

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

VERNON P. VARNER, M.D., RESPONDENT

File Nos. 02-86-345, 02-89-277, 02-91-287 & 02-94-398

TERMINATION ORDER

Date: August 1, 2005.

1. Respondent was issued license number 18577 to practice medicine and surgery in Iowa on February 29, 1972. Respondent's license is active and will next expire on September 1, 2006.

2. On March 4, 1999, the Board filed a Statement of Charges against Respondent alleging numerous competency-related violations of the standard of care in the practice of psychiatry.

3. On June 28, 2001, Respondent and the Board entered into a Settlement Agreement and Final Order to resolve the pending disciplinary charges. Respondent was placed on probation for a period of five (5) years and he was required to fully comply with the recommendations from the professional competency evaluation he underwent in April of 2000 at the Center for Personalized Education for Physicians (CPEP), (formerly the Colorado Physician's Education Program). Respondent also agreed to practice under a Board approved practice monitoring plan.

4. Following the professional competency evaluation in April of 2000, CPEP concluded that Respondent demonstrated deficiencies in the following areas of practice, medical knowledge, clinical judgment, use of psychiatric medications, and medical record keeping. CPEP prepared a 12-month education plan which established detailed performance objectives and evaluation methods for each area of deficiency. Respondent fully complied with the CPEP education plan.

5. Under the Board approved practice monitoring plan, 100% of Respondent's cases were reviewed by an Iowa licensed, board certified psychiatrist. Respondent fully complied with the practice monitoring plan and the practice monitor concluded that Respondent's patient care fully complied with the standard of care.

6. At the conclusion of the education plan, Respondent submitted to re-evaluation at CPEP. In July 2002, CPEP issued a re-evaluation report which concluded that many serious practice deficiencies continue to exist despite Respondent's full cooperation with the education plan.

7. The Board and Respondent agreed to engage in mediation in an effort to resolve the apparent discrepancies between the conclusions of the CPEP education plan, CPEP re-evaluation report, and the Board approved practice monitor. The Board and Respondent agreed to establish a three member Practice Review Panel to determine whether Respondent's medical practice conforms to the prevailing standard of care and whether he is safe to continue the practice of medicine.

8. On May 6, 2005, the Practice Review Panel submitted a final report to the Board and concluded that Respondent is competent to practice psychiatry.

IT IS THEREFORE ORDERED: That all terms and conditions of probation placed upon the Respondent's Iowa medical license are terminated and Respondent's Iowa medical license is returned to its full privileges, free and clear of all restrictions.

IOWA BOARD OF MEDICAL EXAMINERS



Bruce L. Hughes, M.D., Chairperson
400 SW 8th, Suite C
Des Moines, Iowa 50309-4686

Date: August 1, 2005

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

VERNON P. VARNER, M.D., RESPONDENT

File Nos. 02-86-345, 02-89-277, 02-91-287 & 02-94-398

AMENDED SETTLEMENT AGREEMENT and FINAL ORDER

COMES NOW the Iowa Board of Medical Examiners (the Board), and
Vernon P. Varner, M.D., (Respondent), on July 8, 2004, and
pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2003) enter into the
following Amended Settlement Agreement and Final Order.

CASE HISTORY

1. Respondent was issued license number 18577 to practice medicine and surgery in Iowa on February 29, 1972. Respondent's license is current and will next expire on September 1, 2004.
2. On March 4, 1999, the Board filed a Statement of Charges against Respondent alleging numerous competency-related violations of the standard of care in the practice of psychiatry.

3. On June 28, 2001, Respondent and the Board entered into a Settlement Agreement and Final Order to resolve the pending disciplinary charges. Respondent was placed on probation for a period of five (5) years and he was required to fully comply with the recommendations from the professional competency evaluation he underwent in April of 2000 at the Center for Personalized Education for Physicians (CPEP), (formerly the Colorado Physician's Education Program). Respondent also agreed to practice under a Board approved practice monitoring plan.

4. Following the professional competency evaluation in April of 2000, CPEP concluded that Respondent demonstrated deficiencies in the following areas of practice, medical knowledge, clinical judgment, use of psychiatric medications, and medical record keeping. CPEP prepared a 12-month education plan which established detailed performance objectives and evaluation methods for each area of deficiency. Respondent fully complied with the CPEP education plan.

