

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

KEVIN W. HAMBURGER, M.D., RESPONDENT

FILE NO. 02-11-495

**STATEMENT OF CHARGES and SETTLEMENT AGREEMENT
(Combined)**

COMES NOW the Iowa Board of Medicine and Kevin W. Hamburger, M.D., (Respondent), on March 8, 2013, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), file this combined Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 29099 on January 8, 1993.
2. Respondent's Iowa medical license is active and will next expire on November 1, 2014.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and 272C.10(2), and 653 IAC section 23.1(2)(f) for failing to conform to the standard of acceptable and prevailing practice of medicine and surgery in Iowa.

STATEMENT OF THE MATTERS ASSERTED

5. Respondent is an Iowa-licensed physician who practices obstetrics and gynecology in Sioux City, Iowa.

6. On July 29, 2011, Respondent inadvertently removed a 29-year-old patient's healthy ovaries while performing a total vaginal hysterectomy despite the patient's desire to keep her ovaries. Respondent acknowledged the mistake and apologized for the error.

SETTLEMENT AGREEMENT

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for performing the wrong procedure on a patient in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that such conduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

8. **CIVIL PENALTY:** Respondent shall be assessed a **\$7,500** civil penalty. The civil penalty shall be payable to the Treasurer of Iowa, and shall be mailed to the executive director of the Board within twenty (20) days of the date of this Order. 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. The written corrective action plan shall describe the steps Respondent has taken to avoid such errors in the future.

10. Respondent shall submit a written statement to the Board which demonstrates that Respondent has shared a copy of this order with all medical licensing boards where Respondent holds a license, whether active or not, within thirty (30) days of the date of this order.

11. Respondent shall submit a written statement to the Board which demonstrates that Respondent has shared a copy of this order with each hospital and clinic where Respondent practices medicine within thirty (30) days of the date of this order.

12. Pursuant to 653 IAC 21.6, if applicable, Respondent shall notify all physician assistant supervisees within one workday upon receiving disciplinary action from the Board or any other change in status that affects the physician's eligibility to supervise a physician assistant.

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

14. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

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

16. Respondent understands that by entering into this combined Statement of Charges and Settlement Agreement, Respondent cannot obtain a copy of the investigative file. Pursuant to Iowa Code section 272C.6(4), a copy of the investigative file may only be provided to a licensee after a Statement of Charges is filed but before the final resolution of those charges.

17. 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.

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

19. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank.

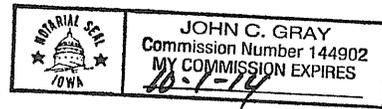
20. The Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

21. 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.

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



Kevin W. Hamburger, M.D., Respondent



Subscribed and sworn to before me on February 19, 2013.

Notary Public, State of Iowa.

This Order is approved by the Board on March 8, 2013.



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