

BEFORE THE IOWA BOARD OF MEDICINE

\*\*\*\*\*

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ROBERT F. TOBIN, M.D., RESPONDENT

FILE Nos. 02-07-731 & 02-11-541

\*\*\*\*\*

REINSTATEMENT ORDER

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COMES NOW the Iowa Board of Medicine (Board) and Robert F. Tobin, M.D. (Respondent), and on May 23, 2013, and enter into this Reinstatement Order.

1. Respondent was issued Iowa medical license no. 26658 on July 11, 1988.
2. Respondent's Iowa medical license went inactive due to non-renewal on April 1, 2012.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. Respondent is an Iowa-licensed physician who currently practices ophthalmology in St. Joseph, Missouri.
5. **First Disciplinary Action:** On December 16, 2004, the Board charged Respondent with engaging in professional incompetency and practice harmful or detrimental to the public. On November 15, 2005, Respondent entered into a Settlement Agreement and Final Order with the Board to resolve the disciplinary pending charges. The Board issued Respondent a Citation and Warning and ordered him to pay a \$2,500 civil penalty. Respondent also agreed to comply with certain conditions in his ophthalmology practice.

6. **Second Disciplinary Action:** On November 8, 2007, the Board charged Respondent with violating the terms of the November 15, 2005, Settlement Agreement and Final Order. On May 6, 2010, Respondent entered into a Settlement Agreement with the Board to resolve the pending disciplinary charges. Respondent completed a Board-approved comprehensive clinical competency evaluation and a Board-approved neuropsychological evaluation. The Board issued Respondent a Citation and Warning and ordered him to pay a \$10,000 Civil Penalty and complete a Board-approved professional ethics program and record keeping program. The Board placed Respondent on probation for a period of five years subject to certain conditions.

7. **Third Disciplinary Action:** On September 23, 2011, the Board charged Respondent with violating the terms the May 6, 2010, Settlement Agreement. On February 17, 2012, a hearing was held before the Board. On March 29, 2012, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. The Board concluded that Respondent repeatedly violated the terms of the May 6, 2010, Settlement Agreement. The Board issued Respondent a Citation and Warning and suspended his Iowa medical license for a minimum of six months. The Board ordered Respondent to pay a \$10,000 civil penalty and continue to fully comply with the CPEP Educational Intervention Plan during the period of suspension. The Board ordered Respondent to continue to be on probation, subject to the terms and conditions established in the May 6, 2010, Settlement Agreement, upon reinstatement of his Iowa medical license.

8. **Application for Reinstatement:** On March 15, 2013, Respondent filed a Renewed Application for Reinstatement of his Iowa medical license. Respondent indicated that he no longer practices medicine in Iowa and he allowed his Iowa medical license to go inactive on April 1, 2012. Respondent demonstrated that he has paid the \$10,000 civil penalty and has continued to fully comply with the CPEP Educational Intervention Plan during the period of suspension.

9. **Reinstatement:** On May 23, 2013, the Board voted to reinstate Respondent's Iowa medical license subject to the terms of this Order.

10. **Five year probation:** Respondent shall be placed on **probation for a period of five (5) years** from the date of this Order subject to the terms and conditions established below. Respondent's Iowa medical license is currently inactive due to non-renewal. Should Respondent choose to reactivate his inactive Iowa medical license in the future, he shall fully comply with the following terms and conditions:

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

B. **Terms and Conditions:** Respondent agrees to fully comply with the following terms and conditions:

1) Respondent shall conform to the minimal standard of acceptable and prevailing practice in his postoperative management practices following cataract and refractive ophthalmologic surgery for all patients in the future.

