BEFORE THE IOWA BOARD OF MEDICINE

****

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

PAUL S. QUENTZEL, M.D., RESPONDENT

File No. 02-08-238

****

SETTLEMENT AGREEMENT

****

COMES NOW the Iowa Board of Medicine (Board), and Paul S. Quentzel, M.D., (Respondent), on November 18, 2011, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this Settlement Agreement.

STATEMENT OF MATTERS ASSERTED

1. Respondent was issued Iowa medical license no. 36932 on October 13, 2006.

2. Respondent's Iowa medical license went inactive due to non-renewal on May 1, 2010.

3. The Board has jurisdiction over the parties and subject matter.

STATEMENT OF THE MATTERS ASSERTED

4. Respondent practiced gastroenterology in Ottumwa, Iowa, from October 2006 to December 2007.

5. The Board received information which indicates that Respondent inappropriately shared personal information with a patient; asked inappropriate questions about a patients' personal life; made inappropriate comments to female co-workers;

inappropriately violated female co-workers personal space; and failed to properly document physical examinations.

6. On April 16, 2009, the Board ordered Respondent to complete a comprehensive physical, neuropsychological, mental health and professional boundaries evaluation at a Board-approved assessment program. On July 3, 2009, Respondent completed the Board-approved evaluation.

7. On June 11, 2010, the Board filed a Statement of Charges against Respondent charging him with engaging in unprofessional conduct in the practice of medicine, in violation of Iowa Code sections 147.55(3), 272C.10(3) and 653 IAC 23.1(4).

8. In response to the Board's investigation of this matter, Respondent filed an Answer denying the allegations.

SETTLEMENT AGREEMENT

9. **PROFESSIONAL BOUNDARIES PROGRAM:** At the direction of the Board, Respondent successfully completed a Board-approved professional boundaries program on **August 19-21, 2011**.

10. **RECORD KEEPING COURSE:** At the direction of the Board, Respondent successfully completed a Board-approved record keeping course on **August 25-26, 2011**.

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

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

13. 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.

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

15. 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.

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

Paul S. Quentzel, M.D., Respondent

DAVID W. OPATOSKY
Comm# DD0862649
Expires 5/3/2013
Florida Notary Assn., Inc

Subscribed and sworn to before me on September 20, 2011.

Notary Public, State of Florida.

This Order is approved by the Board on November 18, 2011.

Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST:	)	**FILE NO. 02-08-238**
	)	**DIA NO. 10DPHMB007**
	)	
PAUL S. QUENTZEL, M.D.	)	**ORDER VACATING**
	)	**FINDINGS OF FACT,**
RESPONDENT	)	**CONCLUSIONS OF LAW,**
	)	**DECISION AND ORDER**

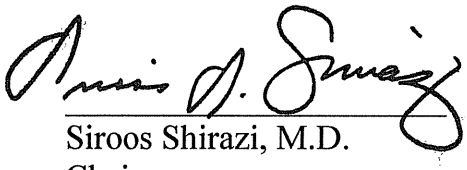
Date: March 10, 2011.

On June 11, 2010, the Iowa Board of Medicine (Board) filed a Statement of Charges against Paul S. Quentzel, M.D. (Respondent) charging him with engaging in unprofessional conduct in the practice of medicine, in violation of Iowa Code sections 147.55(3), 272C.10(3) and 653 IAC 23.1(4). The hearing was held on November 18, 2010, before the following quorum of the Board: Siroos Shirazi, M.D., Chairperson; Rodney Zeitler, M.D.; Allen Zagoren, D.O.; and Ambreen Mian, Janece Valentine, and Paul Thurlow, public members. Respondent was represented by attorney Brent Rosenberg. Assistant Attorney General Theresa O'Connell Weeg represented the state. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(l) and 653 IAC 25.18(12). The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare a written decision for their review, in accordance with their deliberations.

