

**BEFORE THE IOWA BOARD OF MEDICINE**

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**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**ADEL S. AL-JURF, M.D., RESPONDENT**

**FILE No. 02-07-069**

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**ORDER RE: RESPONDENT'S REQUEST FOR STAY**

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1. On May 21, 2009, the Iowa Board of Medicine (Board) filed a Statement of Charges against Adel S. Al-Jurf, M.D. (Respondent) alleging two counts:

- A. Count I: Engaging in unprofessional conduct in the practice of medicine, in violation of Iowa Code sections 147.55(3), 272C.10(3), and 653 IAC 23.1(4); and
- B. Count II: Engaging in disruptive behavior, which is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has potential to interfere with, patient care or the effective functioning of health care staff, in violation of Iowa Code section 148.6(2)(i) and 653 IAC 13.7(5).

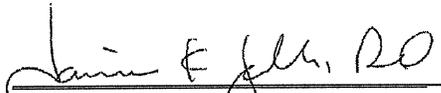
2. A hearing was held before the Board on October 28, 2010, and on January 13, 2011, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. The Board concluded that Dr. Al-Jurf engaged in a pattern of unprofessional, hostile, and intimidating behavior in the practice of medicine. The Board issued Dr. Al-Jurf a public reprimand and placed him on probation for a period of three years subject to counseling and Board monitoring.

3. On February 11, 2011, Respondent filed a Petition for Stay requesting the Board stay enforcement of the conditions established in the January 13, 2011, Findings of Fact, Conclusions of Law, Decision and Order. Respondent argued that his Iowa medical license is currently inactive due to non-renewal, that he is only required to comply with the terms of the Order should he reinstate his Iowa medical license and that he has filed a petition for judicial review of the Board's Order.

4. On February 16, 2011, the State filed a Reply to Dr. Al-Jurf's Request for Stay. The State did not resist the Petition for Stay.

5. On March 10, 2011, the Board, after careful consideration, voted to approve Respondent's Petition for Stay.

**THEREFORE IT IS HEARBY ORDERED** that Respondent's Petition for Stay of the conditions established in the January 13, 2011, Findings of Fact, Conclusions of Law, Decision and Order, is **GRANTED**.

  
Janice Galli, D.O., Secretary  
Iowa Board of Medicine

March 10, 2011  
Date

BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE	)	FILE NO. 02-07-069
STATEMENT OF CHARGES AGAINST	)	DIA NO. 09DPHMB008
	)	
ADEL S. AL-JURF, M.D.	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

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Date: January 13, 2011

PROCEDURAL HISTORY

Original Charges

On May 21, 2009, the Iowa Board of Medicine (Board) filed a Statement of Charges against Adel S. Al-Jurf, M.D. (Respondent) alleging two counts:

Count I: Engaging in unprofessional conduct in the practice of medicine, in violation of Iowa Code sections 147.55(3), 272C.10(3), and 653 IAC 23.1(4); and

Count II: Engaging in disruptive behavior, which is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has potential to interfere with, patient care or the effective functioning of health care staff, in violation of Iowa Code section 148.6(2)(i) and 653 IAC 13.7(5).

The Statement of Charges includes a "Statement of Matters Asserted" in support of the two counts. The Statement of Matters Asserted states, in relevant part, that the "Board received information" which indicates that Respondent:

- Was terminated from his employment due to concerns that he engaged in a pattern of inappropriate and unprofessional conduct in violation of the terms of his employment;

- Engaged in a pattern of unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa;
- Engaged in a pattern of verbally abusive behavior toward co-workers and other healthcare professionals;
- Frequently became angry, yelled, and swore at co-workers and other healthcare professionals;
- Grabbed female co-workers by their arms and shoulders in an aggressive manner on two separate occasions; and
- Created a hostile workplace.

*Application of Doctrine of Res Judicata (Issue Preclusion)*

On December 11, 2009, the state filed a Brief, in which it conceded that the charges against Respondent were based solely on findings made by the University of Iowa Faculty Judicial Panel (Panel). Those findings were affirmed on review by the University of Iowa President, the Board of Regents, the District Court, and the Court of Appeals. The state argued that the doctrine of res judicata should apply to bar Respondent from re-litigating the facts conclusively decided in these prior proceedings.

On January 29, 2010, Respondent filed a Brief (with supporting exhibits) resisting the application of the doctrine of res judicata. On February 25, 2010, an administrative law judge (ALJ) ruling applied the doctrine of issue preclusion to bar Respondent from relitigating facts decided by the Panel and ultimately affirmed by the Iowa Court of Appeals. The ALJ ruling further held that the Board's disciplinary hearing should focus on whether the facts established in the prior proceeding constituted violations of the statutes and rules cited in the Statement of Charges and if so, what sanction was appropriate. The ALJ ruling did not preclude Respondent from presenting relevant mitigating evidence. Although the ruling stated that it was subject to the interlocutory appeal provisions of 653 IAC 25.23, Respondent did not appeal the ALJ ruling to the full Board.

*Dismissal of Part of Count I and All of Count II*

A prehearing conference was held on March 30, 2010 and discovery deadlines were established. On June 7, 2010, new counsel filed an Appearance on behalf of Respondent. On June 17, 2010, Respondent filed a Motion to Dismiss, which the state resisted, in part. On June 30, 2010, an ALJ issued a ruling on Respondent's Motion to Dismiss. The ruling deleted the reference to 653 IAC 23.1(4) as legal grounds for discipline under Count I. 653 IAC 23.1(4), which defines "unprofessional conduct," was not yet in effect at the time that Respondent engaged in the conduct underlying the charges. The ruling denied Respondent's request to dismiss Count I in its entirety, finding that the Board should be permitted to determine whether Respondent engaged in "unethical conduct," in violation of Iowa Code sections 147.55(3) and 272C.10(3), which were in effect at the time of Respondent's conduct. Count II was dismissed in its entirety. The only statute cited in Count II, Iowa Code section 148.6(2)(i), refers only to repeated or willful violation of Board rule. The only rule cited in Count II, 653 IAC 13.7(5), had not been promulgated at the time Respondent engaged in the conduct underlying the charges. Following this ALJ ruling, the only issues remaining for hearing were whether the facts established in the prior proceeding constitute unethical conduct, in violation of Iowa Code sections 147.55(3) and 272C.10(3), and if so, what sanction is appropriate? Neither party sought interlocutory review of the ALJ ruling on the Motion to Dismiss.

