

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT AND STATEMENT OF CHARGES AGAINST

JAMES A. WILCOX, DO, RESPONDENT

No. 03-95-075

INFORMAL SETTLEMENT

COMES NOW the Iowa Board of Medical Examiners (the Board) and James A. Wilcox, DO (the Respondent), and pursuant to Iowa Code sections 17A.10 and 272C.3(4), enter into the following Informal Settlement of the contested case currently on file against the Respondent:

1) The Respondent was issued license number 01962 to practice osteopathic medicine and surgery in Iowa on September 8, 1982.

2) A Complaint and Statement of Charges was filed against the Respondent on September 7, 1995. The Complaint and Statement of Charges awaits hearing.

3) The Board has jurisdiction of the parties and subject matter of the Complaint and Statement of Charges.

4) The Respondent admits the allegations contained in the Complaint and Statement of Charges.

5) Upon the Board's approval of this Informal Settlement, the Respondent shall, on July 1, 1996, surrender his Iowa medical license. The license surrender shall be pursuant to the provisions of Iowa Code section 148.8.

6) Prior to filing a petition seeking reinstatement of licensure in Iowa, the Respondent shall pay a civil penalty in the amount of \$10,000. The civil penalty shall be paid by the delivery of a check or money order made payable to the Treasurer of the State of Iowa, to the Executive Director of the Board. The civil penalty shall be deposited into the state general fund.

7) Any petition filed by the Respondent seeking reinstatement of licensure shall be made pursuant to the provisions of Iowa Code section 148.9 and 653 IAC 12.50(36).

8) The Respondent shall receive a public letter of warning and reprimand. [copy attached]

9) This Informal Settlement is subject to approval by the Board. If the Board does not approve this Informal Settlement it shall be of no force or effect to either party.

10) This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration.

11) The Board's approval of this Informal Settlement shall constitute a **FINAL ORDER** of the Board.

James A. Wilcox, DO, Respondent

Subscribed and sworn to before me on _____ 1996.

Notary Public, State of _____.

James A. Wilcox DO
James A. Wilcox, DO, Respondent

Subscribed and sworn to before me on March 28, 1996.

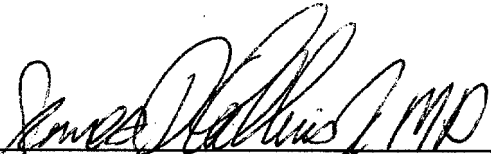
Becky Feuerbacher
Notary Public State of Iowa.



INFORMAL SETTLEMENT
James A. Wilcox, DO
No. 03-95-075

This Informal Settlement is approved by the Board on

April 4, 1996.



James D. Collins, Jr., MD, Chairperson
Iowa Board of Medical Examiners

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TERRY E. BRANSTAD, GOVERNOR

BOARD OF MEDICAL EXAMINERS
ANN M. MARTINO, PHD., EXECUTIVE DIRECTOR

April 4, 1996

James A. Wilcox, DO
1417 Sun Meadow Lane
El Paso, TX 79936

LETTER OF FORMAL REPRIMAND

Dear Dr. Wilcox:

The Iowa Board of Medical Examiners filed a Complaint and Statement of Charges against you on September 7, 1995 alleging you entered into an intimate relationship with a former psychiatric patient, one month after terminating professional treatment, that was a violation of state law and administrative rules. Pursuant to the terms of the Informal Settlement you entered into with the Board on April 4, 1996, this public letter of reprimand is a condition of the disposition of the Complaint and Statement of Charges filed against you.

The Iowa Board of Medical Examiners has established that it is highly inappropriate for a physician to pursue an intimate relationship with a former patient within one year from termination of psychiatric treatment.

In accordance with the terms of the Informal Settlement Agreement, the Board has accepted the voluntary surrender of your Iowa medical license for one year. You are also hereby formally reprimanded for your failure to comply with the requirements of state law and the Board's administrative rules by participating in a relationship with a former patient. Similar acts on your part in the future may result in the permanent denial of any application you make for a license to practice medicine in Iowa.

Please take notice and govern yourself accordingly.

Sincerely,

Ann M. Martino, PhD
Executive Director

AMM/mjb
1/16/96

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT AND STATEMENT OF CHARGES AGAINST

JAMES A. WILCOX, DO, RESPONDENT

No. 03-95-075

COMPLAINT AND STATEMENT OF CHARGES

COMES NOW Ann M. Martino, PhD, Executive Director of the Iowa Board of Medical Examiners (the Board), on September 7, 1995, and at the direction of the Board, files this Complaint and Statement of Charges against James A. Wilcox, DO (the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That James D. Collins, Jr., MD, Chairperson; Laura J. Stensrud, Vice Chairperson; Edra E. Broich, Secretary; James M. Catherine, MD; Eddie D. DeHaan, MD; Mary C. Hodges; Dale R. Holdiman, MD; Teresa A. Mock, MD; Donna M. Norman, DO; and Roger F. Senty, DO, are the duly appointed, qualified and acting members of the Board.