On January 13, 2011, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. On January 31, 2011, Respondent filed a Request for Rehearing Pursuant to Iowa Code 17A.19(3) arguing that the six member hearing panel in this matter was not properly composed pursuant to Iowa Code section 148.2(A). Iowa Code section 148.2(A)(2)(e)(4) requires that the majority of a hearing panel containing alternate members shall be licensed to practice medicine by the Board. The six-member panel that heard evidence in this matter included two alternate members and was composed of three physician members who are licensed to practice medicine by the Board and three public (non-physician) members who are not licensed by the Board. After careful consideration, the Board concluded that the six-member hearing panel that heard evidence in this matter was not properly composed of a majority of members licensed to practice medicine by the Board pursuant to Iowa Code section 148.2(A)(2)(e)(4). The Board voted to vacate the Findings of Fact, Conclusions of Law, Decision and Order issued by the Board on January 13, 2011. The Board also voted to schedule a new hearing in this matter.

IT IS THEREFORE ORDERED that the Findings of Fact, Conclusions of Law, Decision and Order issued by the Board on January 13, 2011, is hereby **VACATED**.

IT IS FURTHER ORDERED that the Board shall schedule a new hearing in this matter in a separate order.



Siroos Shirazi, M.D.
Chairperson
Iowa Board of Medicine

March 10, 2011
Date

cc: Michael Sellers, Attorney at Law
Theresa O'Connell Weeg, Assistant Attorney General

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST:	)	**FILE NO. 02-08-238**
	)	**DIA NO. 10DPHMB007**
	)	
PAUL S. QUENTZEL, M.D.	)	**FINDINGS OF FACT,**
	)	**CONCLUSIONS OF LAW,**
RESPONDENT	)	**DECISION AND ORDER**

Date: January 13, 2011.

On June 11, 2010, the Iowa Board of Medicine (Board) filed a Statement of Charges against Paul S. Quentzel, M.D. (Respondent) charging him with engaging in unprofessional conduct in the practice of medicine, in violation of Iowa Code sections 147.55(3), 272C.10(3) and 653 IAC 23.1(4). The hearing was held on November 18, 2010, before the following quorum of the Board: Siroos Shirazi, M.D., Chairperson; Rodney Zeitler, M.D.; Allen Zagoren, D.O.; and Ambreen Mian, Janece Valentine, and Paul Thurlow, public members. Respondent was represented by attorney Brent Rosenberg. Assistant Attorney General Theresa O'Connell Weeg represented the state. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(l) and 653 IAC 25.18(12). The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare a written decision for their review, in accordance with their deliberations.

THE RECORD

The record includes the Statement of Charges; Respondent's Motion to Dismiss, Resistance, and Ruling Denying Motion to Dismiss; Order for Continuance and Hearing Order; testimony of the witnesses; State Exhibits 1-8 and Respondent Exhibits 1-10.

FINDINGS OF FACT

1. Respondent has practiced as a gastroenterologist since 1976, primarily in the state of Florida. In October 2006, Respondent accepted an offer of employment to serve as a staff gastroenterologist at the Ottumwa Regional Health Center (ORHC) in Ottumwa, Iowa. Respondent was issued Iowa medical license number 36932 on October 13, 2006, and he started his position at ORHC on or about October 26, 2006. Respondent's Iowa medical license later expired due to nonrenewal on May 1, 2010. Respondent is currently licensed to practice

medicine in Florida and New York. (State Exhibit 4; Respondent Exhibit 7; Respondent testimony)

2. On December 19, 2006, a female employee (Employee #1) of ORHC told her supervisor that Respondent was sexually harassing her. Employee #1 explained that she had a few hallway conversations with Respondent after he joined the ORHC staff and that he made comments to her like "I can't believe a pretty girl like you doesn't have a diamond on your finger." Employee #1 initially considered this to be an innocent comment and was not offended by it. However, on December 18, 2006, Respondent approached Employee #1 in the cafeteria where she was having lunch with a group of her peers. Respondent told Employee #1 that there was not a diamond big enough for her so she may instead get something from Victoria's Secret.