*The Board's Hearing*

The hearing was held on October 28, 2010 before the following quorum of the Board: Janice Galli, D.O., Board Secretary; Joyce Vista-Wayne, M.D.; Allen Zagoren, D.O.; Ambreen Mian, Janece Valentine, and Paul Thurlow, public members. Respondent was represented by attorney Martin Diaz. Assistant Attorney General Theresa O'Connell Weeg represented the state. The hearing was open to the public at the discretion of Respondent, pursuant to Iowa Code section 272C.6(1) and 653 IAC 25.18(12). The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare a written decision for their review, in accordance with their deliberations.

## THE RECORD

The record includes the above-described motions, briefs, and rulings; motions and orders for continuance and hearing orders; Respondent's testimony; State Exhibits 1-27 and Respondent Exhibits A-Z.

## FINDINGS OF FACT

### *Respondent's Educational, Licensing, and Professional History*

1. Respondent was issued Iowa medical license number 20791 on August 12, 1977. Respondent's Iowa medical license expired due to nonrenewal on April 1, 2007 and has not been reinstated. (Exhibit 2; Respondent testimony)
2. Respondent was born in Palestine, grew up in Jordan, and attended medical school in Egypt. In 1972, he came to the United States for a general surgery residency at the Cleveland Clinic. In 1977, Respondent was hired by the University of Iowa Hospital and Clinics (UIHC) as a general surgeon and faculty member. Respondent gained tenure in 1981 and became a full professor in 1986. In 2002, Respondent was recognized as one of the "Best Doctors in America" for his work in surgical oncology. At one time Respondent was the top earner for his department. (Respondent testimony; Ex. 9, p. 1; Exhibit B, pp. 1-2)
3. Respondent was employed as a surgeon and faculty member at UIHC from 1977 until January 20, 2005, when his employment was terminated by a Decision of the University's President. Respondent has not completed any continuing medical education since 2003 and has not practiced medicine since 2004. However, Respondent is interested in reinstating his medical license and returning to the practice of medicine. (Respondent testimony; Exhibit 7)

### *Findings of the University Faculty Judicial Panel*

4. In June of 2003, the University Provost issued a Notice of Charges alleging that Respondent had violated the University's Professional Ethics and Academic Responsibility Policies, Section 15.4 (Responsibilities to Colleagues)<sup>1</sup> and setting forth the following factual allegations:

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<sup>1</sup> Section 15.4 provides: As a colleague, the faculty member has obligations that derive from common membership in the community of scholars. He or she respects and defends the free inquiry of associates and avoids interference in their work. In the exchange of criticism and ideas, he or she shows due respect for the rights of others to their opinions. He or she refrains

- (a) Respondent subjected CRNA Lynn Fitzpatrick to vilification and abuse during an operating procedure on April 23, 2003;
- (b) Respondent subjected Dr. Beth Ballinger to vilification, physical assault, and verbal abuse during rounds in the Surgical Intensive Care Unit on January 22, 2003;
- (c) Respondent subjected colleagues in the Clinical Cancer Center to vilification and verbal abuse in 2002; and
- (d) Respondent engaged in a pattern of unprofessional behavior in the operating room with members of the Department of Anesthesia from January 2000 through August 2001.

The University's Notice of Charges further alleged that Respondent violated Section 15.2 (Responsibilities to Students)<sup>2</sup> and set forth two sets of events as the factual basis for these charges:

- (a) Beginning in 1996, Respondent excluded residents from participating in surgical cases and he created a disruptive and hostile working environment for the residents in the Operating Room; and
- (b) In February 2003, Respondent subjected resident Dr. Yi-Horng Lee to intimidating and threatening behavior in response to a letter that Dr. Lee had written to Dr. Kealey expressing concerns about Dr. Al-Jurf's conduct in a particular case.

(Ex. 5).

5. In April 2004, a three-person Faculty Judicial Panel (Panel) conducted a 25 hour hearing, pursuant to the procedures in the University's Operations Manual. At hearing, the University had the burden of proving, by clear and convincing evidence in the record as a whole, that Respondent violated university policy as stated in the Notice of Charges. The issues at hearing included complaints against Respondent from other UIHC physicians and staff as well as Respondent's grievances against three University administrators: Dr. Brown,

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from personal vilification, and acknowledges contributions of others to his or her work. When asked to evaluate the professional performance of a colleague, the faculty member strives to be objective. (Ex. 5, p. 17)

<sup>2</sup> Section 15.2 provides: A faculty member has a responsibility to create a climate that encourages the student's endeavors to learn and should conduct himself or herself at all times so as to demonstrate respect for the student and fair and impartial evaluations of the student's work.

head of the Department of Anesthesia; Dr. Howe, Director of the Division of Surgical Oncology; and Dr. Scott-Conner, Head of the Department of Surgery. (Ex. 6)

The Panel heard sworn testimony from 13 witnesses, heard argument from counsel on both sides, and reviewed a large number of documents. The Panel's written decision included a summary of the evidence with respect to each of six charges followed by factual findings with respect to each charge. The Board has given preclusive effect (issue preclusion) to the following factual findings of the Panel, as outlined in the ALJ's prehearing ruling:

**Findings related to Charge 1:** Without ruling on these incidents individually, we find that taken together, the evidence is sufficient to prove clearly and convincingly an early pattern of repeated behavior in which Dr. Al-Jurf became angry, raised his voice, at times shouted, refused to listen, and acted in an overbearing way toward professional colleagues who were subordinate to him in rank and power. Rather than respect their views or engage in reasoned dialogue, he bullied and at times made personally demeaning statements or insinuations. On a few occasions he touched or approached so closely that people felt physically threatened. (Ex. 6, p. 23)

**Findings related to Charge 2:** The evidence taken as a whole clearly and convincingly demonstrates that Dr. Al-Jurf's overbearing pressure on Nurse Hostetler in May and June 2002, apparently motivated by antipathy toward Dr. Howe, was unprofessional behavior, interfering in her work, and creating a hostile environment. Such behavior is in contravention of the University's standards of professional behavior. (UOM 15.4). He was again put on notice that his conduct was unacceptable and continuation could have serious consequences. (FM41; U18; U17). (Ex. 6, p. 25)

**Findings related to Charge 3<sup>3</sup>:** The documentation on this incident with its many witnesses is ample and leaves no doubt about what happened. The Panel finds that Dr. Al-Jurf did violate the UOM 15.4, Responsibilities to Colleagues. The record demonstrates clear and convincing evidence of vilification. His sarcastic and abusive criticism of a junior faculty member and refusal to listen, in front of other people, exceeded the boundaries of acceptable professional behavior in any University context.

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<sup>3</sup> The charge concerned Respondent's treatment of Dr. Beth Ballinger on January 22, 2003.

**Findings related to Charge 4:** The panel finds, by clear and convincing evidence, Al-Jurf actions, no matter how motivated, caused distress to a colleague. His behavior failed to give due respect to the rights of others to perform their work, as described in UOM Section 15.4. (Ex. 6., p. 28)

**Findings related to Charge 5:** In summary, the panel finds that the tension present in the OR creates an environment in which faculty need to be especially aware of their role as educator clinicians in *managing* excellent patient care. The issue in this charge is not over a percentage or relative role within a surgical experience that a resident/student participates in but the manner in which the educational process takes place. This panel finds clear and convincing evidence that Dr. Al-Jurf created a hostile educational environment in the operating theater on multiple occasions to residents under his training. Further, he provided students a poor example of how colleagues and support staff are to be treated. Students can learn but be terrified in the process, unwilling to question or probe for alternatives, reasons, rational, and so on. This tension and fear leads to an environment where questions are not asked, decisions are not challenged and in the end optimal patient care is not provided. (Ex. 6, p. 31)

**Findings related to Charge 6:** The faculty judicial panel finds a verbal threat and intimidation to both Dr. Lee directly (“...in trouble and would answer to the Dean...”) and a more vague threat against future residents. His statement that future residents would get less operating experience, while probably made within the passion of a discussion, does indicate an intention to violate the July 2002 remediation plan in clear violation of its reinstatement by Dr. Carol Scott-Connor on 2-18-03 (U051). Therefore, the panel finds that Dr. Al-Jurf violated the University of Iowa’s Operations Manual section 15.2, “Responsibility to Students” by creating a hostile educational environment, and violated UOM 10.3 regarding conduct which has an unreasonable effect of interfering with an individual’s academic efforts (education). As to the charge of retaliation (Section UOM 11.3), we find that he threatened retaliation, but we have seen no evidence of actual retaliation. (Ex 6, p. 33)

The Panel further found that Respondent's grievance against the three physician administrators was without merit. (Ex. 6, pp. 33-36)<sup>4</sup> The Panel recommended that Respondent **...not be allowed to return to operating at the UIHC or to maintain his position in the Department of Surgery.** We intend by this recommendation to include the possibility of dismissal, allowing him to resign, or transfer to another position that would not be associated with UIHC. (State Exhibit 6, p. 38, emphasis original)

### *Review of the Panel's Decision*

6. UI President David Skorton reviewed the Panel's decision and their recommendation.<sup>5</sup> President Skorton considered the videotapes of the Panel's hearing, including the deposition of Dr. Lee taken in Pittsburgh, the exhibits, and the arguments of the parties. President Skorton issued his own 10 page decision, which accepted the Panel's factual findings and dismissed Respondent from his position as a surgeon/faculty member with the University. (State Exhibit 7)

7. Respondent appealed President Skorton's decision to the Board of Regents, but the Regents denied the appeal. (See Ex. 9, p. 64) Respondent then filed a petition for judicial review with the Polk County District Court. On September 7, 2006, the District Court affirmed the Iowa Board of Regents' decision to terminate Respondent's employment. The District Court examined the entire record below and found that "[c]onsidering the multiple reports of different staff, nurses, anesthesiologists, and fellow doctors shown in the record, considering their unwavering tone regarding Dr. Al-Jurf's behavior, and considering the incidents ranged over a time period of seven years, this Court concludes that a reasonable person could have found clear and convincing evidence exists supporting termination." (Ex. 8, pp. 68-69) The District Court further found that "...the problems have been well documented below and there is substantial evidence to support the findings below by clear and convincing evidence." (Ex. 8, p. 73) The District Court further found that the agency did not commit any errors of law. (State Exhibit 8, p. 76)

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<sup>4</sup> The Panel's findings that Respondent's grievances were without merit were not subject to further review. (Operations Manual, Section 29.6(g)(4))

<sup>5</sup> University Operations Manual 29.7(j) provides that the President determines "what actions if any, the University shall take, based on the Panel's findings and recommendations." In making the decision, the President shall give "great weight to the findings and recommendations of the panel." (OM, 29.7(j)(1) However, the President may reject any or all of the Panel's findings and recommendations. (OM, 29.7(j)(3))

8. The Iowa Court of Appeals affirmed the district court in an unpublished decision issued July 12, 2007. The Court of Appeals found that substantial evidence supported the agency's findings. (Ex. 9)

**Civil Lawsuit Filed By Respondent**

9. On or about January 18, 2007, Respondent filed a civil lawsuit against Carol Scott-Conner, M.D., David Brown, M.D. and Susan Johnson, M.D. in Johnson County District Court alleging that their actions towards him while he was employed at UIHC violated his rights under 42 U.S.C. §1983. (Exhibit 24) Respondent submitted a number of documents from this civil lawsuit into the Board's record to support his arguments that he was treated unfairly by his colleagues at UIHC. Following trial, the jury returned a verdict dismissing all of Respondent's claims. (Exhibit B, Z, 25).