5. Under the Board approved practice monitoring plan, 100% of Respondent's cases were reviewed by an Iowa licensed, board certified psychiatrist. Respondent fully complied with the practice monitoring plan and the practice monitor concluded that Respondent's patient care fully complied with the standard of care.

6. At the conclusion of the education plan, Respondent submitted to re-evaluation at CPEP. In July 2002, CPEP issued a re-evaluation report which concluded that many serious practice deficiencies continue to exist despite Respondent's full cooperation with the education plan.

7. The Board and Respondent agreed to engage in mediation in an effort to resolve the apparent discrepancies between the conclusions of the CPEP education plan, CPEP re-evaluation report, and the Board approved practice monitor. The Board and Respondent agreed to establish a three member Practice Review Panel to determine whether Respondent's medical practice conforms to the prevailing standard of care and whether he is safe to continue the practice of medicine, in the manner set forth below.

COMPETENCY REVIEW PANEL

8. A Competency Review Panel (CRP) consisting of Respondent's practice monitor, William N. Nissen, M.D., and two mutually agreed upon eminently qualified psychiatrists will be selected from a panel of names proposed by both parties and the mediator.

9. The CRP will determine the nature and scope of the review, including the depth of the review. At the commencement of its review, the Board shall provide the CRP with a copy of all Board Orders, investigative material, and evaluation and

assessment material necessary to complete the competency review; and Respondent shall provide the CRP with a copy of any information he deems appropriate for consideration by the CRP.

10. The CRP shall review randomly selected patient records from Respondent's medical practice.

11. The CRP shall collectively interview Respondent and shall individually interview Respondent. The frequency and manner of such interviews will be determined by the CRP.

12. The CRP shall seek the assistance of experts in other fields, such as neurology and endocrinology, to guide it in its review of Respondent's competency, if it determines that it needs such assistance.

13. The CRP shall review Respondent's medical practice to determine whether Respondent is competent to continue the practice of psychiatry, and shall come to its decision within 12 months of the date it is commissioned.

14. A majority of the members of the CRP will make the following determination:

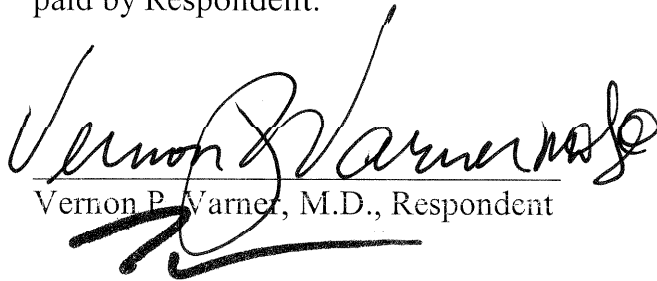
- a. Respondent is competent to practice psychiatry;
- b. Respondent is not competent to practice psychiatry.

15. In the event that a majority of the CRP determines that Respondent is competent to practice psychiatry, then the present proceedings before the Board will be terminated and Respondent's Iowa medical license shall be free of any restrictions.


16. In the event that a majority of the CRP determines that Respondent is not competent to practice psychiatry, then Dr. Varner shall voluntarily resign from the practice of medicine and surgery in the State of Iowa and he shall surrender his Iowa medical license.

17. The term "competence to practice psychiatry" shall mean that Respondent possesses the necessary knowledge and skill common to the practice of a specialist in psychiatric medicine and he practices in accordance with the prevailing standard of care in psychiatry.

18. All costs associated with the competency review process shall be paid by Respondent.


Vernon P. Varner, M.D., Respondent

4/21/2004
Date


~~Dale R. Holdiman, M.D., Chairperson~~
Iowa Board of Medical Examiners
400 S.W. 8th Street, Suite C
Des Moines, Iowa 50309-4686

7/8/04
Date

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE LICENSURE DISCIPLINE OF
VERNON P. VARNER, M.D., RESPONDENT

Nos. 02-86-345, 02-89-277
02-91-287, and 02-94-398

SETTLEMENT AGREEMENT and FINAL ORDER

COMES NOW the Iowa Board of Medical Examiners (the Board), and
Vernon P. Varner, M.d., (Respondent), on June 28 200~~0~~¹, and pursuant
to Iowa Code sections 17A.10(2) and 272C.3(4) (2001), enter into the following
Settlement Agreement and Final Order to resolve the contested case currently on file.

