

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

FOAD ELAHI, M.D., RESPONDENT

FILE No. 02-2015-172

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on October 28, 2016, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 39467 on April 20, 2011. Respondent's Iowa medical license went inactive due to nonrenewal on September 1, 2015.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A contested case hearing shall be held on January 13, 2017, before the Iowa Board of Medicine. The hearing shall begin at 8:30 a.m. and shall be located in a 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 shall be held by telephone on November 23, 2016, 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: Julie Bussanmas, 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 Julie Bussanmas at 515-281-5637.

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 (2005) and 653 Iowa Administrative Code section 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. **Sexual Harassment:** Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 13.7(6) and 23.1(10) with engaging in sexual harassment. Sexual harassment is defined as verbal or physical conduct of a sexual nature which interferes with another health care worker's performance or creates an intimidating, hostile or offensive work environment.

COUNT II

12. **Unethical or Unprofessional Conduct:** Respondent is charged pursuant to Iowa Code section 148.6(2)(i) 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—13.7(147,148,272C) or 653—13.20(147,148,150) as interpreted by the board.

STATEMENT OF THE MATTERS ASSERTED

13. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced neurosurgery in Iowa City, Iowa, and currently practices in Manteca, California.

14. **Sexual Harassment and/or Unethical or Unprofessional Conduct:** The Board alleges that Respondent engaged in sexual harassment and/or unethical or unprofessional conduct in violation of the laws and rules governing the practice of medicine in Iowa when he engaged in unwanted conduct of a sexual nature toward a female co-worker in Iowa City, Iowa, between March and October 2014, including making unwanted sexual comments and unwanted hugging; touching; fondling; and kissing of the female co-worker.

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 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 or kent.nebel@iowa.gov.

F. PROBABLE CAUSE FINDING

16. On October 28, 2016, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



Diane L. Clark, R.N., M.A., Chair
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686