**CONCLUSIONS OF LAW**

***I. Unethical Conduct***

At all times relevant to this decision, Iowa Code sections 147.55(3) and 272C.10(3) authorized the Board to discipline a physician for engaging in unethical conduct or practice harmful or detrimental to the public. The statutes do not require proof of actual injury.

In making its decision, the Board gave preclusive effect to the factual findings of the Faculty Judicial Panel that led to the termination of his employment at UIHC. However, the Board fully considered Respondent's additional evidence and testimony on the issues of whether his behavior at UIHC violated the Board's unethical conduct statutes and whether there were mitigating circumstances weighing against imposing sanctions on his medical license.

All of the conduct underlying the Panel's findings occurred prior to the promulgation of Board rules that prohibit "disruptive conduct" and define "unprofessional" conduct.<sup>6</sup> Nevertheless, prior to adopting those rules the Board had interpreted and applied the "unethical conduct" statutes to prohibit

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<sup>6</sup> See Respondent's Motion to Dismiss, State's Resistance, Respondent's Reply, and Ruling.

physicians from engaging in unprofessional or disruptive behavior in the workplace if the behavior had the potential to adversely affect patient care.<sup>7</sup> The pattern and types of behavior chronicled in the Faculty Judicial Panel's findings - including but not limited to placing overbearing pressure on a nurse and interfering in her work, sarcastic and abusive criticism of a junior faculty member in front of others, refusal to listen to colleagues, and creating a hostile educational environment for residents - all fall into this category.

The hostile, unprofessional, and intimidating nature of Respondent's interactions with his colleagues could have adversely affected patient care by impeding effective communication among the medical treatment team (physicians, nurses, CRNAs, and residents), by contributing to a negative or hostile atmosphere in the workplace, and by discouraging team members from asking questions or challenging treatment decisions.

At hearing, it was clear that Respondent has little awareness or appreciation of how others perceive him. Respondent repeatedly raised his voice to the point of yelling, despite several reminders to modulate his voice. Respondent dismissed the suggestion that his tendency to yell was part of his problem and told the Board that he was just "passionate" about the injustice done to him and passionate about issues involving patient care. He also commented that surgeons are "famous for being like I am." Respondent frequently failed to listen carefully to the questions he was being asked and as a result did not provide responsive answers to questions.

Throughout the hearing, Respondent was focused on criticizing his former colleagues rather than on reassuring the Board that he is able to function, professionally and ethically, as a member of a health care delivery team. Notably, when asked by a Board member to describe the team approach to health care delivery, Respondent provided an example that only included physicians. When asked how nurses fit in to the team approach, Respondent replied "they could be part of the team, it does not matter to me - I'm a surgeon, so far nurses take orders and they are not part of the decision making."

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<sup>7</sup> See, e.g. Board settlement agreement/ decisions in Neff (Case No. 03-00-450); Paulson ( Case No. 02-05-683) and Cody (Case No. 03-00-450.)

The preponderance of the evidence established that Respondent's unprofessional, hostile, and intimidating interactions with his colleagues at UIHC constituted unethical conduct, in violation of Iowa Code sections 147.55(3) and 272C.10(3). Respondent's inappropriate behavior was repeated and severe enough to lead to the termination of his employment at UIHC, despite the fact that he was a "top earner" for his department and highly regarded as a skilled surgeon. Respondent's conduct violated well established standards of ethical conduct for physicians during the relevant time period.

## ***II. Reinstatement of Inactive Iowa Medical License***

Respondent failed to renew his Iowa medical license and the license went inactive on June 1, 2007. Respondent has indicated that he intends to seek reinstatement of his Iowa medical license. 653 IAC 9.15(2) imposes requirements to reinstate a license that has been inactive for one year or longer. Pursuant to 653 IAC 9.15(2)(a)-(c), Respondent must submit an application with required information and disclosures, must pay the reinstatement fee, and must complete 80 hours of category 1 continuing medical education credits and mandatory training on identifying and reporting abuse in order to reinstate his Iowa medical license. In addition, since Respondent has not engaged in the active practice of medicine in the past three years, prior to reinstatement, Respondent must complete the Center for Personalized Education for Physicians (CPEP) Clinical Practice Re-Entry Program.

## ***III. Sanctions for Unethical Conduct***

In prior cases involving unethical conduct in the workplace, the Board has typically imposed a citation and warning, a civil penalty, and a term of probation with terms and conditions to remediate the behavioral issues. The Board has elected not to impose a fine on Respondent for several reasons. None of Respondent's inappropriate behavior was directed toward patients. Respondent appeared sincere in his belief that he was acting in the best interests of his patients and does not appear to have had any malicious intent towards his colleagues. Nevertheless, Respondent clearly lacks insight and understanding of how his behavior appears to others, how his behavior negatively affected his colleagues, and how his behavior could have adversely affected patient care.

