

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TYSON K. COBB, M.D., RESPONDENT

FILE Nos. 02-09-440, 02-09-469, 02-09-489, 02-10-153 & 02-11-163

SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board) and Tyson K. Cobb, M.D., (Respondent), and on 5/15-6/8 /2012. and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this Settlement Agreement to resolve the pending charges in this matter.

1. Respondent was issued Iowa medical license no. 33718 on August 28, 2000.
2. Respondent's Iowa medical license is active and will next expire on March 1, 2014.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148, and 272C.
4. Respondent is an Iowa-license physician who practices orthopedic surgery in the Davenport, Iowa.

5. On August 25, 2011, the Board filed formal disciplinary charges against Respondent alleging that he engaged in disruptive behavior, including a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care and/or the effective functioning of health care staff, alleging that he engaged in unethical or unprofessional conduct, and alleging that he performed a surgical procedure at the wrong anatomical site, in violation of the laws and rules governing the practice of medicine in Iowa.

6. On or about March 28, 2011, Respondent mistakenly made an incision on the right index finger while performing an excision of a mass on the patient's right ring finger. Respondent recognized the error after the initial incisions was made, closed the wound, and performed the procedure on the correct finger.

SETTLEMENT AGREEMENT

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in a pattern of disruptive conduct in violation of the laws and rules governing the practice of medicine. Respondent is hereby **CITED** for failing to provide appropriate care and treatment in violation of the laws and rules governing the practice of medicine. Respondent is hereby **WARNED** that engaging in disruptive conduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license. Respondent is hereby **WARNED** that failing to provide appropriate care and treatment to patients in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

8. **CIVIL PENALTY:** Respondent agrees to pay a **\$10,000 civil penalty** for engaging in a pattern of disruptive conduct in violation of the laws and rules governing the practice of medicine in Iowa. Respondent agrees to pay an additional **\$10,000 civil penalty** for failing to provide appropriate care and treatment to the patient described in paragraph 6 above. The civil penalty shall be made payable to the Treasurer of Iowa, and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

9. **CORRECTIVE ACTION PLAN:** Prior to the Board's approval of this order, Respondent shall submit a written corrective action plan for Board approval describing the steps he has taken to avoid wrong-site surgery in the future.

10. **DISRUPTIVE BEHAVIOR EVALUATION:** Respondent completed a psychological, unprofessional conduct and disruptive behavior evaluation. The Board will forward its investigative file to the evaluation program. Respondent shall fully comply with all recommendations of the evaluation program.

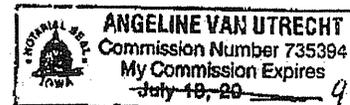
11. **COUNSELING:** Respondent has been participating in disruptive behavior counseling. Respondent shall submit the name and CV of his counselor for Board-approval and continue counseling until his discharge is approved by the Board. The frequency and duration of counseling will be determined by the Board after receipt of a recommendation from his counselor. The counselor shall agree to submit written quarterly reports to the Board concerning Respondent's progress no later than 1/20, 4/20, 7/20 and 10/20 of each year. Respondent is responsible for all costs associated with the counseling.

12. Respondent voluntarily submits this Order to the Board for consideration.
13. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.
14. This Order constitutes the resolution of a contested case proceeding.
15. In the event Respondent violates or fails to comply with the terms of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa license or impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 24.
16. 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.
17. The Board's approval of this Order shall constitute a **Final Order** of the Board.

Tyson K. Cobb
Tyson K. Cobb, M.D., Respondent

Subscribed and sworn to before me on May 15, 2012.

Notary Public, State of Iowa.



9/19/14
Angeline Van Utrecht

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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STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on August 25, 2011, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license no. 33718 on August 28, 2000. Respondent's Iowa medical license is active and will next expire on March 1, 2012.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on October 20, 2011, before the Board. The hearing shall begin at 8:30 a.m. and shall be located in a conference room at the Board office at 400 SW 8th 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. Prehearing Conference. A prehearing conference will be held by telephone on September 19, 2011, at 8:30 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.

4. 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.

5. 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.

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 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

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

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 and 653 IAC 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 IAC 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

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.