On December 19, 2006, Respondent again approached Employee #1 while she was eating lunch with co-workers. Respondent made a comment to Employee #1 about the Victoria's Secret gift and added that he heard that she did not wear underwear. Employee #1 and her friends were shocked by Respondent's statement. Later, Respondent called Employee #1's department and asked to speak to her. One of the co-workers who had been in the cafeteria with Employee #1 answered the telephone. When the co-worker told Employee #1 that Respondent was on the phone, Employee #1 told her to tell him she was out making deliveries. Respondent then told the co-worker to tell Employee #1 that her Victoria Secret basket was in his office. Employee #1 felt both threatened and scared by this comment, and she reported it to her supervisor. Employee #1's co-worker was interviewed and confirmed that Respondent had made the inappropriate statements about Victoria's Secret. (State Exhibit 4, pp. 55-57; Employee #1's testimony)

The ORHC personnel policy prohibits harassment or sexual harassment, including "offensive verbal contact, such as sexually suggestive or obscene comments, threats, slurs, jokes about specific traits, sexual propositions." (State Exhibit 4, p. 58)

When confronted, Respondent did not deny making offensive statements to Employee #1, and he agreed to write Employee #1 a letter of apology. In his letter of apology dated December 30, 2006, Respondent apologized "if I have offended you by any language used earlier this month. I thought that talking about a Gift Card to Victoria Secrets would not make you feel uncomfortable." Respondent was also required to view an educational video on Harassment no later than January 3, 2007. Respondent was notified that any form of retaliation or another

confirmed incident of harassment may be grounds for dismissal. (State Exhibit 4, pp. 57-61, 64)

At hearing, Respondent testified that he told Employee #1 that she should ask her boyfriend for a gift card to Victoria's Secret for Christmas. Employee #1's prior statements and her testimony, as corroborated in the interview of her co-worker, were more credible than Respondent's testimony. (Respondent, Employee #1's testimony; State Exhibit 4, pp. 56-57)

3. In May 2007, a clinic manager notified the ORHC Compliance Officer (Curtis Meeks) that one of the clinic's female employees wanted to make an anonymous complaint against Respondent. The female employee (Employee #2) agreed to meet with the clinic manager and Mr. Meeks. Employee #2 also provided handwritten notes describing various incidents. (State Exhibit 4, pp. 65, 73; Testimony of Curt Meeks)

Employee #2 reported, in part, that when Respondent first came to town he came into the clinic where she worked, put his face very close to hers, and asked her if a 50% off coupon offered by her clinic also applied to her services. Although Respondent's question made her uncomfortable, she wondered if she was being overly sensitive. However, Employee #2 later noticed that Respondent was always staring at her and watching her through the window of the clinic where she worked. Other employees of the clinic also noticed this and would alert her when Respondent was coming so that she could hide or pretend that she was busy. At one point, Respondent told Employee #2 that he had been talking to her boss about her and that she was the "prettiest girl in the clinic." (State Exhibit 4, pp. 65-74; Testimony of Curtis Meeks)

Finally, Employee #2 reported that on May 7, 2007, Respondent told her that he was at the hospital's Dare to Dream auction and, "I put in a bid for you but I didn't win it." Employee #2 described this comment as "creepy, weird, and scary." Mr. Meeks interviewed five other female employees of the clinic who corroborated Employee #2's allegations. One of the employees was present when Respondent made the auction comment to Employee #2. The employee told Mr. Meeks that the implication of the comment was clear to her. Another employee overheard Respondent's comment about the coupon. That employee felt that the comment was inappropriate and that Respondent was standing too close to Employee #2 when he made the comment. Three other employees reported that they had seen Respondent "peeping" at Employee #2 through the clinic's windows. (State Ex. 4, pp. 65-74, 86; Meeks testimony)

Employee #2 declined to meet with Respondent to discuss her allegations. Mr. Meeks prepared a report of his interviews for Human Resources but had no further involvement in any disciplinary action against Respondent. Mr. Meeks testified that he socialized with Respondent and considered him to be a friend. (Meeks testimony; State Exhibit 4, p. 72)

4. Employee #2 later agreed to be interviewed by the Board's investigator. Employee #2 reported the same incidents that she had previously reported to Mr. Meeks. In addition, Employee #2 reported that early on Respondent talked with her about his wife and then asked her if she was dating anyone. She told him that she was, and he asked if it was serious. When Employee #2 told him it was serious, Respondent asked her if she wanted to have dinner sometime. Employee #2 also reported that on one occasion, Respondent came up close behind her when she was in the lab room and blocked her exit from the room. (Testimony of Cathy McCullough; State Exhibit 4, p. 86)