## DECISION AND ORDER

**IT IS THEREFORE ORDERED** that Respondent is hereby **CITED** for engaging in unethical conduct in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that such conduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

**IT IS FURTHER ORDERED** that prior to reinstatement of his medical license, Respondent shall comply with all of the requirements of 653 IAC 9.15(2), including but not limited to successful completion of the Clinical Practice Re-entry Program at the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado. Respondent is solely responsible for all costs associated with completing this program.

**THREE YEARS PROBATION:** Upon proof of successful completion of the reinstatement requirements, Respondent's Iowa medical license shall be reinstated and placed on **probation for a period of three (3) years**, subject to the following terms and conditions:

- A. **Monitoring Program:** Respondent shall establish a monitoring program with Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-3654. Respondent shall fully comply with all requirements of the monitoring program.
- B. **Board-approved Counseling:** Respondent shall participate in Board-approved counseling for anger management, professional boundaries and collaborative medical practice. Respondent shall submit the name and CV of a counselor for Board approval.
  - (1) The counselor shall submit written quarterly reports to the Board concerning Respondent's progress not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
  - (2) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board.
  - (3) Respondent shall continue counseling until discharge is recommended by the counselor and approved by the Board.

- (4) Respondent is responsible for all costs associated with counseling.
- C. **Written Physician Mentoring Plan:** Respondent shall submit a written physician mentoring plan for Board approval. The plan shall include the name and CV of a proposed physician mentor who regularly works with and observes Respondent in the practice of medicine. The Board shall share a copy of all Board orders relating to this case with the physician mentor. The physician mentor shall provide a written statement indicating that the mentor has read and understands all Board orders in this matter and agrees to act as the physician mentor under the terms of this Order. The physician mentor shall agree to inform the Board immediately if there is evidence of professional misconduct, a violation of this Order, or a violation of the law and rules governing the practice of medicine in Iowa.
- (1) The physician mentor shall submit written quarterly reports to the Board no later than 1/20, 4/20, 7/20, and 10/20 of each year of this Order;
  - (2) Respondent shall continue meeting with the physician mentor until discharge is approved by the Board; and
  - (3) Respondent shall meet with the physician mentor as frequently as approved by the Board.
- D. **Staff Surveillance Forms and Patient Satisfaction Surveys:** Respondent shall utilize Staff Surveillance Forms and Patient Satisfaction Surveys in his medical practice as directed by the Board.
- E. **Quarterly Reports:** Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Decision and Order. The reports shall be filed no later than 1/10, 4/10, 7/10 and 10/10 of each year of the Respondent's probation.

- F. **Board Appearances:** Respondent shall make appearances before the Board or a Board committee annually or upon request. Respondent shall be given reasonable notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).
  
- G. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of probation to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report from Respondent required by this Order. The monitoring fee shall be sent to: Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The Monitoring Fee shall be considered repayment receipts as defined in Iowa Code section 8.2C.
  
- H. **Obey All Laws:** Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Iowa.
  
- I. **Duration of Probation:** Periods in which Respondent does not practice medicine or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.
  
- J. **Residence or Practice Outside of Iowa:** If Respondent leaves Iowa to reside or practice outside the state, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.
  
- K. **Failure to Comply With This Order:** If Respondent violates or fails to comply with any of the terms or conditions of this Decision and Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code chapters 148, 272C, and 653 IAC 12.2.

**IT IS FURTHER ORDERED**, in accordance with 653 IAC 25.33, that Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 25.33(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

  
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Janice Galli, D.O., Secretary  
Iowa Board of Medicine

Date January 13, 2011.

Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, from and after the date of this Decision and Order. 653 IAC 25.31.

cc: Theresa O'Connell Weeg, Assistant Attorney General  
Martin Diaz, Respondent's Attorney

BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE	)	FILE NO. 02-07-069
STATEMENT OF CHARGES AGAINST	)	DIA NO. 09DPHMB008
	)	
ADEL S. AL-JURF, M.D.	)	RULING ON RESPONDENT'S
	)	MOTION TO DISMISS
Respondent	)	07-01-10P01:54 RCVD

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On May 21, 2009, the Iowa Board of Medicine (Board) filed a Statement of Charges against Adel S. Al-Jurf, M.D. (Respondent) charging him in two counts:

Count I: Engaging in unprofessional conduct in the practice of medicine, in violation of Iowa Code sections 147.55(3), 272C.10(3) and 653 IAC 23.1(4); and

Count II: Engaging in disruptive behavior, which is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has potential to interfere with, patient care or the effective functioning of health care staff, in violation of Iowa Code section 148.6(2)(i) and 653 IAC 13.7(5).

The Statement of Matters Asserted in support of the two counts refers to Respondent's termination from his employment due to concerns that he engaged in a pattern of inappropriate and unprofessional conduct in violation of the terms of his employment. The Statement of Matters Asserted further alleges that Respondent engaged in a pattern of unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa, including but not limited to a pattern of verbally abusive behavior toward co-workers and other healthcare professionals and grabbing female co-workers by their arms and shoulders in an aggressive manner on two separate occasions. In February 2010, the undersigned issued a ruling granting the state's request to apply the doctrine of issue preclusion to bar Respondent from re-litigating the facts conclusively decided by the University of Iowa Judicial Panel, the University President, the Board of Regents, and the Iowa Court of Appeals.

On or about June 11, 2010, Respondent filed a Motion to Dismiss. The state filed a Resistance on June 29, 2010. The Board delegated ruling on the motion to the

undersigned administrative law judge. Respondent's arguments will be addressed in the order they were presented in the motion.

Respondent argues that there are no facts to support a violation of Count II. The statute cited in the count, Iowa Code section 148.6(2)(i), prohibits willful or repeated violations of Board rules. The acts leading to the termination of Respondent's employment occurred on or before April 23, 2003. However, the only administrative rule cited in Count II did not go into effect until December 24, 2003. The state agrees that Count II should be dismissed.