- 2) Respondent shall perform and document appropriate preoperative examinations for all patients in the future.
  - 3) Respondent shall obtain and document appropriate informed consent for all patients prior to ophthalmologic surgery in the future.
  - 4) Respondent shall appropriately explain and document the risks, benefits and alternatives for recommended surgical procedures for all patients in the future.
  - 5) Respondent shall appropriately explain and document the risks, benefits and alternatives for postoperative management plans with all patients in the future.
  - 6) Respondent shall maintain appropriate patient operative reports for all patients in the future.
  - 7) Respondent shall appropriately inform the patient and document all serious complications suffered by patients in the future.
- C. **CPEP Remediation Plan:** Respondent shall successfully complete a Board-approved educational program as recommended by CPEP including the following:
- 1) **Educational Preceptor:** Respondent shall submit the name and CV of an ophthalmologist to serve as his educational preceptor as recommended by CPEP. Respondent shall meet regularly with the educational preceptor to review cases, discuss decisions, review specific areas of need and engage in a quality improvement processes.

- 2) **Continuing Medical Education and Self-Study:** Respondent successfully completed continuing medical education and self-study as recommended by CPEP.
  - 3) **Documentation Course:** Respondent successfully completed a Board-approved documentation program.
  - 4) **CPEP Reassessment:** Respondent recently completed a reassessment and CPEP recommended further remediation. Respondent shall fully comply with CPEP's recommended remediation.
- D. **Practice Monitoring Plan:** Respondent shall fully comply with the practice monitoring plan approved by the Board. The practice monitor shall be an Iowa-licensed, board-certified, ophthalmologist. The practice monitor shall agree to serve under the terms of the practice monitoring plan. The practice monitor shall review medical records for selected patients and meet regularly with Respondent to review cases, review specific topics and engage in a quality improvement processes. Respondent shall fully comply with all recommendations of the practice monitor. The practice monitor shall immediately notify the Board if he receives information which indicates that Respondent has violated the appropriate standard of care or has engaged in practice which is harmful or detrimental to the public. The practice monitor shall submit written quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

- E. **Worksite Monitor:** Respondent shall submit for Board approval the name of an Iowa-licensed 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 to the worksite monitor. 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. The worksite monitor shall agree to inform the Board immediately if there is evidence of professional misconduct, sexual misconduct, substance abuse or a violation of the terms of this Order. The worksite monitor shall submit quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- F. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms of this Settlement Agreement. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year for the duration of the period of probation.
- G. **Board Appearances:** Respondent shall appear before the Board annually or upon request of the Board for the duration of the period of this Order. Respondent shall be given reasonable notice of the date, time and location for 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 all quarterly reports 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. The monitoring fee shall be considered repayment receipts as defined in Iowa Code section 8.2.

11. Respondent shall submit a written statement to the Board which demonstrates that Respondent 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 Respondent 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. Pursuant to 653 IAC 21.6, if applicable, Respondent shall notify all physician assistant supervisees within one workday upon receiving disciplinary action from the Board or any other change in status that affects the physician's eligibility to supervise a physician assistant.

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

15. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

16. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing and waives any objections to the terms of this Order. This Order constitutes the resolution of a contested case proceeding.

17. 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.

18. 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.

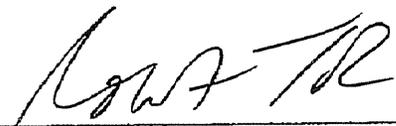
19. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

20. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank.

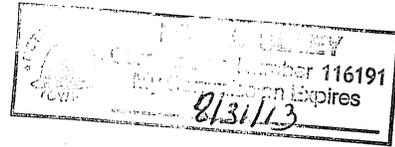
21. The Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

22. 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.

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



Robert F. Tobin, M.D., Respondent



Subscribed and sworn to before me on April 24, 2013.

Notary Public, State of Iowa. *Lou L. Seley*

This Order is approved by the Board on \_\_\_\_\_, 2013.

Colleen K. Stockdale, M.D., M.S., Chairwoman  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686

This Order is approved by the Board on May 23, 2013.



