

BEFORE THE IOWA BOARD OF MEDICINE

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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ALAN R. KOSLOW, M.D., RESPONDENT

FILE No. 02-06-563

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SETTLEMENT AGREEMENT

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COMES NOW the Iowa Board of Medicine (Board) and Alan R. Koslow, M.D., (Respondent), on December 11, 2015, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this Settlement Agreement to resolve the contested case currently on file.

STATEMENT OF THE MATTERS ASSERTED

1. Respondent was issued Iowa medical license No. 30390 on February 3, 1995.
2. Respondent's Iowa medical license is active and will next expire on February 1, 2017.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced vascular surgery in Des Moines, Iowa.

5. **Statement of Charges:** On October 16, 2015, the Board filed charges against Respondent alleging that he demonstrated professional incompetency in the practice of surgery in the state of Iowa in his treatment of multiple patients in Des Moines, Iowa, and engaged in a pattern of disruptive behavior in violation of the laws and rules governing the practice of medicine in Iowa.

#### SETTLEMENT AGREEMENT

6. **CITATION AND WARNING:** Respondent is hereby **CITED** for demonstrating professional incompetency in the practice of surgery in the state of Iowa in his treatment of multiple patients in Des Moines, Iowa, and engaging in a pattern of disruptive behavior in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that engaging in such conduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

7. **CIVIL PENALTY:** Respondent shall pay a **\$5,000** civil penalty. The civil penalty shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the Board. The civil penalty shall be deposited in the State General Fund.

8. **FIVE YEARS PROBATION:** Respondent shall be placed on **probation for a period of five years** subject to the following terms and conditions:

- A. **Monitoring Program:** Respondent shall contact Mary Knapp, Compliance Monitor, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, Iowa, 50309-4686, Ph.#515-281-5525 to establish a monitoring program. Respondent shall fully comply with all requirements of the program.

B. **CPEP Recommendations:** Respondent shall fully comply with all recommendations made by CPEP, including, but not limited to, the following:

- 1) **Individualized Education Intervention:** Participate in a structured, individualized education intervention to address identified areas of need.
- 2) **Pre- and Post-procedure Case Reviews:** Immediately begin pre- and post-procedure case reviews with an approved educational preceptor due to concerns regarding his evaluations and treatment planning and recognition of complications.
- 3) **Point-of-Care Experience:** Participate in a point-of-care experience with a preceptor trained in vascular surgery or cardiothoracic surgery to gain skills in performing patch carotid endarterectomy procedures.
- 4) **Experienced Educational Preceptor:** Establish a relationship with an experienced educational preceptor in vascular or cardiothoracic surgery.
- 5) **Continuing Medical Education and Self-Study:** Engage in continuing medical education courses and self-study which include, but are not limited to, the topics indicated in areas of demonstrated need.
- 6) **Medical Recordkeeping Course with a Follow-up Component:** Complete a medical recordkeeping course with a follow-up component that includes chart reviews and feedback over several months, and coaching from preceptor.

- 7) **Communications Course or Coaching:** Complete a communications course or coaching with a communications professional with SP encounters and immediate coaching and feedback.
  - 8) **Clinical Reassessment:** Complete a clinical reassessment at CPEP at the conclusion of the individualized education intervention
- C. **Disruptive Behavior Program:** Respondent shall successfully complete a two to three day training program for disruptive behavior at a Board-approved program within ninety (90) days of the date of this order.
- D. **Practice Monitoring Plan:** Respondent shall fully comply with the Board-approved practice monitoring plan agreed upon by Respondent and the Board.
- 1) Respondent shall submit the name and CV of aboard-certified, vascular or cardiothoracic surgeon, to serve as his practice monitor.
  - 2) The Board shall provide the practice monitor a copy of this order, the practice monitoring plan, all CPEP reports, all Elmhurst reports and all other relevant Board material in this matter.
  - 3) The practice monitor shall provide a written statement indicating that the practice monitor has read and understands all material provided by the Board and agrees to serve as the practice monitor under the terms of the practice monitoring plan. The practice monitor shall meet with Respondent regularly, review selected patients records, ensure that Respondent provides appropriate care and treatment to patients and

engage in a quality improvement process that addresses the areas of need identified by CPEP.