Respondent makes a similar argument with respect to Count I. Although the narrative of Count I refers to "unprofessional conduct," the statutes cited in that count (Iowa Code sections 147.55(3) and 272C.10(3) prohibit "...engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established." Although these statutes were in effect at the time of Respondent's conduct, the statutes do not contain the term "unprofessional" conduct. The rule that is cited in Count I, 653 IAC 23.1(4), describe "unprofessional" conduct, but that rule was not in effect at the time of Respondent's conduct that led to his termination.

At the time of Respondent's conduct, Board rule 653 IAC 12.4(3)"b" provided:

*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 653-13.10 and 653-13.11, as interpreted by the Board.*

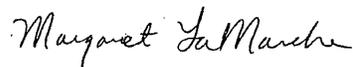
(Respondent Exhibit 5 attached to Motion to Dismiss with emphasis added) However, at that time 653 IAC 13.10 and 13.11 did not contain any standards and principles of medical ethics or code of ethics and therefore do not provide a legal basis for a violation in this case. (Respondent Exhibit 4)

The state concedes that 653 IAC 23.1(4) should be deleted from Count I as a legal basis for a violation, but argues that dismissal of the entire count is not warranted. The state asserts that the terms "unethical conduct" and "unprofessional conduct" are synonymous and that the use of the word "unprofessional" rather than "unethical" did not prevent Respondent from understanding or defending the charge against him. The state argues that it would be elevation of form over substance to dismiss the entire count. The state's arguments on this point are persuasive. The Board should be allowed to

consider and then determine, following hearing, whether Respondent's conduct constituted "unethical conduct" as prohibited by the statutes in effect at the time.

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss is GRANTED, in part, and DENIED, in part. The Motion to Dismiss Count II is GRANTED. The Motion to Dismiss Count I in its entirety is DENIED. However, 653 IAC 23.1(4) shall be deleted from Count I as a potential legal basis for a violation. The Board will be allowed to consider and determine whether or not Respondent's conduct constituted unethical conduct, as prohibited by Iowa Code sections 147.55(3) and 272C.10(3).

Dated this 30th day of June , 2010.



Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319

cc: Martin A. Diaz, 528 South Clinton Street, Iowa City, Iowa 52240-4212  
Theresa O'Connell Weeg, Department of Justice, Hoover Bldg, 2<sup>nd</sup> Fl.  
(LOCAL)  
Kent Nebel, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C (LOCAL)  
[all parties also served by email]

This ruling is subject to the interlocutory appeal provisions of 653 IAC 25.23. See 653 IAC 25.6.

BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE ) FILE NO. 02-07-069  
STATEMENT OF CHARGES AGAINST ) DIA NO. 09DPHMB008  
)  
)  
ADEL S. AL-JURF, M.D. ) ORDER FOLLOWING  
Respondent ) PREHEARING CONFERENCE

---

A telephone prehearing conference was held on Tuesday, March 30, 2010 at 9:00 a.m. The attorneys reported that they are both available for hearing on **July 12, 15, 16 and August 3 and 4**. They further agreed to the following prehearing deadlines:

May 21, 2010: Close of written discovery (discovery requests must be filed by April 21, 2010 unless the parties agree to shorter timeframe for responses.

May 28, 2010: Exchange witness lists

June 25, 2010: Exchange Exhibit Books

July 2, 2010: Exhibit Books provided to the Board

Dated this 30th day of March, 2010.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319

cc: Connie Diekema, Respondent's Attorney  
Theresa O'Connell Weeg, Assistant Attorney General  
Mark Bowden and Kent Nebel, Iowa Board of Medicine  
[all served solely by email]

BEFORE THE IOWA BOARD OF MEDICINE

---

IN THE MATTER OF THE	)	FILE NO. 02-07-069
STATEMENT OF CHARGES AGAINST	)	DIA NO. 09DPHMB008
	)	
ADEL S. AL-JURF, M.D.	)	ORDER FOLLOWING
Respondent	)	PREHEARING CONFERENCE

---

A telephone prehearing conference will be held on **Tuesday, March 30, 2010 at 9:00 a.m.**

**INSTRUCTIONS TO PARTICIPATE IN THE TELEPHONE PREHEARING:**

We are now using a telephone conference calling system for prehearings. You can participate from any location where you have a telephone.

**At the date and time scheduled for hearing, you must do the following:**

- Call 1-866-685-1580
- When prompted, enter the following Conference Code Number:  
**0009991671**(press # after entering the number)
- The system will ask if you are the leader. **YOU ARE NOT -- DO NOT PRESS THE \* KEY**
- The system will ask you to state your first and last name
- You will be put on hold until the judge enters the conference call; stay on the line until the judge enters the call.

**Important information about participating in the hearing:**

- You may call in as early as five minutes before your hearing is scheduled to begin (example: if your hearing is scheduled to begin at 9:00 AM, you may call as early as 8:55 AM).
- The judge will wait five minutes after the time the hearing is scheduled to start to allow all parties to call in. If you have not called in by five minutes after the hearing is scheduled to start, the judge may enter a default judgment against you.
- **It is your responsibility to call in for the hearing. The judge will not call you. If you do not call using the above instructions, you will not be able to participate in the hearing.**

File No. 02-04-652

Page 2

- If you encounter any technical difficulty in joining the call, please call Karla at (515)281-6468 to report the problem.