5. On December 14, 2007, ORHC sent Respondent a letter notifying him of its decision to terminate his employment, effective January 14, 2008, based on his repeated violations of the ORHC policies and procedures and his unprofessional conduct, including his "repeated, inappropriate personal conversations with and about staff members..." Respondent was immediately relieved of all of his duties at ORHC. (State Exhibit 4, p. 77) Respondent and ORHC later entered into a Confidential Severance Agreement on January 31, 2008. In the Confidential Severance Agreement, Respondent acknowledged that ORHC had relieved him of all employment responsibilities on December 14, 2007, and he resigned from employment with ORHC, effective January 14, 2008. (Respondent Exhibit 4) Respondent later resigned from the ORHC medical staff, effective June 1, 2008. (State Exhibit 4, p. 82)

6. On April 21, 2008, a local physician called Mr. Meeks to report a patient complaint. The female patient (Patient #1), complained that Respondent "came on" to her during a medical appointment in April 2007. The physician encouraged the patient to report Respondent's conduct to Mr. Meeks and to the Iowa Board of Medicine. Patient #1 reported the incident to Mr. Meeks on April 22, 2008, and to the Board on April 28, 2008. (State Exhibit 4, pp. 80; Exhibit 3; Testimony of Curt Meeks)

In April 2007, Patient #1 was referred to Respondent by her family physician due to a long history of intestinal problems. Patient #1 had her first and only appointment with Respondent on April 30, 2007. Patient #1 filled out a new patient registration form, which included information about her medical history. Respondent met with Patient #1 in his private office with the door open.

Respondent conversed with Patient #1 and told her personal information, including that his marriage was troubled and that his wife had moved back to Florida. Respondent asked Patient #1 if she was "seeing" anyone, and she told him that she was. Respondent also asked Patient #1 what she liked to do and what kind of restaurants she liked.

Respondent asked Patient #1 few questions of a medical nature. Patient #1 felt as though she had to keep redirecting Respondent from personal matters to her medical issues. Respondent did not ask Patient #1 to undress and did not examine her in an examination room. Rather, he sat in the chair next to her and listened to her heart and lungs with a stethoscope. Patient #1 had breast implants a few years earlier, and it was her impression that Respondent was sitting unnecessarily close to her and was listening to her heartbeat so he could look down her blouse. It was also her impression that Respondent kept looking at her breasts. After he finished his limited examination, Respondent asked Patient #1 if she wanted to go out to eat with him sometime. Patient #1 declined the invitation and told Respondent that it would not be appropriate. (Testimony of Patient #1; State Exhibit 3; Exhibit 4, pp. 2-4; 36-46; 80-81)

Patient #1 was sitting upright in a chair and fully dressed for the entire appointment with Respondent. Respondent claimed he was unable to take Patient #1 to an examination room for a full physical exam because he did not have a nurse available. However, Respondent's medical record does not indicate that the examination of Patient #1 was limited due to the unavailability of a nurse. Respondent's record indicates that Patient #1 was checked for the presence of a fever and that her eyes, neck, lungs, heart, and abdomen (including bowel sounds) were examined. Patient #1 does not recall Respondent performing any of these examinations except for listening to her heart and lungs with a stethoscope. Patient #1 conceded that Respondent may have examined her neck. However, Patient #1 denies that Respondent examined or palpated her abdomen. Although Respondent maintains that he was able to examine and palpate the patient's abdomen while she was sitting upright in the chair, the Board did not believe this could be true and found Patient #1 to be more credible than Respondent. The Board was concerned that Respondent failed to perform a thorough physical examination on Patient #1 and billed for a thorough exam. (Testimony of Patient #1, Respondent testimony; State Exhibit 4, pp. 39-40)

Respondent ordered some laboratory tests (CBC, sedimentation rate, comprehensive metabolic profile, and celiac profile) for Patient #1. According to his consultation note, Respondent recommended that Patient #1 take Metamucil, follow a lactose free diet and return to him in four weeks. He noted that if the laboratory tests were abnormal, he would proceed further with a gastrointestinal

workup. Respondent's record indicates that Patient #1 was later called with the test results, which were normal. Patient #1 did not return to Respondent for further care. Patient #1 later told her physician that she did not care for Respondent because he had asked her out, and her physician directed her to file a complaint with Mr. Meeks and the Board.