1. Respondent was issued license number 18577 to practice medicine and surgery in Iowa on February 29, 1972. The license is current and will next expire on September 1, 2002.
2. A Statement of Charges was filed against Respondent on March 4, 1999, and is awaiting hearing.
3. The Board has jurisdiction over the parties and subject matter pursuant to Iowa Code Chapters 147, 148 and 272C (2001).

A. CPEP Evaluation

4. Respondent submitted at his own expense to a comprehensive competency evaluation at the Colorado Physician's Education Program (CPEP) in Denver, Colorado, on April 27-28, 2000. A report from CPEP was submitted to the Board on June 28, 2000. That report identified several areas of demonstrated need in Respondent's medical practice, including appropriate use of psychiatric medications; appropriate use of psychosocial treatments; appropriate integration of patient history and life circumstances into the assessment and treatment plan; appropriate judgment in identification and risk assessment for patients threatening self-harm; appropriate recordkeeping; and maintenance of a network of peers for supervision and consultation.

5. CPEP's report recommended that Respondent participate in a formal education plan through CPEP which would include the following elements:

- a) Establishment of a preceptor/mentor relationship with a psychiatric supervisor. This relationship would involve scheduled meetings to review cases, discuss critical thinking processes related to patient care, identify appropriate reading related to those cases, topic reviews, and plans for future learning. This relationship should include a one hundred percent case review until Respondent demonstrates that he is consistently maintaining the appropriate standard of care in his treatment of patients. Respondent shall comply with all recommendations of the educational

preceptor.

- b) Education in the use of psychotropic medications for common indications in general psychiatry.
- c) Education and improvement of psychiatric record keeping.
- d) Education on the importance of informed consent when using certain agents.
- e) Continue personal treatment to reduce impulsive and disorganized behavior.

6. Respondent subsequently worked with CPEP to develop an educational plan, and he has been compliant with that educational plan since it was issued in July of 2000. An Iowa-licensed, board-certified, Board-approved psychiatrist has been serving as Respondent's educational preceptor and practice monitor since July of 2000, and has conducted a 100% review of Respondent's patients since July of 2000. CPEP recommended modifications to that plan and a reduction of the practice monitoring to 10% of Respondent's patients in their quarterly report submitted to the Board on January 24, 2001. Respondent's Board-approved practice monitor concurs in this recommendation.

B. Terms of probation

7. Immediately upon the Board's approval of this Settlement Agreement, Respondent's license to practice medicine is placed on probation for a period of five

VernonP. Varner, M.D.
Settlement Agreement and Final Order

years, commencing July 15, 2000. Within thirty (30) days of the date this Agreement is approved by the Board, Respondent shall contact Deb Anglin, Coordinator, Monitoring Programs, Iowa Board of Medical Examiners, 400 S.W. 8th St., Suite C, Des Moines, IA 50309-4686, (515) 281-6491. Respondent's probation is subject to the terms and conditions set forth below.

8. The Respondent has met the following requirements:
 - a) Respondent has submitted for Board approval a written plan for meeting the requirements of CPEP's educational plan, including identification of an educational preceptor who shall be an Iowa-licensed, board-certified psychiatrist approved by the Board. That plan includes provisions for regular reports from CPEP to the Board regarding Respondent's progress in meeting the requirements of the educational plan, and for a final assessment of Respondent's medical practice. Respondent shall provide copies of all the educational preceptor's reports to the Board.
 - b) Respondent has submitted for Board approval a written practice monitoring plan. This practice monitoring plan is separate and distinct from the preceptor requirement under CPEP's educational plan. The monitoring plan requires that the monitoring physician be responsible for monitoring the medical care Respondent provides to 10% of his patients, to be selected at random by the practice monitor. The monitoring

physician is a board-certified, Iowa-licensed psychiatrist approved by the Board. Respondent shall comply with all the terms of the practice monitoring plan.

