician is not able to remain in independent practice while he remediates his skills. Further, the State noted that upon additional evaluation, it was determined that Respondent suffers from a medical condition which impairs his ability to practice medicine independently with reasonable skill and safety. The State argued that the physician's continued treatment of patients constitutes an immediate danger to the public health, safety, and welfare. On October 27, 2017, the Board issued an Amended Statement of Charges alleging that the physician suffered from a medical condition which impairs his ability to practice medicine with reasonable skill and safety. The Board also issued an Emergency Adjudicative Order prohibiting the physician from practicing medicine under his Iowa medical license after determining that his continued practice of cosmetic surgery constitutes an immediate danger to the public health, safety, and welfare. On January 11, 2018, the physician filed a Petition to Dissolve Emergency Adjudicative Order arguing that further medical testing revealed that the physician does not have a health condition which impairs his ability to practice medicine and therefore, the Emergency Adjudicative Order should be dissolved. The State filed a Resistance to Petition to Dissolve Emergency Adjudicative Order. The State acknowledges that further medical testing revealed that the physician does not suffer from a health condition which impairs his ability to practice medicine at this time. However, the State argued that the physician's Petition ignored the evaluation program's determination that the physician demonstrated significant deficiencies in cosmetic surgery during the clinical competency evaluation and he is not able to remain in independent practice while he remediates his skills. The State also argued that there continues to be a serious and immediate threat to patient health if the physician is allowed to practice cosmetic surgery before the Board reaches a final resolution of the pending charges in this matter. Finally, the State argued that the Board should issue an order amending the Emergency Adjudicative Order to allow the physician to return to the practice of medicine, but continuing the limitation on cosmetic surgery pending resolution of the pending charges. A hearing on the pending charges is scheduled on June 20-22, 2018. On February 16, 2018, the Board issued an order amending the Amended Statement of Charges and the Emergency Adjudicative Order issued on October 27, 2017, removing the allegation that the physician suffers from a medical condition which impairs his ability to practice medicine with reasonable skill and safety at this time and permitting the physician to return to the practice of medicine but prohibiting him from engaging in any aspect of the practice of cosmetic surgery, varicose, vein procedures and medically assisted weight loss under his Iowa medical license until the pending charges in this matter are finally resolved.

Consent Agreement: The Board may grant an Iowa medical license subject to the terms and conditions of a Consent Agreement when appropriate.

The Board approved 1 Consent Agreement.

1. The Board received information which indicates a physician's privileges to perform labor and delivery services were permanently revoked due to quality of care concerns. Under the terms of the February 16, 2018, Consent Agreement, the Board granted the physician a

permanent Iowa medical license and issued him a Citation and Warning and the physician agreed that he will not perform labor and delivery services under his Iowa medical license.

Termination Order: The Board may issue a Termination Order when a physician successfully completes the requirements of a disciplinary order.

The Board approved 1 Termination Order.

1. An Iowa-licensed physician who formerly practiced anesthesiology and pain medicine in Council Bluffs, Iowa, and currently practices in Clinton, Iowa, had the practice requirements on his Iowa medical license terminated by the Board on February 15, 2018. On December 11, 2011, the Board filed a Statement of Charges and Emergency Adjudicative Order immediately suspending the physician's Iowa medical license. On January 9, 2012, the Board filed an Amended Statement of Charges. The Board alleged that the physician engaged in sexual misconduct, unethical or unprofessional conduct and/or professional incompetency in his treatment of five female patients in Council Bluffs, Iowa, in 2009 and 2010. A hearing was held on January 12-13, 2012, and on March 29, 2012, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. The Board concluded that the allegations of sexual misconduct were not supported by a preponderance of evidence at hearing. However, the Board concluded that the physician violated the standard of care by seeing patients under sedation without any staff member present creating a climate in which his patients had no way of knowing what occurred during their treatment; failing to obtain proper written informed consent from patients; failing to monitor and document vital signs during procedures; and allowing two patients to drive home after their procedures, risking their safety and the safety of others on the road. The Board suspended the physician's Iowa medical license for a minimum of one year and ordered him to pay a \$10,000 civil penalty and complete a Board-approved professional boundaries program and a medical record keeping course. On January 11, 2013, the Board reinstated the physician's Iowa medical license and established the following practice requirements: a Board-approved group practice setting; a Board-approved chaperone for all female patients except when he is practicing in a Board-approved hospital setting; treatment only during regular clinic hours; appropriately trained staff; appropriate levels of sedation; appropriate monitoring during procedures; appropriate transportation following procedures; appropriate written informed consent; appropriate medical records; and appropriate fees for services. The Board also placed the physician on probation for a period of five years subject to the following terms and conditions: a Board monitoring program; compliance with the recommendations of the Board-approved professional boundaries program; a Board-approved practice monitoring plan; a worksite monitor; quarterly reports; Board appearances; and payment of a \$100 quarterly monitoring fee. On December 16, 2016, the Board terminated the terms of the physician's probation. On February 15, 2018, the Board terminated the practice requirements established by the Board and the physician's Iowa medical license was returned to its full privileges, free and clear of all restrictions.

Confidential Evaluation Order: The Board may issue a confidential evaluation order requiring a licensee to complete a Board-approved evaluation if the Board determines that a licensee suffers from substance abuse; a mental health condition; a physical condition; has engaged in sexual misconduct or unprofessional conduct or has demonstrated evidence of professional incompetence.