7. On April 16, 2009, the Board required Respondent to complete a comprehensive physical, neuropsychological, mental health and sexual misconduct evaluation at a Board approved evaluation program. On May 22, 2009 and July 3, 2009, Respondent completed the evaluation by a Florida psychologist approved by the Board. The psychologist prepared a lengthy report and provided diagnostic impressions and recommendations, most of which were contingent upon the Board making findings that the allegations were true. The psychologist noted that Respondent did not seem to have victim empathy or to fully understand the significance of the allegations against him. (State Exhibit 7)

8. Respondent completed further neuropsychological testing at the University of Iowa Hospitals and Clinics on September 23, 2009. The evaluation did not reveal cognitive or psychopathological dysfunction that would prevent Respondent from practicing medicine. Respondent did not show symptoms consistent with significant psychopathology on personality testing, although the evaluator stated that this must be interpreted cautiously as Respondent showed some tendency towards defensive responding. (State Exhibit 6)

9. On December 31, 2009, Dr. James L. Gallagher completed a psychiatric evaluation of Respondent and prepared a written report. Dr. Gallagher reviewed the prior evaluations and the allegations against Respondent. Dr. Gallagher disagreed with some of the conclusions of the Florida psychologist, including his diagnostic impression on Axis I. Dr. Gallagher found no evidence of a psychiatric impairment or any overt psychiatric problems or deficits that could lead to the types of behaviors Respondent has been accused of. Respondent's MMPI-2 profile was slightly defensive but within normal limits. Dr. Gallagher noted that if the allegations are founded by the Board, further evaluation may be in order. (Testimony of Dr. James L. Gallagher; Respondent Exhibit I: State Exhibit 8)

CONCLUSIONS OF LAW

The Board is authorized to revoke, suspend, or otherwise discipline a licensee for engaging in unethical conduct or practice harmful or detrimental to the public.[1] At all times relevant to this case, Board rule 653 IAC 23.1(4) provided:

> **23.1(4)** Unprofessional conduct. Engaging in unethical or unprofessional conduct includes, but is not limited to, the committing by a licensee of an act contrary to justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed in the course of the licensee's practice or otherwise, and whether committed in 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) as interpreted by the board.

At all times relevant to this case, 653 IAC 13.7(6) prohibited physicians from engaging in sexual harassment.

> **13.7(6)** *Sexual harassment.* A physician shall not engage 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.

653 IAC 13.20(2) provided that any fee charged by a physician shall be reasonable.

The Board concluded that the preponderance of the evidence established that Respondent engaged in unprofessional conduct in violation of Iowa Code sections 147.55(3), 272C.10(3), and 653 IAC 23.1(4) during his interaction with Patient #1 on April 30, 2007: when he shared inappropriately personal information about himself and his marriage; when he asked Patient #1 inappropriate questions about her personal life; when he failed to perform a thorough and appropriate physical exam based on her reported symptoms; and when he attempted to initiate a personal relationship Patient #1 by asking her out to dinner. While it is not necessarily inappropriate for a physician to converse with a patient about personal topics, whether to respond politely to a patient's questions or to ask questions of a personal nature that are relevant to the medical care being provided, the preponderance of the evidence established that Respondent volunteered

---

[1] Iowa Code sections 147.55(3), 272C.10(3)(2007).

unnecessarily personal details about his marital relationship and also asked questions about the patient's relationship status that were not for a legitimate medical purpose.

