

BEFORE THE IOWA BOARD OF PHYSICIAN ASSISTANTS

IN THE MATTER OF)
)
MICHAEL BARGER, P.A.,) **EMERGENCY ADJUDICATIVE**
) **ORDER**
Respondent.)

COMES NOW the Iowa Board of Physician Assistants, on this 29th day of May, 2009, and finds it was presented with evidence which establishes that Respondent's continued practice as a physician assistant constitutes an immediate danger to the public health, safety, and welfare. A summary of the evidence obtained by the Board is as follows:

FINDINGS OF FACT

1. Respondent was issued license number 001007 to practice as a physician assistant in the State of Iowa on December 26, 1995. The license is current through September 30, 2009.

2. On May 14, 2009, the Iowa Board of Pharmacy issued an immediate suspension of Respondent's controlled substance registration based upon its investigation into Respondent's prescribing and record-keeping practices.¹ The Pharmacy Board found,

a. Respondent is over-prescribing Schedule II, III, and IV controlled substances to patients without the presence of a legitimate medical purpose. Doses of Demerol are being prescribed for patients, which doses exceed any medical standard known to the Board. Such doses create an immediate patient safety risk.

b. Respondent is failing to maintain accurate and complete records of controlled substance dispensing and utilization.

c. Respondent is failing to maintain accurate and complete records of controlled substances in his possession.

d. Respondent is obtaining controlled substances by fraudulent means.

e. Respondent is diverting controlled substances to unauthorized uses.

Order of Immediate Suspension of Controlled Substance Registration at p. 4.

¹ The Board hereby adopts and incorporates the Board of Pharmacy's Findings of Facts as set forth in its May 14, 2009, Order.

3. On May 14, 2009, Respondent submitted to a drug test during an investigation into his prescribing practices by the Board of Pharmacy. The sample was taken during work hours while Respondent was practicing as a physician assistant.

4. Test results later revealed Respondent tested positive for several controlled substances, including meperidine metabolite, oxycodone, and oxymorphone.

5. An investigation by the Board of Physician Assistants on May 26, 2009, found that Respondent is still employed by Adel Family Practice and has patients scheduled next week.

CONCLUSIONS OF LAW

6. The Board hereby finds that the facts set forth above establish:

a. Respondent appears to be professionally incompetent, in violation of 645 IAC 329.2(2)(a)-(e).

b. Respondent appears to be unable to safely practice as a physician assistant because of his habitual intoxication or addiction to the use of drugs, in violation of 645 IAC 329.2(6).

c. Respondent appears to have obtained, possessed, attempted to obtain or possess, or administered controlled substances without lawful authority, in violation of 645 IAC 329.2(7).

d. Respondent appears to have falsified client records, in violation of 645 IAC 329.2(8) and 327.7(4).

7. The Board concludes based on the facts set forth above that this investigation is sufficient to ensure the Board is proceeding on the basis of reliable information received from the Board of Pharmacy, its own investigators and from an independent drug testing lab.

8. The facts set forth above establish that Respondent's continued practice as a physician assistant would pose an immediate danger to the public health, safety, or welfare. Respondent's competency problems regarding dispensing and record-keeping and his use of controlled substances while practicing as a physician assistant raise global concerns regarding his ability to practice that cannot be addressed through any means other than full suspension of his license. Even though the Pharmacy Board suspended Respondent's controlled substance prescribing authority, his apparent use of controlled substances and intoxication while on duty poses a serious and immediate danger to his patients. The Board believes patients may be harmed if Respondent is allowed to engage in the practice as a physician assistant before the Board reaches a final decision in the contested case against him.

9. The Board finds there are no monitoring requirements or other interim

safeguards that would be sufficient to protect the public health, safety, or welfare until this case is finally resolved or until such time the Board receives satisfactory evidence of Respondent's fitness to practice.

ORDER

IT IS HEREBY ORDERED, in accordance with Iowa Code Section 17A.18A (2009) and 645 IAC 11.28, that Respondent be indefinitely suspended from the practice as a physician assistant pending further order of the Board.

A hearing on this Emergency Adjudicative Order shall be held on July 15, 2009. The hearing will begin at 9:00 a.m. and will be held at the Board conference room, 5th Floor, Lucas State Office Building, Des Moines, IA 50319.

This emergency adjudicative order is approved by the board on May 29, 2009.