- 4) The practice monitor shall contact the Board immediately if there is evidence that Respondent has provided substandard care to patients.
- 5) The practice monitor shall agree to submit written quarterly reports to the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this order.
- 6) The practice monitor may be asked to appear before the Board in-person, or by telephone or video conferencing. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).

**E. Worksite Monitoring Program:** Within thirty days of the date of this Order, Respondent shall establish a worksite monitoring program with the Board.

- 1) Respondent shall submit for Board approval the name of a physician who regularly observes and/or supervises Respondent in the practice of medicine.
- 2) The Board shall provide a copy of all Board orders relating to this matter, all CPEP reports and all Elmhurst reports to the worksite monitor.
- 3) The worksite monitor shall provide a written statement indicating that they have read and understand this Order and agrees to serve under the terms of this Order.

- 4) The worksite monitor shall agree to inform the Board immediately if there is evidence of disruptive behavior or a violation of this Order.
  - 5) The worksite monitor may be asked to appear before the Board in-person, or by telephone or video conferencing. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).
  - 6) The worksite monitor shall submit quarterly reports to the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- F. **Quarterly Reports:** Respondent agrees to file sworn quarterly reports attesting to his compliance with the terms and conditions of this Order not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- G. **Board Appearances:** Respondent agrees to appear electronically before the Board annually or upon request during the period of probation. Respondent shall be given reasonable notice of the date and time of the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).
- H. **Monitoring Fee:** Respondent shall make a payment of \$300 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report required under this Order. The monitoring fee shall be sent to: Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine.

9. Respondent voluntarily submits this Order to the Board for consideration.
10. Respondent agrees that the State's counsel may present this Order to the Board for consideration.
11. Respondent shall submit a written statement to the Board which demonstrates that he 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.
12. Respondent shall submit a written statement to the Board which demonstrates that he has shared a copy of this Order with all hospitals and clinics where Respondent practices medicine within thirty (30) days of the date of this order.
13. By entering into this Order, Respondent understands that he has a right to legal counsel in this matter, 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.
14. Periods of residence or practice outside the state of Iowa or periods in which Respondent does not practice medicine or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.
15. 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.
16. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

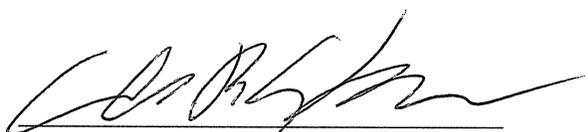
17. This Order constitutes the resolution of a contested case proceeding.

18. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank.

19. This 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.

20. 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.

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

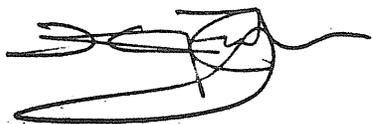


Alan R. Koslow, M.D., Respondent

Subscribed and sworn to before me on 25 November, 2015.

Notary Public, State of South Carolina

This Order is approved by the Board on December 11, 2015.



Hamed H. Tewfik, 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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IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ALAN R. KOSLOW, M.D., RESPONDENT

FILE No. 02-06-563

\*\*\*\*\*

STATEMENT OF CHARGES

\*\*\*\*\*

COMES NOW the Iowa Board of Medicine (Board) on October 16, 2015, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 30390 on February 3, 1995. Respondent's Iowa medical license is active and will next expire on February 1, 2017.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A contested case hearing shall be held on January 7-8, 2016, before the Iowa Board of Medicine. The hearing shall begin at 8:30 a.m. on each day and shall be located in the conference room at the Iowa Board of Medicine 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 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 will be held by telephone on November 3, 2015, 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, 2<sup>nd</sup> 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 Chapter 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. **Professional Incompetency:** Respondent is charged with professional incompetency pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and (i), and 272C.10(2) and 653 IAC 23.1(2)(c), (d), (e), and (f), by demonstrating one or more of the following:

- c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- d. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;
- e. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances; or
- f. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in Iowa.