The Board was unable to conclude that Respondent looked down the patient's shirt for reasons other than providing medical care. However, the entire context of Respondent's interaction with Patient #1, culminating with Respondent asking her out to dinner after a very abbreviated physical examination, supports both the patient's impression and the Board's ultimate conclusion that Respondent was more focused on establishing a social relationship than he was on rendering appropriate medical care to Patient #1. The Board is also concerned that Respondent documented and charged for an abdominal examination that he did not perform. The Board did not believe Respondent's claim that he was able to perform a satisfactory abdominal examination of the patient while she was sitting upright in a chair. If Respondent was unable to conduct a proper examination because his nurse was not available, he should have asked the patient to make another appointment for a time when he could properly examine her.

The Board concluded that the preponderance of the evidence also established that Respondent's interactions with Employee #1 and Employee #2 violated Iowa Code sections 147.55(3), 272C.10(3), and 653 IAC 23.1(4). The preponderance of the evidence established that Respondent engaged in unprofessional conduct when he made comments of an inappropriate nature to at least two female co-workers. Both women found these comments to be offensive and intimidating.

The testimony of Employee #1 at hearing was consistent with her prior statements and was more credible than Respondent's testimony, which attempted to minimize the offensive nature of the Victoria's Secret comments. In addition, one of Employee #1's co-workers was present when the comments were made and corroborated Employee #1's allegations. Respondent's comments to Employee #1 about gifts from Victoria's Secret had obvious sexual overtones and were highly inappropriate.

Employee #2 did not testify at hearing. However, she provided generally consistent information in her interview with Mr. Meeks in the presence of her clinic manager and in her handwritten notes describing her allegations. Moreover, several of Employee #2's allegations were witnessed and corroborated by her co-workers. Employee #2 was also interviewed at length by the Board's investigator and the types of personal comments reported by both female employees were similar. Both women reported feeling uncomfortable and intimidated by Respondent's attention and comments. Finally, Respondent asked Employee #2 if she wanted to go out to dinner right after she told him she had a boyfriend, which

was very similar to the context and manner in which Respondent extended a dinner invitation to Patient #1. All of these factors lend additional credence to Employee #2's allegations.

Respondent contended that financial considerations stemming from his contract, not sexual harassment, were the real reason that ORHC terminated his employment. Even if this was true, it is not germane to the Board's evaluation of Respondent's conduct toward these women.
Finally, the Board concluded that there was insufficient evidence in the record at hearing to support the allegations that Respondent touched female co-workers on the shoulder or slapped a female co-worker on the buttocks with a patient chart.

Respondent's pattern of inappropriate comments and behavior toward two co-workers and one patient raises significant concerns about his understanding and acceptance of appropriate professional/sexual boundaries for physicians.

DECISION AND ORDER

1. **CITATION AND WARNING**: Respondent is hereby **CITED** for engaging in a pattern of unprofessional conduct in the practice of medicine. 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.

2. **CIVIL PENALTY:** Respondent shall pay a civil penalty in the amount of **$5,000** within twenty (20) days of the date of this Order. The civil penalty shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

3. **PROFESSIONAL BOUNDARIES PROGRAM:** Respondent shall successfully complete the Board-approved professional boundaries program within ninety (90) days of the date of this order. Respondent shall cause a report to be sent to the Board directly from the professional boundaries program at the conclusion of the program. Respondent is responsible for all costs associated with the ethics program.

4. **FIVE YEARS PROBATION**: Respondent shall be placed on **probation for a period of five (5) years** subject to the following terms and conditions:

A. **Monitoring Program**: Respondent shall establish a monitoring program with Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-3654. Respondent shall fully comply with all requirements of the monitoring program.

B. **Professional Boundaries Program Recommendations:** Respondent shall fully comply with all recommendations made by the professional boundaries program.

C. **Staff Surveillance Forms and Patient Satisfaction Surveys:**
(1) Respondent shall utilize Staff Surveillance Forms in his medical practice as directed by the Board.
(2) Respondent shall utilize Patient Satisfaction Surveys in his medical practice as directed by the Board.