COUNT II

12. Respondent is charged pursuant to Iowa Code sections 147.55(3), 148.6(2)(g) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unethical or unprofessional conduct. Engaging in unethical or unprofessional conduct includes, but is not limited to, the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within this state or elsewhere; or a violation of the standards and principles of medical ethics or 653 IAC 13.7 or 13.20 as interpreted by the board.

COUNT III

13. Respondent is charged pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and 272C.10(2), and 653 IAC 23.1(42) with performing or attempting to perform any surgical or invasive procedure on the wrong patient or at the wrong anatomical site or performing the wrong surgical procedure on a patient in violation of the laws and rules governing the practice of medicine in Iowa.

STATEMENT OF THE MATTERS ASSERTED

14. Respondent is an Iowa-license physician who practices orthopedics in the Davenport, Iowa.

15. On May 5, 2004, Respondent entered into an Agreed Order with the Texas Board of Medicine after Respondent was unable to demonstrate his completion of the required continuing medical education (CME) for Texas licensure for the period 12/1/01 – 11/30/02 in violation of the laws and rules governing the practice of medicine in Texas. Respondent was required to complete a Board-approved ethics program and pay a \$500 administrative penalty.

16. On October 28, 2005, the Iowa Board sent Respondent a confidential Letter of Warning expressing concern that he was disciplined by the Texas Board for violating the laws and rules governing the practice of medicine in Texas.

17. On June 30, 2006, the Board ordered Respondent to undergo a Board-approved comprehensive disruptive physician evaluation pursuant to Iowa Code section 272C.9(1) for engaging in a pattern of unprofessional and disruptive conduct in the practice of medicine, including a pattern of contentious, threatening, or intractable behavior that interfered with, or has the potential to interfere with, patient care and/or the effective functioning of health care staff. Upon completion of the evaluation, the Board referred Respondent to the Iowa Physician Health Program (IPHP) for counseling and monitoring for disruptive behavior. Respondent was discharged from the IPHP in March 2008.

18. Recently, the Board received information which indicates that Respondent continues to engage in unprofessional and disruptive conduct, including a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care and/or the effective functioning of health care staff, in violation of the laws and rules governing the practice of medicine in Iowa including, but not limited to, the following:

- A. Respondent makes rude, demeaning, threatening and intimidating comments to staff and co-workers.
- B. Respondent has failed to properly evaluate patients prior to surgery.
- C. Respondent has failed to properly inform patients when they have been scheduled for surgery.

- D. Respondent has insulted and degraded staff and co-workers during surgical procedures.
- E. Respondent has failed to conduct appropriate surgical time-outs prior to performing surgery.
- F. Respondent has refused to see patients postoperatively.
- G. Respondent has refused to complete discharge paper-work following surgery.
- H. Respondent becomes angry and yells at staff and co-workers.
- I. Respondent has patients anesthetized too early before he is ready to perform surgery.
- J. Respondent has inappropriately changed surgical orders and/or procedures after patients have been anesthetized.
- K. Respondent has performed surgical procedures that were not listed on the patient consent form.
- L. Respondent frequently dictates multiple operative reports for the same procedure often months after surgery was performed.
- M. Respondent refuses to work with certain staff and co-workers.
- N. Respondent has allowed his physician assistant to write his signature on patient records despite being admonished for such conduct.
- O. Respondent has left patients in the operating suite under anesthesia while he performs other tasks.
- P. Respondent has experienced excessive post-operative infections and has attempted to cover-up his post-operative infections.

19. On February 8, 2010, Respondent performed a wrist fusion on a 53 year-old patient. After Respondent attached the plate, and contrary to the advice of the manufacturer's representative, Respondent attempted to bend the plate and the patient suffered a new fracture as a result.

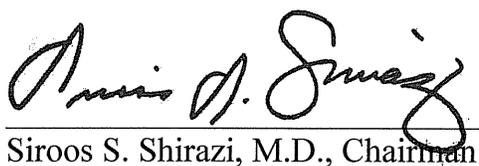
20. On or about March 28, 2011, Respondent mistakenly made an incision on the right index finger while performing an excision of a mass on the patient's right ring finger. Respondent recognized the error after the initial incisions was made, closed the wound, and performed the procedure on the correct finger.

E. SETTLEMENT

21. 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

22. On August 25, 2011, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



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