Dated this 23rd day of March, 2010.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319

cc: Connie Diekema, Respondent's Attorney  
Theresa O'Connell Weeg, Assistant Attorney General  
Mark Bowden and Kent Nebel, Iowa Board of Medicine  
[all served solely by email]

BEFORE THE IOWA BOARD OF MEDICINE

---

IN THE MATTER OF THE ) FILE NO. 02-07-069  
STATEMENT OF CHARGES AGAINST ) DIA NO. 09DPHMB008  
)  
)  
ADEL S. AL-JURF, M.D. ) ORDER GRANTING MOTION  
) TO RECONSIDER  
Respondent )

---

The Iowa Board of Medicine (Board) filed a Statement of Charges against Adel S. Al-Jurf, M.D. (Respondent) on May 21, 2009. The hearing has been continued two times and is currently scheduled for Wednesday, December 16, 2009 at 1:00 p.m. On December 10, 2009, the undersigned administrative law judge issued an Order denying Respondent's third continuance request. On December 10, 2009 at approximately 3:38 p.m., the assistant attorney general representing the state sent an email to Respondent's attorney and the undersigned administrative law judge and indicated that she intended to file a prehearing brief on the issues of res judicata, issue preclusion, and law of the case.

The assistant attorney general filed her brief by email attachment on December 11, 2009 at 9:35 a.m. but by that time had left town and was not scheduled to return until Monday night. Through its brief, the state asks the Board to apply the doctrine of res judicata to bar Respondent from relitigating the facts of the case as adjudicated by the University of Iowa's Faculty Judicial Commission, the University of Iowa President, and the Board of Regents. The state asserts that Respondent should be allowed to present evidence and argument on the question of whether these facts constitute violation of the Board's statutes and rules, and if so, whether and what disciplinary sanctions may be appropriate.

On December 11, 2009 at approximately 2:00 p.m. Respondent's attorney sent a Motion to Reconsider the ruling on the Motion to Continue to the undersigned administrative law judge, to the state's attorney, and to the Board's Director of Legal Compliance. The undersigned informed the parties by email that a ruling would be issued on Monday morning, December 14, 2009.

Respondent's attorney cites two reasons for the Motion to Reconsider: 1) problems encountered in securing the appearance of witnesses on the date of the

hearing and 2) the need to research and respond to the state's brief. The witness issues, by themselves, would not justify reconsideration. The case has been scheduled for hearing on December 16, 2009 since September 11<sup>th</sup>, and Respondent's attorney had sufficient time to make arrangements for witnesses. The state's brief, however, does justify a continuance. The state raises legal issues that could preclude Respondent from presenting witnesses on the factual matters alleged in the Statement of Charges and could significantly limit the scope of the hearing before the Board. Respondent is entitled to respond to those arguments in writing, and it is in the interests of judicial economy to resolve those issues before convening the Board for an evidentiary hearing. Although the brief was not captioned as a motion, it can fairly be characterized as a prehearing motion. Respondent should be accorded at least ten days to respond in writing.

IT IS THEREFORE ORDERED that Respondent's Motion to Reconsider is hereby GRANTED and the hearing scheduled for December 16, 2009 is hereby CONTINUED.

Dated this 14<sup>th</sup> day of December, 2009.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319  
Voice: (515) 281-7177  
Facsimile: (515) 281-4477

cc: Connie Diekema, 699 Walnut Street, Ste. 1900, Des Moines, Iowa 50309  
Theresa O'Connell Weeg, Department of Justice, Hoover Bldg, 2<sup>nd</sup> Fl.  
(LOCAL)  
Kent Nebel, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C (LOCAL)  
[all also served by email]

BEFORE THE IOWA BOARD OF MEDICINE

---

IN THE MATTER OF THE ) FILE NO. 02-07-069  
STATEMENT OF CHARGES AGAINST ) DIA NO. 09DPHMB008  
)  
ADEL S. AL-JURF, M.D. ) ORDER DENYING MOTION  
) TO CONTINUE  
Respondent )

---

The Iowa Board of Medicine (Board) filed a Statement of Charges against Adel S. Al-Jurf, M.D. (Respondent) on May 21, 2009. A hearing was initially scheduled for July 7, 2009 but was continued at Respondent's request. The second hearing date of September 2, 2009 was also continued at Respondent's request. On September 11, 2009, the hearing was rescheduled for December 16, 2009.

Respondent's attorney filed a Motion to Continue on December 3, 2009 stating that:

- She only recently finished reviewing the thousands of pages in the investigative file and has determined that she will need to subpoena and depose five physician witnesses;
- The Board has set aside insufficient time for the hearing;
- A civil trial on related issues is scheduled for May 17, 2010 in Johnson County and testimony from that trial would be helpful in the Board's hearing; and
- A continuance would not prejudice the public because Respondent's Iowa license has been inactive for two and one half years and he is not currently practicing medicine.

The state filed a resistance on December 8, 2009, stating that:

- Respondent has had more than sufficient time to review the file and conduct discovery because the case has been pending since May 21, 2009 and Respondent has already had two continuances;
- Respondent's attorney indicated at prehearing that a decision would be made whether to file a continuance request by November 13, 2009 but none was filed until December 3, 2009;

- Respondent has been aware of the facts leading to the Board's action since 2003 because the Board's case is based on allegations of unprofessional and disruptive conduct filed by the University of Iowa in June 2003, which led to his termination in 2005;
- The case does not reasonably require two days, as asserted by Respondent, because the factual issues have been determined by the Court of Appeals;
- The Board has an obligation to timely resolve cases;
- The fact that Respondent has an inactive license and is not practicing at this time is not grounds for a third continuance.

The Board has referred the motion to the undersigned administrative law judge for ruling. 653 IAC 25.16(2) provides a list of factors to consider in determining whether a continuance should be granted, including prior continuances, the interests of all parties, the public interest, the likelihood of informal settlement, the existence of an emergency, any objection, any applicable time requirements, scheduling conflicts, the timeliness of the request, and other relevant factors.

Respondent has already received two continuances. This matter has been set for hearing on December 16, 2009 since September 11, 2009. A prehearing conference was held on November 12, 2009. At that time, Respondent's attorney indicated that she would decide by the end of the week whether to file another continuance request. Nevertheless, the Motion to Continue was not filed until three weeks after the November 12<sup>th</sup> prehearing conference. Respondent has had ample time to conduct discovery and prepare for hearing on the issues identified in the Statement of Charges. Upon review of the file, it does not appear that the Board's consideration of the charges would be enlightened or benefited by waiting for a civil trial to proceed in May 2010. The Board can rearrange its appearance schedule to accommodate the scheduling conflict for Respondent's counsel during the afternoon session.

