

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE) **DIA NO. 08DPHMB009**
STATEMENT OF CHARGES AGAINST:) **CASE NOS. 02-04-129,**
) **02-04-130, 02-04-131**
RALPH F. REEDER, JR., M.D.)
) **DISMISSAL ORDER**

Respondent

On February 11, 2008, the Iowa Board of Medicine (Board) found probable cause to file a Statement of Charges against Ralph F. Reeder, Jr., M.D. (Respondent) charging Respondent with professional incompetency and engaging in practice harmful or detrimental to the public. A panel hearing was initially scheduled for May 14, 2008, but was later continued to October 1 & 2, 2008.

On September 9, 2008, an administrative law judge issued an Order Granting Motion to Amend Statement of Charges. The ALJ Order deleted one case number (02-03-085) from the caption of the Statement of Charges because its inclusion in the caption had been a clerical error. The Order denied Respondent's Motion for Summary Judgment on Case No. 02-03-085.

On September 30, 2008, the state filed a Motion to Dismiss the Statement of Charges against Respondent. Board staff cancelled the panel hearing scheduled for October 1, 2008, and the Motion to Dismiss was placed on the Board's agenda for its October 23, 2008, meeting. On October 1, 2008, Respondent filed a Motion for Reconsideration of Ruling Denying Motion for Summary Judgment and Additional Motion for Summary Judgment. On October 23, 2008, a quorum of the Board heard the oral arguments of the parties in support of their respective motions.

Upon review of the motions, oral arguments, and the record, the Board determined that the ALJ Order Granting the Motion to Amend the Statement of Charges should be affirmed, and the State's Motion to Dismiss should be granted. The Board's decision to file charges against Respondent was based solely on the opinions of the Board following review of a report from the Board's independent peer reviewers, neurosurgeons who are board-certified by the American Board of Neurological Surgery, and whose assistance was provided through the American Association of Neurological Surgeons.

The Board never intended for charges to be filed against Respondent with respect to Case No. 02-03-085, and the inclusion of that case number in the caption of the Statement of Charges was a clerical error. It was appropriate to correct this error by amending the Statement of Charges.

Following review of additional expert opinions submitted by Respondent concerning his care of the three patients in Case Nos. 02-04-129, 02-04-130, and 02-04-131, the Board concludes that those cases should be dismissed, with prejudice, because the state is unable to prove that Respondent's care in those cases fell below the standard of care. Summary Judgment is inappropriate in those three cases because there are disputed material facts.

IT IS THEREFORE ORDERED that the State's Motion To Dismiss is hereby GRANTED. IT IS FURTHER ORDERED that Respondent's Motions for Summary Judgment are DENIED.

Dated this 1st day of December, 2008.



Yasin Lee, M.D., Chairperson
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

cc: Theresa O'Connell Weeg
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

Charles T. Patterson
PATTERSON & PRAHL, L.L.P.
25043 Little Water Lane
P.O. Box 767
Custer, South Dakota 57730

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

RALPH F. REEDER, Jr., M.D., RESPONDENT

FILE Nos. 02-04-129, 02-04-130 & 02-04-131

AMENDED STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on February 11, 2008, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2)(2007). Respondent was issued Iowa medical license no. 26959 on February 9, 1989. Respondent's Iowa medical license is active and will next expire on December 1, 2008.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on May 14, 2008, 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 prehearing matters, and be present to assist and advise the board at hearing.

4. 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 or closed to the public at the discretion of the Respondent.

5. 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.

6. Communications. You may not contact board members by phone, letter, facsimile, e-mail, or in person about this matter. 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., Legal Director at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

B. LEGAL AUTHORITY AND JURISDICTION

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 148, and 272C.

8. 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.

9. 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

10. 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:

- A. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- B. 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;

- C. 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; and
- D. 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 the state of Iowa.

COUNT II

11. Respondent is charged under Iowa Code sections 147.55(3) and 272C.10(3) and 653 IAC 23.1(3) with engaging in practice harmful or detrimental to the public.