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Gregory B. Hoversten, D.O., 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

ROBERT F. TOBIN, M.D., RESPONDENT

FILE NO. 02-07-731

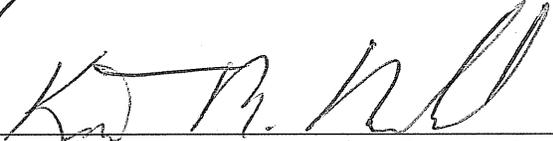
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SATISFACTION OF JUDGMENT

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COMES NOW the Iowa Board of Medical Examiners and hereby states that the Respondent has paid in full the amount of the civil penalty which was assessed in the Settlement Agreement approved by the Board on the 6<sup>th</sup> day of May, 2010.

Dated this 27<sup>th</sup> day of May, 2010.

  
KENT NEBEL, Director of Legal  
Affairs

Copy to:

Theresa O'Connell Weeg  
Assistant Attorney General  
Iowa Department of Justice  
Hoover State Office Building  
Des Moines, Iowa 50319

David L. Brown  
218 Sixth Avenue, 8<sup>th</sup> Floor  
Des Moines, Iowa 50309

**BEFORE THE IOWA BOARD OF MEDICINE**

\*\*\*\*\*

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

**ROBERT F. TOBIN, M.D., RESPONDENT**

**FILE No. 02-07-731**

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**SETTLEMENT AGREEMENT**

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COMES NOW the Iowa Board of Medicine (the Board), and Robert F. Tobin, M.D., (Respondent), on May 6, 2010, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2007), enter into this Settlement Agreement to resolve this matter.

1. Respondent was issued Iowa medical license no. 26658 on July 11, 1988.
2. Respondent's Iowa medical license is active and will next expire on April 1, 2010.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. On November 8, 2007, the Board filed formal disciplinary charges against Respondent alleging that he violated the terms and conditions of a Board Order and he engaged in practice harmful or detrimental to the public and professional incompetence in his ophthalmologic surgical practice.

5. **CLINICAL COMPETENCY EVALUATION:** Respondent completed a comprehensive clinical competency evaluation at the Center for Personalized Education for Physicians (CPEP). CPEP identified concerns in the following areas of Respondent's ophthalmology practice: medical knowledge; medical judgment and documentation. CPEP recommended that Respondent complete a supervised educational program, including an educational preceptor, procedural training, continuing medical education, self-study and a documentation program with follow-up.

6. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the terms and conditions of a Board Order and engaging in practice harmful or detrimental to the public and professional incompetence in his ophthalmologic surgical practice. Respondent is hereby **WARNED** that such practice in the future may result in further formal disciplinary action, including revocation of his Iowa medical license.

7. **CIVIL PENALTY:** Respondent shall be assessed a civil penalty in the amount of **\$10,000**. Payment shall be made within twenty (20) days of the date of this Order by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board and shall be deposited into the State General Fund.

8. **NEUROPSYCHOLOGICAL EVALUATION:** At the direction of the Board, Respondent completed a Board-approved neuropsychological evaluation. Upon careful consideration, the Board concluded that Respondent may practice medicine at this time. Respondent shall complete another Board-approved neuropsychological re-evaluation no later than December 31, 2010. Respondent shall ensure that a report is sent directly to the Board and he is responsible for all costs associated with new evaluation.

9. **ETHICS PROGRAM:** Respondent shall successfully complete the Professional/Problem Based Ethics (PROBE) program sponsored by the Ethics Group, LLC, of Summit, New Jersey within sixty (60) days of the date of this order. Respondent shall ensure that a report is sent directly to the Board. Respondent is responsible for all costs associated with the ethics program.

10. **RECORD KEEPING PROGRAM:** Respondent shall successfully complete the record keeping program offered by the Center for Personalized Educational for Physicians (CPEP) within sixty (60) days of this order. Respondent is responsible for all costs associated with the record keeping program.

