

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

KENT J. VAN WHY, M.D., RESPONDENT

File No. 02-2012-072

TERMINATION ORDER

Date: July 29, 2016.

1. **Iowa Medical License:** Respondent was issued Iowa medical license No. 28991 on November 18, 1992. Respondent's Iowa medical license is active and will next expire on August 1, 2017.

2. **Jurisdiction:** The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

3. **Practice Setting:** Respondent is an Iowa-licensed physician who practices clinical cardiac electrophysiology in the Quad Cities, Iowa.

4. **Iowa Physician Health Program:** On or about May 8, 2009, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP) due to substance abuse.

5. **Statement of Charges:** On March 1, 2012, the Board filed formal disciplinary charges against Respondent for consuming alcohol in violation of the Physician Health Contract that he entered into with the IPHP.

6. **Settlement Agreement:** On June 8, 2012, Respondent entered into a Settlement Agreement with the Board to resolve the pending disciplinary charges. Under the terms of the June 8, 2012, Settlement Agreement, the Board issued Respondent a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also placed Respondent on probation for a period of five (5) years subject to Board monitoring for substance abuse.

7. **Termination of Probation:** On July 28, 2016, the Board voted to terminate the terms and conditions placed on Respondent's Iowa medical license. The Board noted that Respondent has fully complied with the terms and conditions established in the June 8, 2012, Settlement Agreement.

THEREFORE IT IS HEREBY ORDERED: that the terms and conditions placed on Respondent's Iowa medical license are terminated and his Iowa medical license is returned to its full privileges, free and clear of all restrictions.



Diane L. Clark, R.N., M.A., Chair
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

July 29, 2016

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

KENT J. VAN WHY, M.D., RESPONDENT

File No. 02-2012-072

SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board) and Kent J. Van Why, M.D., (Respondent), and on June 8, 2012, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this Settlement Agreement to resolve the pending charges in this matter.

1. Respondent was issued Iowa medical license No. 28991 on November 18, 1992.
2. Respondent's Iowa medical license is active and will next expire on August 1, 2013.
3. The Board has jurisdiction pursuant to Iowa Code chapters 147, 148 and 272C.
4. Respondent is an Iowa-licensed physician who practices clinical cardiac electrophysiology in the Quad Cities, Iowa.
5. On or about May 8, 2009, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP).

6. On March 1, 2012, the Board filed formal disciplinary charges against Respondent alleging that he violated the Physician Health Contract that he entered into with the Iowa Physician Health Program (IPHP).

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the Physician Health Contract that he entered into with the IPHP 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 pay a **\$5,000 civil penalty**. The civil penalty shall be paid within twenty (20) days of this Order and shall be made payable to the Treasurer of Iowa and mailed to the Executive Director of the Board. The civil penalty shall be deposited into the State General Fund.

9. **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 has established a monitoring program with Mary Knapp, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-5525. Respondent shall fully comply with all requirements of the monitoring program.

- B. **Treatment Providers and Counselors:** Respondent shall fully comply with all recommendations made by his mental health and substance abuse treatment providers and counselors.
- C. **Alcohol Prohibition:** Respondent shall not consume alcohol or use other products which contain alcohol.
- D. **Controlled or Prescription Drug Restriction:** Respondent shall not use any controlled or prescription drug unless the controlled or prescription drug has been prescribed for Respondent's use by another qualified treating health care provider. Respondent shall provide the Board written notice within 72 hours of the use of any controlled or prescription drug. Respondent shall inform any qualified treating health care provider of his prior history of substance abuse prior to receiving any prescription drug.
- E. **Drug Screening Program:** Respondent shall submit to the Board's drug screening program within twenty (20) days of the date of this order. Respondent shall fully comply with the Board's drug screening program. Respondent shall provide random blood or urine specimens when required and provide random blood or urine specimens on demand by an agent of the Board. The specimens shall be used for drug and alcohol screening, all costs of which shall be paid by Respondent.

F. **Substance Abuse Counseling:** Respondent shall submit to the Board for approval the name and CV of a substance abuse counselor within twenty (20) days of the date of this order.

(1) The counselor shall submit written quarterly reports concerning Respondent's progress no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

(2) Respondent shall continue with counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.

(3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board.