D. STATEMENT OF MATTERS ASSERTED

- 12. Respondent practices neurosurgery in Dakota Dunes, South Dakota.
- 13. The Board alleges that Respondent has demonstrated a pattern of professional incompetency and practice harmful or detrimental to the public in the practice of medicine and surgery by:
 - A. Failing to demonstrate appropriate clinical judgement in the practice of neurosurgery;

- B. Inappropriately performing surgery on patients without appropriate indications for the prescribed surgery; and
- C. Failing to provide appropriate postoperative follow-up with patients.

E. SETTLEMENT

14. 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

15. On February 11, 2008, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



Yashin Lee, M.D., Chairperson
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) DIA NO. 08DPHMB009
STATEMENT OF CHARGES AGAINST:) CASE NOS. 02-03-085,
) 02-04-129,02-04-130,
) 02-04-131 09-10-08P02:42 RCVD
)
RALPH F. REEDER, JR., M.D.) ORDER GRANTING MOTION TO
) AMEND STATEMENT OF CHARGES

Respondent

On February 11, 2008, the Iowa Board of Medicine (Board) found probable cause to file a Statement of Charges against Ralph F. Reeder, Jr., M.D. (Respondent) charging him with professional incompetency and engaging in practice harmful or detrimental to the public. A hearing was initially scheduled for May 14, 2008 but has been continued to October 1 & 2, 2008.

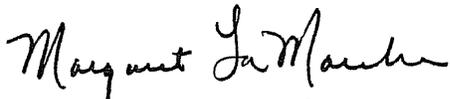
On or about July 15, 2008, the state of Iowa filed a Motion To Amend Statement of Charges to delete Case No. 02-03-085 from the caption of the pending charges. The Motion to Amend states that Case No. 02-03-085 was mistakenly listed in the caption with three other case numbers. The Board's peer review committee had reviewed four cases involving Respondent's care of four different patients. The peer review committee concluded in its final report that Respondent provided substandard care in three of the four cases but did not provide substandard care to the patient involved in Case No. 02-03-085. The state characterizes this as a technical correction to ensure that the caption accurately reflects the cases that are the subject of the disciplinary proceeding.

On August 27, 2008, Respondent filed a Resistance to Motion To Amend Statement of Charges and Motion for Summary Judgment. Respondent asserts that he will be prejudiced if the Board grants the Motion to Amend without an adjudication of Case No. 02-03-085 on the merits, i.e. granting Summary Judgment for Respondent, in order to show the public that the case was without merit. On September 8, 2008, the state filed a Resistance to Respondent's Motion for Summary Judgment. The Board has referred the pending motions to the undersigned administrative law judge for ruling.

As pointed out by the state, the pending Statement of Charges, which is the only public document on file in the case, makes no reference whatsoever to individual patients or the number of patients involved in the charges. If the Board never intended the charges against the Respondent to include any allegations with respect to the patient associated with Case No. 02-03-085 and if the inclusion of that Case Number in the caption was merely a clerical error, then the most appropriate disposition is that requested by the state: amending the Statement of Charges to delete the reference to this case number in the caption.

IT IS THEREFORE ORDERED that the State's Motion To Amend the Statement of Charges is hereby GRANTED. The Statement of Charges shall be AMENDED by deleting the reference to Case No. 02-03-085 from the caption. IT IS FURTHER ORDERED that Respondent's Motion for Summary Judgment is DENIED.

Dated this 9th day of September , 2008.



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

For the Iowa Board of Medicine

cc: Theresa O'Connell Weeg
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319 (LOCAL)

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25043 Little Water Lane
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Kent Nebel
Director of Legal Affairs
Iowa Board of Medical Examiners
400 SW 8th St., Suite C
Des Moines, Iowa (LOCAL)

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

RALPH F. REEDER, Jr., M.D., RESPONDENT

FILE Nos. 02-03-085, 02-04-129, 02-04-130 & 02-04-131

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