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

B. **Terms and Conditions:** Respondent agrees to fully comply with the following terms and conditions:

- 1) Respondent shall conform to the minimal standard of acceptable and prevailing practice in his postoperative management practices following cataract and refractive ophthalmologic surgery for all patients in the future.
- 2) Respondent shall perform and document appropriate preoperative examinations for all patients in the future.

- 3) Respondent shall obtain and document appropriate informed consent for all patients prior to ophthalmologic surgery in the future.
- 4) Respondent shall appropriately explain and document the risks, benefits and alternatives for recommended surgical procedures for all patients in the future.
- 5) Respondent shall appropriately explain and document the risks, benefits and alternatives for postoperative management plans with all patients in the future.
- 6) Respondent shall maintain appropriate patient operative reports for all patients in the future.
- 7) Respondent shall appropriately inform the patient and document all serious complications suffered by patients in the future.

C. **CPEP Remediation Plan:** Respondent shall successfully complete a Board-approved educational program as recommended by CPEP including the following:

- 1) **Educational Preceptor:** Respondent shall submit the name and CV of an orthopedic surgeon to serve as his educational preceptor as recommended by CPEP. Respondent shall meet regularly with the educational preceptor to review cases, discuss decisions, review specific areas of need and engage in a quality improvement processes.
- 2) **Continuing Medical Education and Self-Study:** Respondent shall complete continuing medical education and self-study as recommended by CPEP.

- 3) **Documentation Course:** Respondent shall complete a Board-approved documentation program within ninety (90) days of the date of this order.
  - 4) **CPEP Reassessment:** Respondent shall complete a reassessment as recommended by CPEP.
- D. **Practice Monitoring Plan:** Respondent shall fully comply with the practice monitoring plan approved by the Board. The practice monitor shall be an Iowa-licensed, board-certified, ophthalmologist. The practice monitor shall agree to serve under the terms of the practice monitoring plan. The practice monitor shall review medical records for selected patients and meet regularly with Respondent to review cases, review specific topics and engage in a quality improvement processes. Respondent shall fully comply with all recommendations of the practice monitor. The practice monitor shall immediately notify the Board if he receives information which indicates that Respondent has violated the appropriate standard of care or has engaged in practice which is harmful or detrimental to the public. The practice monitor shall submit written quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- E. **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 to the worksite monitor. 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. The worksite monitor

shall agree to inform the Board immediately if there is evidence of professional misconduct, sexual misconduct, substance abuse or a violation of the terms of this Order. The worksite monitor shall submit quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

- F. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms of this Settlement Agreement. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year for the duration of the period of probation.
  - G. **Board Appearances:** Respondent shall appear before the Board annually or upon request of the Board for the duration of the period of this Order. Respondent shall be given reasonable notice of the date, time and location for the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(2).
  - H. **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 all quarterly reports 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. The monitoring fee shall be considered repayment receipts as defined in Iowa Code section 8.2.
12. Respondent shall obey all federal, state and local laws, and all rules governing the

practice of medicine in Iowa.

13. 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.

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

15. 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.

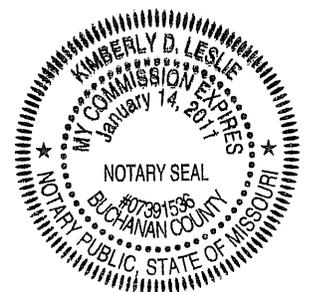
16. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Settlement Agreement.

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

18. 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.

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

  
Robert F. Tobin, M.D., Respondent

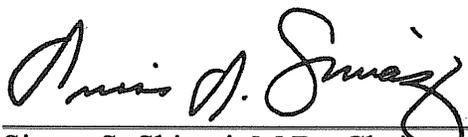


Subscribed and sworn to before me on April 16, 2010.

Notary Public, State of Missouri.



This Order is approved by the Board on May 6, 2010.

A handwritten signature in black ink, reading "Siroos S. Shirazi". The signature is fluid and cursive, with the first name "Siroos" and last name "Shirazi" clearly legible.