- (i) The plan of monitoring shall provide that the monitoring physician conduct a weekly review of the patient care provided to 10% of Respondent's patients seen by him during that week, selected at random by the monitoring physician.
- (ii) Respondent has submitted with the practice monitoring plan a statement from the monitoring physician to the Board indicating that the monitoring physician has reviewed the peer review committee report, the Board's complete investigative file; the Statement of Charges; this Settlement Agreement; CPEP's final report, and CPEP's educational plan. This statement further provides that the monitoring physician agrees (1) to serve as monitoring physician for the plan of supervision approved by the Board; (2) to submit monthly reports to the Board describing Respondent's compliance with the plan of monitoring and any recommendations made to Respondent for the first six months of probation, then quarterly reports thereafter; (3) to immediately notify the Board of any deviation from the plan of monitoring

approved by the Board; (4) to immediately notify the Board of any problems in Respondent's practice that may reasonably be construed to be a deviation from the accepted standard of care or a violation of state law, including Board rules.

9. Respondent shall demonstrate satisfactory progress towards completion of the CPEP educational plan, and shall successfully complete the CPEP educational plan within the time designated by CPEP. Respondent shall comply with all recommendations made by CPEP.

10. Respondent shall comply with all the terms of the practice monitoring plan and all recommendations of the practice monitor. Respondent shall demonstrate throughout the monitoring and probationary period that he is practicing in accordance with the standard of care.

11. Respondent shall submit quarterly reports, under penalty of perjury, stating that there has been compliance with all the conditions of this Settlement Agreement and Final Order. The reports shall be filed not later than January 10, April 10, July 10, and October 10 of each year of the Respondent's probation.

12. Respondent shall ensure that the monitoring physician submits the reports required in paragraph 8(b)(ii), above, to the Board describing Respondent's compliance with the plan of monitoring.

13. Respondent may request the Board modify the practice monitoring plan

upon the written recommendation of the monitoring physician, but any final decision regarding modification of the plan is in the discretion of the Board. Respondent may request, upon the recommendation of the monitoring physician, that the practice monitoring plan may be terminated, but any final decision regarding termination of the plan is in the discretion of the Board. Respondent may request early termination of his probation, but any final decision regarding termination of probation remains in the discretion of the Board.

14. Respondent shall make a personal appearance before the Board or a Board Committee on June 27, 2001, and on an annual basis thereafter, or upon the Board's request in the event concerns arise regarding Respondent's probation. Respondent shall be given reasonable notice of the date, time, and place for the appearances. Such appearances are subject to the waiver provisions of 650 IAC 12.6(6)(d).

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

16. Respondent shall notify the Board of any change of employment or address within one week of said change.

C. General provisions

17. In the event Respondent violates or fails to comply with any of the terms or conditions of this Settlement Agreement and Final Order, the Board may initiate

Vernon P. Varner, M.D.
Settlement Agreement and Final Order

action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 147, 148, and 272C, and 653 IAC 12.2.

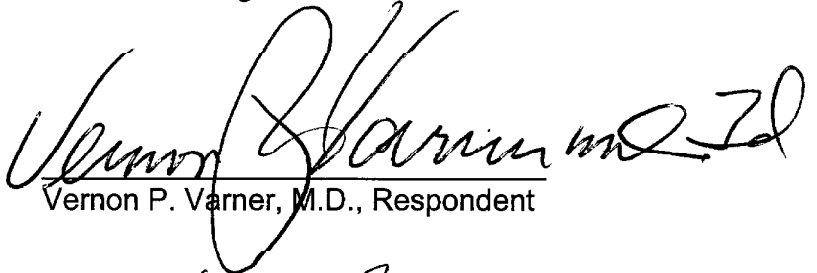
18. This Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

19. By entering into Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a hearing in this pending contested case proceeding, and waives any objections to the terms of this Settlement Agreement.

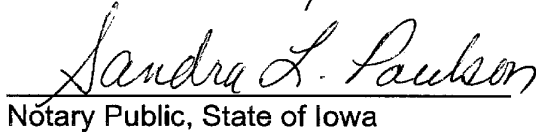
20. This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for consideration.

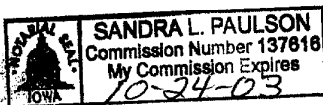
21. This Settlement Agreement and Final Order is subject to approval of the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

22. The Board's approval of this Settlement Agreement shall constitute a FINAL ORDER of the Board.


Vernon P. Varner, M.D., Respondent

Subscribed and sworn to before me on this 4th day of June, 2001.


