

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ANDREW D. SMITH, JR., M.D., RESPONDENT

FILE NO. 02-10-112

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

COMES NOW the Iowa Board of Medicine (Board) and Andrew D. Smith, Jr., M.D., (Respondent), on December 16, 2010, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this combined Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 26523 on April 26, 1988.
2. Respondent's Iowa medical license will next expire on February 1, 2012.
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 23.1(42) for performing or attempting to perform any surgical or invasive procedure on the wrong patient or at the wrong anatomical site or performing the wrong surgical procedure on a patient.

STATEMENT OF THE MATTERS ASSERTED

5. Respondent is an Iowa-licensed physician who practices general surgery in Iowa City, Iowa.
6. On June 8, 2009, Respondent performed a partial tubal ligation on a patient without appropriate consent.

SETTLEMENT AGREEMENT

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for performing a partial tubal ligation on a patient without appropriate consent 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.

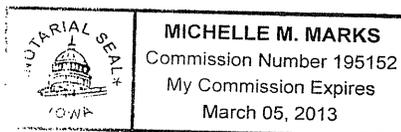
17. The Board's approval of this Order shall constitute a **Final Order** of the Board.



Andrew D. Smith, Jr., M.D., Respondent

Subscribed and sworn to before me on October 28, 2010.

Notary Public, State of



This Order is approved by the Board on December 16, 2010.

A handwritten signature in black ink, appearing to read "Siros S. Shirazi". The signature is written in a cursive style with a large, looping initial "S".

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