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Siroos S. Shirazi, 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	)	FILE NO. 02-07-731
STATEMENT OF CHARGES AGAINST	)	DIA NO. 07DPHMB019
	)	
ROBERT F. TOBIN, M.D.	)	ORDER FOR
Respondent	)	PREHEARING CONFERENCE

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A telephone prehearing conference will be held on **Wednesday, January 6, 2010 at 3:30 p.m.** The attorneys will be contacted at their office telephone numbers unless alternate numbers are provided.

Dated this 31st day of December, 2009.

*Margaret LaMarche*

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  
Voice: (515) 281-7177

FOR THE IOWA BOARD OF MEDICINE

cc: David L. Brown  
Theresa O'Connell Weeg  
Kent Nebel  
[all served solely by email]

**BEFORE THE IOWA BOARD OF MEDICINE**

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

**ROBERT F. TOBIN, M.D., RESPONDENT**

**FILE No. 02-07-731**

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**STATEMENT OF CHARGES**

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**COMES NOW** the Iowa Board of Medicine on November 8, 2007, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 26658 on July 11, 1988. Respondent's Iowa medical license is active and will next expire on April 1, 2008.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on January 7, 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 8<sup>th</sup> 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, 2<sup>nd</sup> 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 pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 23.1(11) with violating a lawful order of the Board.

### **COUNT II**

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

### **COUNT III**

12. Respondent is charged with professional incompetency pursuant to Iowa Code section 147.55(2), 148.6(2)(g) and (i), and 272C.10(2), and 653 IAC 23.1(2)(c), (d), (e), and (f).

#### **D. STATEMENT OF MATTERS ASSERTED**

13. Respondent practices ophthalmology in West Des Moines, Iowa.

14. On December 16, 2004, the Board filed formal disciplinary charges against Respondent alleging that he engaged in professional incompetency and practice harmful or detrimental to the public in the practice of ophthalmology.

15. On November 15, 2005, Respondent entered into a Settlement Agreement and Final Order with the Board to resolve the pending disciplinary charges. Under the terms of the Settlement Agreement and Final Order, Respondent received a Citation and Warning for failing to conform to the minimal standard of acceptable and prevailing practice of ophthalmology and he was required to pay a \$2,500 civil penalty.

16. Respondent also agreed to fully comply with the following terms and conditions in his ophthalmology practice:

- A. Respondent shall conform to the minimal standard of acceptable and prevailing practice in his postoperative management practices following cataract and refractive ophthalmologic surgery for all patients in the future.
- B. Respondent shall perform and document appropriate preoperative examinations for all patients in the future.
- C. Respondent shall obtain and document appropriate informed consent for all patients prior to ophthalmologic surgery in the future.

- D. Respondent shall appropriately explain and document the risks, benefits and alternatives for recommended surgical procedures for all patients in the future.
- E. Respondent shall appropriately explain and document the risks, benefits and alternatives for postoperative management plans with all patients in the future.
- F. Respondent shall maintain appropriate patient operative reports for all patients in the future.
- G. Respondent shall appropriately inform the patient and document all serious complications suffered by patients in the future.

17. The Board now alleges that Respondent violated the terms and conditions of the Settlement Agreement and Final Order by:

- A. Failing to provide preoperative and postoperative examinations and management plans;
- B. Failing to maintain appropriate medical records;
- C. Failing to properly inform a patient about a serious complication.

18. The Board also alleges that Respondent has demonstrated a pattern of professional incompetency and practice harmful or detrimental to the public in his practice of ophthalmology by:

- A. Failing to perform and/or document proper systematic management of glaucoma patients.
- B. Failing to maintain appropriate medical records.

### **E. SETTLEMENT**

19. 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**

20. On this 8<sup>th</sup> day of November 2007, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

  
\_\_\_\_\_  
Yash Lee, M.D., Chairperson  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686