Sandra L. Paulson
Notary Public, State of Iowa



Vernon P. Varner, M.D.
Settlement Agreement and Final Order

This Settlement Agreement and Final Order is approved by the Board on ~~May 3,~~ ^{June 28,} 2001.

Dale R. Holdiman MD

Dale R. Holdiman, M.D., Chairperson
Iowa Board of Medical Examiners
400 S.W. 8th Street, Suite C
Des Moines, IA 50309-4686
Phone 515-281-5171

Copies to:

Leon Spies
411 Iowa State Bank Building
Iowa City, IA 52240

Theresa O'Connell Weeg
Assistant Attorney General
Iowa Attorney General's Office
Second Floor Hoover Building
Des Moines, IA 50319

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

VERNON P. VARNER, M.D., RESPONDENT

Nos. 02-86-345, 02-89-277, 02-91-287 & 02-94-398

COMES NOW the Iowa State Board of Medical Examiners (the Board), on March 4, 1999, and files this Statement of Charges against Vernon P. Varner, M.D., (Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa (1997) and alleges:

STATEMENT OF CHARGES

1. Respondent was issued license number 18577 to practice medicine and surgery in Iowa on February 29, 1972. The license is valid and will next expire on September 1, 2000.
2. The Board has jurisdiction in this matter pursuant to Chapters 147, 148 and 272C of the Code of Iowa (1997).

COUNT I

3. Respondent is charged under Iowa Code section 148.6(2)(g) (1997) and section 653 Iowa Administrative Code Section 12.4(2)(d) with being guilty of a willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of osteopathic medicine and surgery or osteopathy in the state of Iowa.

COUNT II

4. Respondent is charged under Iowa Code section 148.6(2)(1997) and section 653 Iowa Administrative Code Section 12.4(2)(b) with being guilty of 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.

COUNT III

5. Respondent is charged under Iowa Code section 148.6(2) (1997) and 653 Iowa Administrative Code Section 12.4(2)(c) with 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.

CIRCUMSTANCES

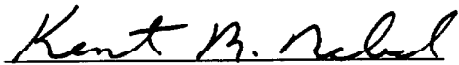
6. A Peer Review Committee of the Iowa Board of Medical Examiners reviewed twenty one (21) patient records and identified a number of violations of the prevailing standard of care including, but not limited, the following:

- a. Respondent, on numerous occasions, prescribed multiple psychotropic and/or narcotic medications in large doses over extended periods of time without providing sufficient monitoring and supervision.
- b. Respondent, on numerous occasions, prescribed excessive amounts of narcotics to patients with substance abuse disorders without sufficient monitoring and supervision.

- c. Respondent, on numerous occasions, prescribed excessive amounts of psychotropic and/or narcotic medications in dangerous combinations.
- d. Respondent, on numerous occasions, prescribed psychotropic medications without a documented psychotic thought disorder.
- e. Respondent, on numerous occasions, prescribed excessive amounts of psychotropic and narcotic medications in potentially lethal amounts to patients with suicidal histories.
- f. Respondent, on numerous occasions, prescribed excessive amounts, of psychotropic and narcotic medications without documenting that the risks of the medications had been sufficiently explained to the patient.
- g. Respondent, on at least one occasion prescribed multiple medications to a patient without documenting that a proper examination was performed.
- h. Respondent, on numerous occasions, failed to provide appropriate treatment for psychiatric conditions.
- i. Respondent, on at least two occasions, failed to provide and/or document appropriate treatment for non-psychiatric conditions.
- j. Respondent, on numerous occasions, prescribed two benzodiazepines simultaneously.
- k. Respondent, on numerous occasions, prescribed medications in a manner that was contraindicated, or failed to document indications for their use.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it may deem appropriate under the law.

IOWA STATE BOARD OF MEDICAL EXAMINERS



Kent M. Nebel, J.D.
Director of Compliance
Iowa Board of Medical Examiners
1209 East Court Avenue
Des Moines, Iowa 50319
Phone 515-281-5171

cc: Theresa O'Connell Weeg, Esq.
Assistant Attorney General
Iowa Department of Justice
Hoover State Office Building
Des Moines, IA 50319
Phone 515-281-6858