### COUNT II

12. **Disruptive Behavior:** Respondent is charged pursuant to Iowa Code section 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.

## STATEMENT OF THE MATTERS ASSERTED

13. **Practice Setting:** Respondent is an Iowa-licensed physician who practices vascular surgery in Des Moines, Iowa.

14. **Professional Incompetency:** The Board alleges that Respondent demonstrated professional incompetency in the practice of medicine including, but not limited to, the following:

- A. **Patient #1:** Respondent performed a left femoral popliteal bypass on an elderly patient who was a high surgical risk without appropriate surgical indications. Respondent's surgical notes did not accurately reflect the surgery.
- B. **Patient #2:** Respondent performed a several hour surgical thrombectomy and graft revision on an elderly patient who was a high surgical risk without appropriate surgical indications.
- C. **Patient #3:** Respondent performed an inappropriate amputation technique on a patient resulting in delayed surgical treatment.
- D. **Use of Drains:** Respondent inappropriately used excessive drains adjacent to vascular reconstruction sites.
- E. **Bleeding Episodes:** Respondent experienced an excessive number of bleeding episodes and inappropriately worded operative notes to suggest it was inadvertent bleeding. The Board has concerns about his heavy use of topical hemostatic agents.

- F. **Poor Candidate Selection:** Respondent exercised poor candidate selection based on the number of co-morbidities including renal failure, severe coronary disease, congestive heart failure and respiratory failure, including the following:
- Respondent's use of open aneurysm repair for an inflammatory aneurysm with no discussion of the use of endograft or endografts.
  - Patients experienced poor vascular runoff which would make technical success very difficult.
  - Respondent's failure to recognize and deal effectively with infected grafts.
- G. **Poor Documentation:** Respondent's progress notes are unintelligible, fail to appropriately address the complications and difficulties patients experienced and insufficient in detailing the patient's problems and Respondent's anticipated actions. Respondent's notes are self-congratulatory and defensive.
- H. **Intraoperative Complications:** Respondent failed to perceive intraoperative complications such as hematomas, bleeding, and tissue damage.
- I. **Comorbidities:** Respondent failed to perceive the comorbidities associated with vascular surgery.

- J. **Management of Suboptimal Results:** Respondent failed to comprehend the technical obligations incumbent upon the operating surgeon regarding management of suboptimal results and acceptable tolerances for error.
- K. **Dictation:** Respondent's dictation fails to reflect his ability to project anticipated outcomes and reflect a lack of planning in terms of dealing with complications.
- L. **Comprehensive Clinical Competency Evaluation:** On December 5, 2014, the Board ordered Respondent to successfully complete a Board-approved comprehensive clinical competency evaluation. On February 27, 2015, Respondent completed a comprehensive clinical competency evaluation at the Center for Personalized Education for Physicians (CPEP), in Denver, Colorado. CPEP concluded that Respondent demonstrated an acceptable fund of knowledge in vascular surgery with some gaps and areas in which he was not up to date. His most significant weaknesses were in the area of peripheral artery disease, carotid endarterectomy and thoracic outlet syndrome. His clinical judgment and reasoning were inadequate including incomplete evaluations, treatment planning and inconsistent recognition of complications. His documentation in patient charts was inadequate and his communication skills were marginal with need for improvement.

15. **Disruptive Behavior:** The Board alleges that Respondent engaged in a pattern of disruptive behavior in violation of the laws and rules governing the practice of medicine in Iowa, including being overly critical of the care provided by nursing staff. On December 5, 2014, based on the information including that outlined above, the Board ordered Respondent to successfully complete a Board-approved disruptive behavior evaluation. On April 7, 2015, Respondent completed a disruptive behavior evaluation at the Elmhurst Professionals Program in Elmhurst, Illinois. The Professionals Program determined that Respondent has engaged in a pattern of disruptive behavior in the practice of medicine and there is a potential for serious adverse outcomes as a result.

#### E. SETTLEMENT

16. 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](mailto:kent.nebel@iowa.gov).

#### F. PROBABLE CAUSE FINDING

17. On October 16, 2015, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



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Hamed H. Tewfik, M.D., Chairman  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686