

**BEFORE THE IOWA BOARD OF MEDICINE**

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

**ROBERT DAVID, M.D., RESPONDENT**

**FILE No. 02-2004-592**

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**SETTLEMENT AGREEMENT**

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**COMES NOW** the Iowa Board of Medicine (Board), and Robert David, M.D., (Respondent), on December 31, 2010, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2005), file this Settlement Agreement to resolve this pending disciplinary matter.

1. Respondent was issued Iowa medical license no. 27774 on July 1, 1987.
2. Respondent's Iowa medical license is active and will next expire on November 1, 2011.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. **STATEMENT OF CHARGES:** On June 22, 2006, the Board filed disciplinary charges against Respondent for engaging in a pattern of unprofessional or unethical conduct and/or practice harmful or detrimental to the public in the practice of medicine and for violating a statute or law of this state, another state, or the United States... which relates to the practice of medicine.

5. Respondent was arrested and charged with criminal Racketeering, Grand Theft 1<sup>st</sup> Degree and Grand Theft 2<sup>nd</sup> Degree for engaging Medicaid fraud in Miami-Dade County, Florida. The criminal charges alleged that Respondent entered into a financial arrangement with two individuals in which Respondent's Medicaid provider number was utilized to bill for medical services in Florida, when Respondent was not present to provide the services and was not immediately available to provide appropriate supervision of the services.

6. On February 24, 2010, Respondent pleaded guilty to one count of criminal Racketeering (a felony of the first degree), one count of Grand Theft 1<sup>st</sup> Degree (a felony of the first degree) and one count of Grand Theft 2<sup>nd</sup> Degree (a felony of the second degree) for engaging Medicaid fraud in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Under the terms of the plea agreement, Respondent was placed on probation for a period of four years. He was ordered to pay \$100,000.00 in restitution and \$45,095.96 in courts costs and prosecution investigation costs.

7. **VOLUNTARY SURRENDER:** Respondent voluntarily surrenders his Iowa medical license to resolve this pending disciplinary matter.

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

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

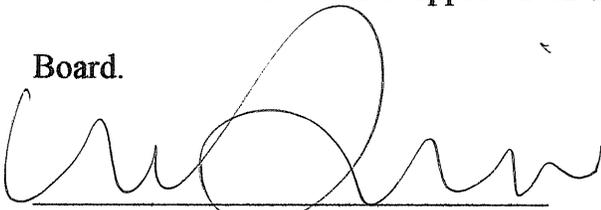
10. By entering into this Order Respondent voluntarily waives any rights to a

contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to the terms of this Settlement Agreement.

11. This Order is voluntarily submitted by Respondent to the Board for consideration.

12. 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.

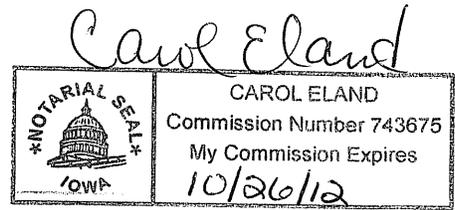
13. The Board's approval of this Order shall constitute a Final Order of the Board.



Robert David, M.D., Respondent

Subscribed and sworn to before me on November 9, 2010.

Notary Public, State of Iowa.



This Order is approved by the Board on December 31, 2010.



Siroos S. Shirazi, M.D., Chairman  
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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<b>IN THE MATTER OF THE</b>	)	<b>FILE NO. 02-04-592</b>
<b>STATEMENT OF CHARGES</b>	)	
<b>AGAINST</b>	)	
	)	
<b>ROBERT DAVID, M.D.,</b>	)	<b>AMENDED STATEMENT OF</b>
	)	<b>CHARGES</b>
<b>RESPONDENT.</b>	)	

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Date: August 1, 2007.

**COMES NOW** the Iowa Board of Medicine and hereby files this Amended Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license no. 27774 on September 11, 1990. Respondent's license is active and will next expire on November 1, 2007.

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

1. Hearing. A disciplinary contested case hearing in this matter has been continued until further order of the Iowa Board of Medicine.
2. Answer. Within twenty (20) days of the date you are served this Statement of Charges you are required by 653 IAC 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 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 under Iowa Code sections 147.55(3) and 272C.10(3) and 653 IAC 12.4(3) and (36) with engaging in a pattern of unprofessional or unethical conduct and/or practice harmful or detrimental to the public.

**COUNT II**

11. Respondent is charged under Iowa Code section 148.6(2)(c) and 653 IAC 12.4(10) with violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.

**D. STATEMENT OF MATTERS ASSERTED**

12. Respondent is an Iowa-licensed physician from Fairfield, Iowa.

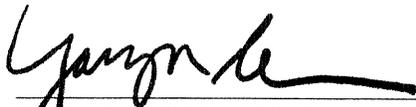
13. The Board received information that Respondent was arrested and charged criminally with Medicare fraud in Florida.

**E. SETTLEMENT**

14. 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, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

**F. PROBABLE CAUSE FINDING**

15. 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. 06DPHMB022  
STATEMENT OF CHARGES AGAINST: ) CASE NO. 02-04-592  
)  
ROBERT DAVID, M.D. ) ORDER GRANTING MOTION TO  
) AMEND STATEMENT OF CHARGES  
Respondent

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08-02-07P01:47 RCV0

The above-captioned disciplinary matter has been continued until further order of the Iowa Board of Medicine. 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 Robert David, 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. Reveiz 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)

Robert David, M.D.  
P.O. Box 609  
Fairfield, IA 52556

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**

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<b>IN THE MATTER OF THE</b>	)	<b>FILE NO. 02-04-592</b>
<b>STATEMENT OF CHARGES</b>	)	
<b>AGAINST</b>	)	
	)	
<b>ROBERT DAVID, M.D.,</b>	)	<b>STATEMENT OF CHARGES</b>
<b>RESPONDENT,</b>	)	

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**COMES NOW** the Iowa Board of Medical Examiners on June 22, 2006, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2) (2005). Respondent was issued Iowa medical license no. 27774 on September 11, 1990. Respondent's license is active and will next expire on November 1, 2007.

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

1. Hearing. A disciplinary contested case hearing be held on August 9, 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.

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## **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 under Iowa Code sections 147.55(3) and 272C.10(3) (2005) and 653 IAC sections 12.4(3) and (36) with engaging in a pattern of unprofessional or unethical conduct and/or practice harmful or detrimental to the public.

### **COUNT II**

11. Respondent is charged under Iowa Code section 148.6(2)(c) (2005) and 653 IAC 12.4(10) with violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.

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

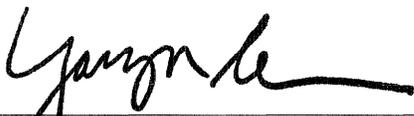
12. A short and plain Statement of the Matters Asserted was reviewed and approved by the Board at the time this Statement of Charges was filed. A Statement of the Matters Asserted shall be furnished to Respondent as an attachment to this Notice. However, this short and plain statement of the matters 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 22<sup>nd</sup> day of June, 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