**BEFORE THE IOWA BOARD OF MEDICINE**

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

**DANIEL R. KENSINGER, M.D., RESPONDENT**

**FILE NO. 02-08-593**

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

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**COMES NOW** the Iowa Board of Medicine and Daniel R. Kensinger, M.D., (Respondent), on April 2, 2009, 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. 35988 on February 3, 2005.

2. Respondent's Iowa medical license is active and will next expire on April 1, 2009.

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)(g), for failing to conform to the minimal standard of acceptable and prevailing practice of medicine in Iowa.

## STATEMENT OF THE MATTERS ASSERTED

5. Respondent is an Iowa-licensed surgeon who practices orthopedic surgery in Dakota Dunes, South Dakota.

6. Respondent inadvertently performed unnecessary surgery on a patient's right lateral epicondyle instead of the right medial epicondyle.

## SETTLEMENT AGREEMENT

7. **CITATION AND WARNING**: Respondent is hereby **CITED** for performing wrong site surgery 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 **$2,500** 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 unnecessary wrong site surgery in the future.

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

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

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

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

14. 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.

15. 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.

16. 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.

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

Daniel R. Kensinger, M.D., Respondent

Subscribed and sworn to before me on March 17, 2009.

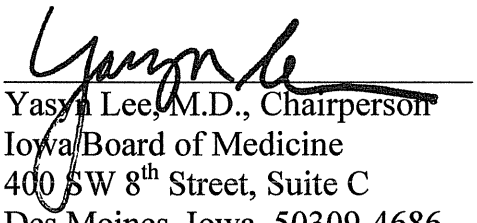
Notary Public, State of South Dakota

CHRIS ROBESON
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

Chris Robeson

Expires 8/7/2013

This Order is approved by the Board on April 2, 2009.



Yasyn Lee, M.D., Chairperson
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