2. That the Respondent was issued license number 01962 to practice osteopathic medicine and surgery in Iowa on September 8, 1982.

3. That the Respondent's license is valid and will next expire on July 1, 1996.

4. That the Respondent's practice specialty is psychiatry.

5. That beginning on or about November 18, 1991 and continuing until late July 1994, the Respondent provided ongoing psychiatric care to Patient #1, a female. During the time period the Respondent provided psychiatric care to Patient #1, the Respondent's diagnostic impressions regarding the patient

included Dysthymic Disorder; Mixed Personality Disorder with elements of Borderline Personality Disorder; Passive/Aggressive Disorder; and, Narcissistic Traits.

6. That on or about July 22, 1994, the Respondent wrote a letter to Patient #1 advising her that he was leaving Iowa and that he was transferring her care to another psychiatrist.

7. That beginning in approximately mid-September 1994 and continuing through at least late June 1995, the Respondent had a personal relationship with Patient #1 which included a sexual relationship.

8. That 1993 Iowa Code section 709.15 prescribes criminal penalties for sexual exploitation of a patient or former patient by a counselor or therapist which includes by statutory definition, a physician.

9. That 1993 Iowa Code section 709.15 defines "Sexual exploitation by a counselor or therapist" to mean in pertinent parts:

Any sexual conduct with an ... emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist, or the emotionally dependent ... former patient or client, which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

Any sexual conduct with a ... former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the ... former patient or client which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes or genitals; or a sex act as defined in section 702.17.

10. That 1993 Iowa Code section 702.17 defines "sex act" to mean:

... any sexual contact between two or more persons by: penetration of the penis in the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or

hand of one person and the genitalia or anus of another person, except in the course of treatment by a person licensed pursuant to chapter 148, 148C, 159, 150A, 151 or 152; or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

11. That the Respondent's sexual relationship with Patient #1 constituted a violation of 1993 Iowa Code section 709.15.

12. That Section 2 Annotation 1 of the ethical standards of the American Psychiatric Association relating to sexual activity by psychiatrists states:

Sexual activity with a patient is unethical. Sexual involvement with one's former patients generally exploits emotions deriving from treatment and therefore almost always is unethical.

13. That the Respondent's sexual relationship with Patient #1 constituted unethical conduct.

14. The Board is authorized to impose discipline against the Respondent pursuant to provisions of Iowa Code sections 147.55, 147.55(3), 147.55(8), 148.6(1), 148.6(2), 148.6(2)c, and 148.6(2)i and 653 IAC 12.4, 12.4(3), 12.4(3)b, 12.4(9), and 12.4(28), which state in whole or part:

147.55 - Grounds. A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

147.55(3) - ... [E]ngaging in unethical conduct ...

147.55(8) - Willful or repeated violations of the provisions of this Act.

148.6(1) - The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, of this subsection ...

148.6(2) - Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

148.6(2)c - Violating a statute or law of this state ... without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.

148.6(2)i - ... [R]epeated violation of lawful rule or regulation adopted by the board ...

653-12.4 - Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2, including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

653-12.4(3) - ... [E]ngaging in unethical conduct ...

653-12.4(3)b - Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of medical ethics and code of ethics set out in rules ... 13.11 ... as interpreted by the board.

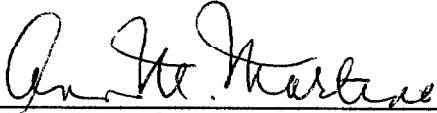
653-12.4(9) - Violating a statute or law of this state ... without regard to its designation as misdemeanor or felony, which statute or law relates to the practice of medicine.

653-12.4(28) - Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections 147.55 and 148.6.

WHEREFORE the undersigned charges that pursuant to the provisions of the Iowa Code sections and Iowa Administrative Code rules outlined herein, the Respondent is subject to disciplinary action by the Board. The undersigned prays that the Board enter an order fixing a time and place for hearing the Complaint and Statement of Charges. The undersigned further prays that upon final hearing the Board enter its findings of fact and decision to revoke, suspend or otherwise discipline the Respondent's license to practice osteopathic medicine and surgery in Iowa and for such other relief as the Board deems just in the premises.

COMPLAINT AND STATEMENT OF CHARGES
James A. Wilcox, DO
No. 03-95-075

IOWA BOARD OF MEDICAL EXAMINERS



ANN M. MARTINO, PhD
Executive Director
1209 East Court Avenue
Des Moines, IA 50319-0180
Telephone: (515) 281-5171

DMC/* 09-05-95

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