D. **Worksite Monitor**: Respondent shall submit for Board approval the name of a physician who regularly observes and/or supervises Respondent in the practice of medicine to serve as worksite monitor. The Board shall provide a copy of all Board orders relating to this matter with the worksite monitor. The worksite monitor shall provide a written statement indicating that they have read and understand all Board orders relating to this disciplinary action and agrees to act as the worksite monitor under the terms of this agreement. The worksite monitor shall agree to inform the Board immediately if there is evidence of professional misconduct, or a violation of the terms of this Settlement Agreement. The worksite monitor shall agree to submit quarterly reports to the Board concerning Respondent's progress not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

E. **Quarterly Reports:** Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Settlement Agreement. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.

F. **Board Appearances:** Respondent shall make an appearance before the Board annually or upon request. Respondent shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).

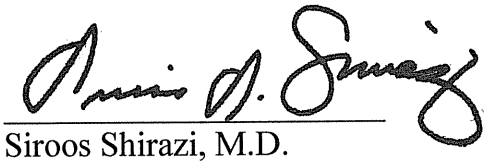
G. **Monitoring Fee:** Respondent shall make a payment of $100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report from Respondent required by this Order. The monitoring fee shall be sent to: Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The Monitoring Fee shall be considered repayment receipts as defined in Iowa Code section 8.2.C.

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

6. In the event Respondent violates or fails to comply with any of the terms or conditions 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 272 and 653 IAC 25.

7. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board. 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.

IT IS FURTHER ORDERED, in accordance with 653 IAC 25.33, that Respondent shall pay a disciplinary hearing fee of $75.00. In addition, Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 25.33(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.



Siroos Shirazi, M.D.
Chairperson
Iowa Board of Medicine

January 13, 2011
Date

cc: Brent Rosenberg, Rosenberg & Morse, 1010 Insurance Exchange Building, 505 Fifth Avenue, Des Moines, Iowa 50309 (CERTIFIED)
Theresa O'Connell Weeg, Department of Justice, Hoover Bldg, 2nd Fl.
Kent Nebel, Iowa Board of Medicine, 400 SW 8th Street, Suite C (LOCAL)

Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, from and after the date of this Decision and Order. 653 IAC 25.31.

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST:	)	FILE NO. 02-08-238 DIA NO. 10DPHMB007
PAUL S. QUENTZEL, M.D. Respondent	)	RULING DENYING MOTION TO DISMISS

On June 11, 2010, the Iowa Board of Medicine (Board) filed a Statement of Charges against Paul S. Quentzel, M.D. (Respondent) charging him with engaging in unprofessional conduct in the practice of medicine, in violation of Iowa Code sections 147.55(3), 272C.10(3) and 653 IAC 23.1(4). The Statement of Charges acknowledges that Respondent's Iowa medical license is inactive and expired due to non-renewal on May 1, 2010.

The Statement of Matters Asserted in support of the charges alleges that Respondent formerly practiced gastroenterology in Ottumwa, Iowa, that he engaged in unprofessional conduct in the treatment of a female patient, and that he was terminated from his employment due to professional boundary violations with female co-workers.

The Statement of Charges notes that Respondent completed a Board ordered comprehensive evaluation on July 3, 2009. After reviewing the evaluation report, the Board concluded that Respondent may continue to practice medicine subject to the recommendations of the assessment program, including Board monitoring.

On July 2, 2010, Respondent filed a Motion to Dismiss asserting that the Board does not have jurisdiction to discipline him. Respondent asked for a hearing on the motion, presided over by an administrative law judge, for the purpose of making findings of fact and rulings of law on this issue. The state filed a Resistance on June 29, 2010 and attached two unpublished decisions of the Iowa Court of Appeals.

The Board has delegated ruling on the motion to the undersigned administrative law judge. I have reviewed the motion and resistance and conclude that an oral hearing on the motion is unnecessary. The parties agree that Respondent's Iowa medical license has expired. The Iowa Court of Appeals has ruled in two recent

unpublished decisions that the Board has jurisdiction to discipline both active licensees and former/inactive licensees.[1] These decisions were consistent with prior precedent of the Iowa Supreme Court.[2]

Respondent attempts to distinguish his case from *Imber* by asserting that the Board "does not have jurisdiction to discipline him as proposed in the Statement of Charges" and "any discipline which would be proposed and which could not be complied with while Respondent is not practicing in Iowa would be unreasonable and in violation of due process." Respondent's argument concerning the type of discipline that may be imposed by the Board is not jurisdictional. Moreover, arguments about what discipline might be imposed are premature and speculative. The Board will not determine appropriate discipline unless and until a violation has been established at hearing. Arguments concerning appropriate discipline may be presented to the Board at hearing.