IT IS THEREFORE ORDERED that Respondent's Motion to Continue is hereby DENIED.

Dated this 10<sup>th</sup> day of December, 2009.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319  
Voice: (515) 281-7177  
Facsimile: (515) 281-4477

cc: Connie Diekema, 699 Walnut Street, Ste. 1900, Des Moines, Iowa 50309  
Theresa O'Connell Weeg, Department of Justice, Hoover Bldg, 2<sup>nd</sup> Fl.  
(LOCAL)  
Kent Nebel, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C (LOCAL)  
[all also served by email]

BEFORE THE IOWA BOARD OF MEDICINE

---

IN THE MATTER OF THE ) FILE NO. 02-07-069  
STATEMENT OF CHARGES AGAINST ) DIA NO. 09DPHMB008  
)  
)  
ADEL S. AL-JURF, M.D. ) ORDER FOLLOWING  
Respondent ) PREHEARING CONFERENCE

---

A telephone prehearing conference was held by the undersigned on Thursday, November 12, 2009 at 8:30 a.m. Assistant Attorney General (AAG) Theresa O'Connell Weeg and Respondent's Attorney, Connie Diekema, both participated. Ms. Diekema reported that a civil trial on related matters that had been scheduled for September has been continued. She also indicated that they would be deciding whether to file a Motion to Continue the Board's hearing by the end of this week. She also questioned whether sufficient time had been set aside for hearing and estimated that the Respondent's case may take four hours. The AAG indicated that the state would resist a continuance motion. A deadline was established for the parties to exchange exhibits and witness lists and to provide stipulated exhibits for distribution to the Board, based on the current hearing date of December 16, 2009. IT IS THEREFORE ORDERED that the parties shall exchange exhibits and witness lists and shall provide the stipulated exhibits to the Board office by December 4, 2009.

Dated this 12th day of November, 2009.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319

cc: Connie Diekema, Respondent's Attorney  
Theresa O'Connell Weeg, Assistant Attorney General  
Kent Nebel, Iowa Board of Medicine [all served solely by email]

BEFORE THE IOWA BOARD OF MEDICINE

---

IN THE MATTER OF THE	)	FILE NO. 02-07-069
STATEMENT OF CHARGES AGAINST	)	DIA NO. 09DPHMB008
	)	
ADEL S. AL-JURF, M.D.	)	ORDER FOR PREHEARING
Respondent	)	CONFERENCE

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The parties have agreed to a telephone prehearing conference on Thursday, November 12, 2009 at 8:30 a.m. The administrative law judge will call the attorneys at their office telephone numbers at that time, unless alternative telephone numbers are provided.

Dated this 19th day of October, 2009.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319  
Voice: (515) 281-7177  
Facsimile: (515) 281-4477

cc: Connie Diekema, Respondent's Attorney  
Theresa O'Connell Weeg, Assistant Attorney General  
Kent Nebel, Iowa Board of Medicine [all served solely by email]

**BEFORE THE IOWA BOARD OF MEDICINE**

\*\*\*\*\*

**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**ADEL S. AL-JURF, M.D., RESPONDENT**

**FILE Nos. 02-07-069**

\*\*\*\*\*

**STATEMENT OF CHARGES**

\*\*\*\*\*

**COMES NOW** the Iowa Board of Medicine on May 21, 2009, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license no. 20791 on August 12, 1977. Respondent's Iowa medical license expired due to non-renewal on April 1, 2007.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on July 7, 2009, before the Board. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Board 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 Statement of Charges you are required by 653 IAC 24.2(5)(d) to file an Answer. In that Answer, you should 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 pre-hearing matters, and be present to assist and advise the board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 IAC 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 IAC 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

5. 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: Theresa O'Connell Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

6. 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 should direct any questions to Kent M. Nebel, J.D., the Board's Legal Director at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

## **B. LEGAL AUTHORITY AND JURISDICTION**

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 148, and 272C.

8. 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 and 653 IAC 25.

9. 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 IAC 25.20.

### **C. SECTIONS OF STATUTES AND RULES INVOLVED**

#### **COUNT I**

10. Respondent is charged pursuant to Iowa Code sections 147.55(3) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unprofessional conduct in the practice of medicine.

#### **COUNT II**

11. Respondent is charged pursuant to Iowa Code sections 148.6(2)(i) and 653 IAC 13.7(5) with engaging in disruptive behavior, which is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff.

### **STATEMENT OF THE MATTERS ASSERTED**

12. Respondent is an Iowa-licensed surgeon who formerly practiced in Iowa City, Iowa.

13. The Board received information which indicates that Respondent was terminated from his employment due to concerns that he engaged in a pattern of inappropriate and unprofessional conduct in violation of the terms of his employment.

14. The Board alleges that Respondent has engaged in a pattern of unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa, including, but not limited to the following:

- A. The Board received information which indicates that Respondent engaged in a pattern of unprofessional conduct, including a pattern of verbally abusive behavior toward co-workers and other healthcare professionals;
- B. The Board received information which indicates that Respondent frequently became angry, yelled, and swore at co-workers and other healthcare professionals;
- C. The Board received information which indicates that Respondent grabbed female co-workers by their arms and shoulders in an aggressive manner on two separate occasions; and
- D. The Board received information which indicates that Respondent's behavior created a hostile workplace.

#### **E. SETTLEMENT**

15. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 IAC 25. 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**

16. On May 21, 2009 the Iowa Board of Medicine found probable cause to file this Statement of Charges.



---

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