(4) Respondent is responsible for all costs associated with counseling.

G. **Substance Abuse Meetings:** Respondent shall attend at least three Alcoholics Anonymous (AA) or similar substance abuse meetings each week. Respondent shall obtain documentation of attendance and include copies of this documentation with his quarterly reports. Respondent shall have at least weekly contact with his AA sponsor.

- H. **Group Aftercare Meetings:** Respondent shall attend at least one group aftercare meeting each week. Respondent shall obtain documentation of attendance and include copies of this documentation with his quarterly reports.
- I. **Mental Health Counseling:** Respondent shall submit to the Board for approval the name and CV of a mental health counselor within twenty (20) days of the date of this order.
- (1) The counselor shall submit written quarterly reports concerning Respondent's progress no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
 - (2) Respondent shall continue with counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.
 - (3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board.
 - (4) Respondent is responsible for all costs associated with the counseling.
- J. **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 within twenty (20) days of the date of this Order.

- (1) The Board shall provide a copy of all Board orders relating to this matter to the worksite monitor.
- (2) 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.
- (3) 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.
- (4) 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.

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

L. **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)(d).

M. 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 required under 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.

10. The Board agrees that after one year of probation, Respondent may apply to the Board to terminate the conditions of probation set forth in Paragraph 9 above. Any such decision shall be at the sole discretion of the Board.

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

12. Without admission of wrongdoing, Respondent voluntarily submits this Order to the Board for consideration.

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

14. 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 24.

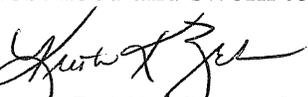
15. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board. Periods in which Respondent does not practice medicine or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.

16. This Order is subject to approval by 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.


Kent J. Van Why, M.D., Respondent

Subscribed and sworn to before me on 10 MAY, 2012.

6/12/13 
Notary Public, State of IOWA.

This Order is approved by the Board on June 8, 2012.


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

KENT J. VAN WHY, M.D., RESPONDENT

File No. 02-12-072

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on March 1, 2012, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license No. 28991 on November 18, 1992. Respondent's Iowa medical license is active and will next expire on August 1, 2013.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on May 10, 2012, before the Iowa Board of Medicine. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Iowa Board of Medicine office at 400 SW 8th Street, Suite C, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Notice of Hearing you are required by 653 Iowa Administrative Code 25.10 to file an Answer. In that Answer, you should also state whether you will require a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on prehearing matters, and be present to assist and advise the board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on March 21, 2012, at 9:30 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

5. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 Iowa Administrative Code Chapter 25. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 653 Iowa Administrative Code 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 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 may contact Kent M. Nebel, J.D., Legal Director, at 515-281-7088 or to Assistant Attorney General Julie Bussanmas at 515-281-5637.

B. LEGAL AUTHORITY AND JURISDICTION

8. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 147, 148, and 272C (2005).

9. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 148, and 272C (2005) and 653 Iowa Administrative Code Chapter 25.25.

10. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 653 Iowa Administrative Code 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

11. **VIOLATION OF A PHYSICIAN HEALTH CONTRACT:** Respondent is charged pursuant to Iowa Code section 272C.3(k) and 653 IAC 23.1(12) with violating a Physician Health Contract that he entered into with the Iowa Physician Health Program (IPHP).

STATEMENT OF MATTERS ASSERTED

12. Respondent is an Iowa-licensed physician who practices clinical cardiac electrophysiology in the Quad Cities, Iowa.

13. On or about May 8, 2009, Respondent entered into a Physician Health Contract with the IPHP for mental health and substance abuse monitoring.

14. On or about October 22, 2009, the IPHP noticed Respondent to the Board for failing to comply with practice restrictions imposed by the IPHP in violation of the terms of his Physician Health Contract when he failed to stop practicing medicine in a timely manner when requested to do so by the IPHP on or about August 24, 2009.

15. On or about January 27, 2012, the IPHP voted to terminate Respondent's Physician Health Contract and notice him to the Board for consuming alcohol in violation of the terms of his Physician Health Contract. Respondent admitted consuming alcohol.

E. SETTLEMENT

16. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 Iowa Administrative Code 12.25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

F. PROBABLE CAUSE FINDING

17. On March 1, 2012, 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