

**BEFORE THE IOWA BOARD OF MEDICINE**

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<b>IN THE MATTER OF THE</b>	)	<b>FILE NOS. 02-03-643, 02-04-659,</b>
<b>STATEMENT OF CHARGES</b>	)	<b>02-05-001, 02-05-050, &amp; 02-05-051</b>
<b>AGAINST</b>	)	
	)	
<b>AKELLA CHENDRASEKHAR, M.D.,)</b>		<b>SETTLEMENT AGREEMENT</b>
<b>RESPONDENT.</b>	)	

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COMES NOW the Iowa Board of Medicine (the Board), and Akella Chendrasekhar, M.D., (Respondent), on June 12, 2008, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2005), and enter into this Settlement Agreement to resolve the contested case currently on file.

1. Respondent was issued Iowa medical license no. 31124 on March 28, 1996.
2. Respondent's Iowa medical license will next expire on December 1, 2009.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. This Settlement Agreement is entered into by the parties to resolve disputed claims and does not constitute an admission on the part of Respondent.

**STATEMENT OF MATTERS ASSERTED**

5. On August 17, 2006, the Board filed formal disciplinary charges against Respondent alleging that he engaged in a pattern of professional incompetency and practice harmful or detrimental to the public in the practice of medicine, particularly bariatric surgery. The Board filed an Amended Statement of Charges on August 1, 2007. Respondent filed an Answer denying the allegations.

6. **CITATION AND WARNING:** Respondent is hereby **CITED** for demonstrating a pattern of professional incompetency and practice harmful or detrimental to the public in the practice of medicine, particularly bariatric surgery. Respondent is hereby **WARNED** that such practice in the future may result in further formal disciplinary action, including suspension or revocation of his Iowa medical license.

7. **CIVIL PENALTY:** Respondent shall be assessed a civil penalty in the amount of \$2,000. The civil penalty shall be paid within twenty days of the date of this Order and shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

8. **GASTRIC BYPASS SURGERY:** Respondent shall not perform gastric bypass surgery under his Iowa medical license without prior written approval of the Board.

9. **NOTICE TO HOSPITALS AND CLINICS:** Respondent shall provide the Board with the name, address and telephone number of the administrative director at all current and future hospitals, clinics and other healthcare facilities where Respondent practices medicine. The Board will provide the administrative director with all Board Orders relating to matter.

10. **COMPREHENSIVE COMPETENCY EVALUATION:** No later than August 1, 2008, Respondent shall successfully complete a comprehensive competency evaluation at the Center for Personalized Educational for Physicians (CPEP) in Denver, Colorado. Upon completion of the evaluation a written report shall be provided to the Board

by CPEP which identifies any areas of deficiency. If areas of deficiency are identified, and it is recommended, Respondent shall submit, for Board approval, a formal educational plan which addresses all identified areas of deficiency. Respondent shall fully comply with all recommendations made by CPEP and the Board following the evaluation, including any program of remediation. All costs associated with the evaluation shall be Respondent's responsibility.

**11. FIVE YEARS PROBATION:** Respondent shall be placed on probation for a period of five years subject to the following terms and conditions:

- A. **Monitoring Program:** Respondent shall contact 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 to establish a monitoring program. Respondent shall fully comply with all requirements of the monitoring program.
- B. **Recommendations of CPEP and the Board:** Respondent shall fully comply with all recommendations made by CPEP and the Board following the evaluation, including any program of remediation.
- C. **Practice Monitor:** Respondent shall participate in a Board-approved supervised clinical experience with a Board-approved practice monitor. Respondent shall meet regularly with the practice monitor to review cases, discuss decisions related to those cases, review specific topics and engage in a quality improvement processes.

- D. **Worksite Monitor:** Respondent shall submit for Board approval the name of a physician or other Board-approved healthcare professional who regularly observes and/or supervises Respondent in a practice setting to serve as worksite monitor. The Board shall provide the worksite monitor a copy of all Board orders relating to this matter. The worksite monitor shall provide a written statement indicating that the monitor has read and understands the Board orders relating to this disciplinary action and agrees to act as the worksite monitor under the terms of this agreement. The worksite monitor shall agree to inform the Board immediately if there is evidence of a violation of the terms of this Order or any violation of the laws and rules governing the practice of medicine. The monitor shall agree to 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.
- E. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with the terms and conditions of this Order. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- F. **Board Appearances:** Respondent shall appear before the Board annually or upon request of the Board for the duration of the period of this Order. Respondent shall be given reasonable notice of the date, time and location for the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(2).

G. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with all quarterly reports required under 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 8.2.

12. In the event Respondent fails to comply with any of the terms of this Order, the Board may initiate action to suspend or revoke Respondent's license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 25.

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

14. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless the Board has agreed in writing to monitor Respondent in another state and Respondent fully complies with the terms and conditions of this Order.

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

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

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

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

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

  
\_\_\_\_\_  
Akella Chendrasekhar, M.D., Respondent

Subscribed and sworn to before me on May 58, 2008.  
Notary Public, State of New York.



**PATRICIA MILLSPAUGH**  
Notary Public, State of New York  
No. 01M14861742  
Qualified in Queens County  
Commission Expires June 23, 2010

This Order is approved by the Board on June 12, 2008.

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



4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 IAC 12. 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 12.24. 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 Statement of Charges. 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 (2005).

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 12.12.

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 12.28.

