

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ROBERT S. CAIRNS, M.D., RESPONDENT

FILE Nos. 02-09-110 & 02-10-028

SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board), and Robert S. Cairns, M.D., (Respondent), and on June 8, 2012, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Settlement Agreement to resolve this matter.

1. Respondent was issued Iowa medical license no. 18336 on May 27, 1971.
2. Respondent allowed his Iowa medical license to go inactive due to nonrenewal on October 1, 2011.
3. The Board has jurisdiction pursuant to Iowa Code chapters 147, 148 and 272C.

STATEMENT OF THE MATTERS ASSERTED

4. Respondent formerly practiced orthopedic surgery in Dubuque, Iowa.
5. On August 20, 2010, the Board filed formal disciplinary charges against Respondent alleging that he failed to provide appropriate treatment to two orthopedic surgery patients in Dubuque, Iowa, in 2008, and that he performed inappropriate physical

examinations on a female patient in 2009 and 2010, in violation of the laws and rules governing the practice of medicine in Iowa.

6. On September 20, 2010, Respondent filed an Answer denying the Board's allegations.

7. Respondent retired from the practice of medicine on December 16, 2010, due to a diagnosis of cancer and other related health problems.

SETTLEMENT AGREEMENT

8. **AGREEMENT NOT TO RENEW:** Respondent voluntarily agrees not to renew his Iowa medical license.

9. Respondent voluntarily submits this Order to the Board for consideration.

10. This Order constitutes the resolution of a contested case proceeding.

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

12. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Order.

13. This Order is subject to approval by the Board. If the Board fails to approve this Order, it shall be of no force or effect to either party.

14. The Board's approval of this Order shall constitute a **Final Order** of the Board.

Robert S. Cairns M.D.

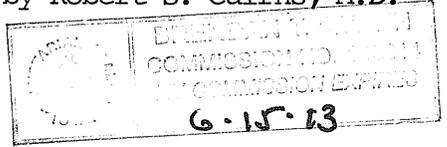
Robert S. Cairns, M.D., Respondent

Subscribed and sworn to before me on May 9, 2012,

by Robert S. Cairns, M.D.

Brendan T. Quann
Notary Public, State of Iowa

(Brendan T. Quann Commission No. 103814)



This Order is approved by the Board on June 8, 2012.

Colleen K. Stockdale MD MS

Colleen K. Stockdale, M.D., Chair
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

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FILE No. 02-09-110 & 02-10-028

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on August 20, 2010, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 18336 on May 27, 1971. Respondent's Iowa medical license is active and will next expire on August 1, 2011.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on October 27-28, 2010, before the Iowa Board of Medicine. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Iowa Board of Medicine office at 400 SW 8th Street, Suite C, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Notice of Hearing you are required by 653 Iowa Administrative Code 25.10 to file an Answer. In that Answer, you should also 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 prehearing matters, and be present to assist and advise the board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on September 23, 2010 at 9:00 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

5. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 Iowa Administrative Code Chapter 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 Iowa Administrative Code 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. 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, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

7. 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 may contact Kent M. Nebel, J.D., Legal Director, at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

B. LEGAL AUTHORITY AND JURISDICTION

8. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 147, 148, and 272C (2005).

9. 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 (2005) and 653 Iowa Administrative Code Chapter 25.25.

10. 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 Iowa Administrative Code 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

11. Respondent is charged with professional incompetency pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and (i), and 272C.10(2), and 653 IAC 23.1(2)(c), (d), (e), and (f) by demonstrating one or more of the following:

- A. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- B. 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;
- C. 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; and
- D. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

COUNT II

12. 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 III

13. Respondent is charged under Iowa Code section 147.55(3) and 653 IAC 23.1(3) with engaging in practice harmful or detrimental to the public.

STATEMENT OF THE MATTERS ASSERTED

14. Respondent practices in a solo orthopedic surgery practice in Dubuque, Iowa.

15. The Board recently received information which indicates that Respondent had his surgical privileges restricted due to concerns about his treatment of two orthopedic surgery patients in Dubuque, Iowa, in 2008, including the following:

A. **Patient #1:** Respondent performed right hip revision surgery on an elderly male patient with a history of osteoarthritis, chronic obstructive pulmonary disease (COPD), diabetes and hypertension and the patient suffered serious postoperative complications.

B. **Patient #2:** Respondent performed revision total knee replacement surgery on an elderly female patient with a history of significant cardiovascular disease and the patient suffered serious postoperative complications.

16. The Board alleges that Respondent failed to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery in his treatment of two orthopedic surgery patients, including the following:

A. **Patient Selection:** Respondent inappropriately performed surgery on patients who were at high risk of serious complications;

B. **Surgical Judgment:** Respondent inappropriately performed surgical procedures that were beyond Respondent's current skill and training; and

C. **Extensive Surgical Procedures:** Respondent inappropriately performed very complex surgical procedures which took many hours on patients who were at high risk of serious complications.

17. The Board also has serious concerns about Respondent's orthopedic surgical complications between April 2006 and the present.

18. On October 26 – 27, 2009, and January 12, 2010, Respondent completed a comprehensive clinical competency evaluation at the Center for Personalized Education (CPEP) in Denver, Colorado, and CPEP identified areas of need including, medical knowledge; clinical judgment and reasoning; documentation; and practice-based learning. CPEP recommended that Respondent complete a structured, individualized educational intervention to address the identified areas of need.

19. The Board alleges that Respondent performed inappropriate physical examinations on a female patient in violation of the laws and rules governing the practice of medicine in Iowa.

E. SETTLEMENT

20. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 Iowa Administrative Code 12.25. 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

21. On August 20, 2010, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

A handwritten signature in black ink, reading "Siroos S. Shirazi". The signature is written in a cursive style and is positioned above a horizontal line.

Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686