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss is DENIED.

Dated this 19th day of July, 2010.

Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building-Third Floor
Des Moines, Iowa 50319

cc: Brent Rosenberg, Rosenberg & Morse, 1010 Insurance Exchange Building, 505 Fifth Avenue, Des Moines, Iowa 50309
Theresa O'Connell Weeg, Department of Justice, Hoover Bldg, 2nd Fl.
Kent Nebel, Iowa Board of Medicine, 400 SW 8th Street, Suite C (LOCAL)

This ruling is subject to the interlocutory appeal provisions of 653 IAC 25.23. See 653 IAC 25.6.

---

[1] *Doe v. Board of Medical Examiners/Martin v. Board of Medical Examiners*, 2009 WL 249972, *6(Iowa App. 2009); *Imber v. Board of Medical Examiners*, 2007 WL 601544, *4 (Iowa App. 2007).

[2] *State v. Otterholt*, 234 Iowa 1286, 1291, 15 N.W.2d 529, 532 (1944)(holding that a professional license is a property right that cannot be taken away without due process and "the mere failure to renew annually does not lessen the value of that license.")

BEFORE THE IOWA BOARD OF MEDICINE

****

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

PAUL S. QUENTZEL, M.D., RESPONDENT

File No. 02-08-238

****

STATEMENT OF CHARGES

****

COMES NOW the Iowa Board of Medicine (Board) on June 11, 2010, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license no. 36932 on October 13, 2006. Respondent's Iowa medical license is inactive as it expired due to non-renewal May 1, 2010.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on August 19, 2010, before the Board. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Board office at 400 SW 8th 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 IAC 24.2(5)(d) to file an Answer. In that Answer, you should 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 pre-hearing matters, and be present to assist and advise the board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on June 23, 2010 at 10:00 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 IAC 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 IAC 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: Theresa O'Connell Weeg, 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 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

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 and 653 IAC 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 IAC 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

11. Respondent is charged pursuant to Iowa Code sections 147.55(3) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unprofessional conduct in the practice of medicine.

STATEMENT OF THE MATTERS ASSERTED

12. Respondent formerly practiced gastroenterology in Ottumwa, Iowa.

13. The Board alleges that Respondent engaged in unprofessional conduct during his treatment of a female patient when he:

A. Inappropriately shared personal information about himself and his marriage with the patient;

B. Asked the patient inappropriate questions about her personal life;

C. Attempted to look down the patient's shirt while listening to her heart and lungs;

D. Failed to perform a thorough physical exam; and

E. Attempted to initiate an inappropriate personal relationship with the patient when he asked her out.

14. Respondent was terminated from employment due to professional boundary violations with female co-workers after he:

A. Made inappropriate sexual comments to female co-workers;

B. Touched female co-workers on the shoulder and slapped a female co-worker on the buttocks with a patient chart;

C. Stared at a female co-worker in an inappropriate manner; and

D. Approached a female co-worker from behind blocking her against a cabinet in an inappropriate and/or intimidating manner.

15. On April 16, 2009, the Board ordered Respondent to complete a comprehensive physical, neuropsychological, mental health and sexual misconduct evaluation at a Board-approved assessment program. On July 3, 2009, Respondent completed the Board-approved evaluation. After careful review of the evaluation report, the Board concluded that Respondent may continue to practice medicine subject to the

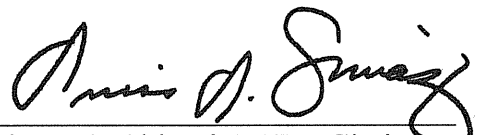
recommendations of the assessment program, including Board monitoring.

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 IAC 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

17. On June 11, 2010 the Iowa Board of Medicine found probable cause to file this Statement of Charges.



Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686