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

#### **COUNT I**

10. Respondent is charged with professional incompetency pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and (i), and 272C.10(2) (2005), and 653 IAC 12.4(2)(a), (b), (c) and (d), 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

11. Respondent is charged under Iowa Code section 147.55(3) (2005) and 653 IAC section 12.4(3) with engaging in practice harmful or detrimental to the public.

### D. STATEMENT OF MATTERS ASSERTED

12. In ten cases where he performed bariatric surgery, the Board alleges Respondent:
- A. Failed to maintain appropriate medical records for patients;
  - B. Failed to properly evaluate whether patients were good candidates for surgical intervention based on their medical and psychiatric histories;
  - C. Improperly prescribed medication to patients;
  - D. Improperly performed surgical procedures; and
  - E. Failed to recognize surgical complications and to take appropriate corrective measures in a timely manner.

### E. SETTLEMENT

13. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 IAC 12.25. If you are interested in pursuing settlement, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

### F. PROBABLE CAUSE FINDING

14. On the 1<sup>st</sup> day of August, 2007, the Iowa Board of Medicine found probable cause to file this Amended Statement of Charges.



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

BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE ) DIA NO. 06DPHMB025  
STATEMENT OF CHARGES AGAINST: ) CASE NOS. 02-03-643,  
 ) 02-04-659,02-05-001  
 ) 02-05-050, 02-05-051  
 )  
AKELLA CHENDRASEKHAR, M.D. ) ORDER GRANTING MOTION TO  
 ) AMEND STATEMENT OF CHARGES  
Respondent )

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08-02-07P01:46 RCVD

The above-captioned disciplinary matter has been scheduled for hearing on November 28 & 29, 2007. On or about July 6, 2007, the state of Iowa filed a Motion For Leave To Amend Statement of Charges. An Amended Statement of Charges was attached to the motion as Exhibit A. Respondent Akella Chendrasekhar, M.D. has not filed a resistance to the motion, and it has been referred to the undersigned administrative law judge for ruling.

The motion seeks to amend the pending Statement of Charges to assert factual allegations, which were previously provided only to Respondent as the Statement of Matters Asserted (Confidential). A recent decision from the Iowa Court of Appeals held that the notice of hearing and the factual information necessary to provide a licensee with "fair notice" of the claim asserted are public records. Revez v. Iowa Board of Medical Examiners, No. 05-2095, slip op. (Iowa Ct. App. May 9, 2007). The state's Motion to Amend should be granted.

IT IS THEREFORE ORDERED that the Motion For Leave To Amend Statement of Charges is hereby GRANTED.

Dated this 1<sup>st</sup> day of August, 2007.



Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Administrative Hearings Division  
Lucas State Office Building-Third Floor  
Des Moines, Iowa 50319  
For the Iowa Board of Medicine

cc: Theresa O'Connell Weeg/Heather Palmer  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319 (LOCAL)

David L. Brown  
Hansen, McClintock & Riley  
218 Sixth Avenue, 8<sup>th</sup> Fl.  
Des Moines, IA 50309

Kent Nebel  
Director of Legal Affairs  
Iowa Board of Medical Examiners  
400 SW 8<sup>th</sup> St., Suite C  
Des Moines, Iowa (LOCAL)

**BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA**

---

<b>IN THE MATTER OF THE</b>	)	<b>FILE NOS. 02-03-643, 02-04-659,</b>
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<b>AGAINST</b>	)	
	)	
<b>AKELLA CHENDRASEKHAR, M.D.,</b>	)	<b>STATEMENT OF CHARGES</b>
<b>RESPONDENT,</b>	)	

---

**COMES NOW** the Iowa Board of Medical Examiners on August 17, 2006, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2) (2005). Respondent was issued Iowa medical license no. 31124 on March 28, 1996. Respondent's Iowa medical license is active and will next expire on December 1, 2007.

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

1. Hearing. A disciplinary contested case hearing be held on November 29, 2006, before the Iowa Board of Medical Examiners. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Iowa Board of Medical Examiners 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 Iowa Administrative Code 12.18 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. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 Iowa Administrative Code Chapter 12. 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 12.24. 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 Statement of Charges. 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 (2005).

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 (2005) and 653 Iowa Administrative Code Chapter 12.12.

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 Iowa Administrative Code 12.28.

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

### **COUNT I**

10. Respondent is charged with professional incompetency pursuant to Iowa Code section 147.55(2), 148.6(2)(g) and (i), and 272C.10(2) (2005), and 653 Iowa Administrative Code sections 12.4(2)(a), (b), (c) and (d), 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**

11. Respondent is charged under Iowa Code section 147.55(3) (2005) and 653 Iowa Administrative Code section 12.4(3) with engaging in practice harmful or detrimental to the public.

### **D. STATEMENT OF MATTERS ASSERTED**

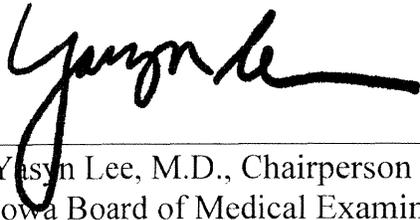
12. A short and plain Statement of the Matters Asserted was reviewed and approved by the Board at the time this Statement of Charges was filed. A Statement of the Matters Asserted shall be furnished to Respondent as an attachment to this Notice. However, this short and plain statement of the matters asserted is not a public record.

### **E. SETTLEMENT**

13. 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

14. On this 17<sup>th</sup> day of August, 2006, the Iowa Board of Medical Examiners found probable cause to file this Statement of Charges.



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