The Board issued 2 Confidential Evaluation Orders due to the following concerns:

1. Concerns that a physician failed to provide appropriate medical care to multiple patients in an emergency medicine setting.
2. Concerns that a physician was terminated from a residency training program due to academic performance and unprofessional conduct.

Board Appearance: 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 held 2 appearances due to the following concerns:

1. Concerns that a physician was terminated from a residency training program due to academic performance and unprofessional conduct.
2. Concerns that a physician voluntarily surrendered his clinical privileges while under investigation relating to professional competence and conduct.

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 the licensee a confidential, non-disciplinary letter expressing concerns and requesting that the licensee take corrective action, including further education.

The Board voted to issue 10 confidential Letters of Warning or Education due to the following concerns:

1. Concerns that a physician knowingly, or with reckless disregard, purchased and administered chemotherapy drugs that were misbranded or not approved by the U.S. Food and Drug Administration (FDA) for use in the United States and submitted false claims to Medicare and Medicaid for more expensive services than were actually provided in order to receive a profit “up coding” while practicing medical oncology.
2. Concerns that a physician demonstrated deficiencies in her ability to practice medicine.
3. Concerns that a physician was the subject of a hospital privileging investigation into concerns about substandard or inadequate care, breach of confidentiality and filing false reports or falsifying records.
4. Concerns that a physician inappropriately shared patient information with a colleague outside of the legitimate medical care setting.

5. Concerns about a physician's treatment of patients with mental disorders and a history of drug addiction.
6. Concerns about a physician's performance of hip replacement surgery on a patient.
7. Concerns that a physician failed to complete the continuing medical education required for renewal of her Iowa medical license.
8. Concerns that a physician inadvertently brought a handgun into a medical facility.
9. Concerns about a physician's obstetrical and gynecological treatment of two patients.
10. Concerns that a physician failed to complete the continuing medical education required for renewal of her Iowa medical license.

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

The committee reviewed 5 physicians who are being monitored by the Board and held 1 appearance.

Screening Committee: The committee reviews complaints and mandatory reports that are lower priority to determine whether investigation is warranted.

The committee reviewed 20 cases and closed 20 cases.

Licensure Committee: The committee reviews initial applications, renewals, and reinstatements, and licensure policies and issues. Most applications are approved by Board staff without committee review. However, some concerns about an applicant must be reviewed by the committee to determine whether a license should be granted, renewed or reinstated.

The committee reviewed 8 licensure applications. The committee recommended the board grant 1 temporary license; the Board approved the committee's recommendation. Five permanent licenses were granted. One permanent license application had a corresponding waiver petition and the committee recommended a consent agreement for one permanent license application; these applications required review and vote by the full board.

The committee recommended the Board grant a request for waiver of Iowa Administrative Code 653-9.3(1)c(3) which defines approved postgraduate training as those programs accredited by Accreditation Council for Graduate Medical Education, American Osteopathic Association, Royal College of Physicians and Surgeons of Canada, and the College of Family Physicians of Canada. The applicant completed a two-year Abdominal Transplant Surgery fellowship, certified by American Society of Transplant Surgery. The Board approved the Committee's recommendation.

The committee approved 3 Letters of Warning that were issued due to concerns that the applicants failed to provide truthful, accurate or complete information on the applications.

In other action the Board:

- Initiated rulemaking to implement 2017 Iowa Acts, House File 524, which relates to the use of medical cannabidiol for patients with a qualifying medical condition. The proposed rule establishes the process by which the Board receives a recommendation from the Medical Cannabidiol Board to amend the list of qualifying debilitating medical conditions and the form and quantity of medical cannabidiol. The rulemaking, which is an amendment to 653 IAC Chapter 13, is tentatively scheduled for publication in the Iowa Administrative Bulletin on March 14.
- Amended and approved a recommended form and quantity administrative rule from the Medical Cannabidiol Board. The Board of Medicine removed from the recommendation a provision that would have allowed the inhaled form of medical cannabidiol to include a vaporizable form. The recommendation, as amended by the Board of Medicine, will now be considered by the Department of Public Health for rulemaking.
- Granted a waiver to pharmacist Tammy R. Bickel, R Ph, of Urbandale, Iowa, to participate in a drug management collaborative practice agreement. Ms. Bickel requested the Board waive a portion of Board rules 653-13.4 that requires a pharmacist participating in an agreement to have graduated from a recognized school or college of pharmacy with a doctor of pharmacy (Pharm.D) degree. The Board determined Ms. Bickel's qualifications will ensure that substantially equal protection of the public health, safety and welfare will be afforded by waiving the requirement. The Board of Pharmacy has granted a waiver to Ms. Bickel for a similar pharmacy rule.
- Determined that Tharwat Stewart Fouad Boulis, M.D., License No. MD-41817, is not eligible for licensure through the Interstate Medical Licensure Compact because he exceeded the Compact's limits on attempts to pass the U.S. Medical Licensure Examination.
- Received a report from the Iowa Physician Health Program, which had 45 participants and 13 potential participants under review on February 1, 2018.
- Received a report from the Iowa Attorney General's Office on three cases, including the Iowa Court of Appeals' recent opinion on dry-needling; an Iowa District Court hearing on a physician who is challenging the Board's issuance of a confidential letter of warning; and a lawsuit filed against the State of Iowa and the Board over a disciplinary action taken in 2012.

A press release describing public disciplinary action taken by the Board was distributed and posted on the Board's Website on February 21, 2018. If you have questions about this summary or the Board's press release, please contact Kent M. Nebel, J.D., Legal Director, at (515) 281-7088 or kent.nebel@iowa.gov.