

**BEFORE THE IOWA BOARD OF MEDICINE**

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

**SUBIR RAY, M.D., RESPONDENT**

**FILE No. 02-12-059**

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**STATEMENT OF CHARGES**

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**COMES NOW** the Iowa Board of Medicine (Board) on August 30, 2013, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 39143 on August 19, 2010. Respondent's Iowa medical license is active and July 1, 2014.

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

1. Hearing. A disciplinary contested case hearing shall be held on November 7, 2013, 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 8<sup>th</sup> 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 September 11, 2013, at 9:00 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 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, 2<sup>nd</sup> 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.

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. **Discipline by Another Licensing Authority:** Respondent is charged pursuant to Iowa Code section 148.6(2)(d) and 653 IAC 23.1(1) with having a license to practice medicine and surgery or osteopathic medicine and surgery revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the order of disciplinary action is prima facie evidence.

### **STATEMENT OF THE MATTERS ASSERTED**

12. Respondent is an Iowa-licensed physician who formerly practiced surgery in Harrisburg, Pennsylvania, and currently practices in Shenandoah, Iowa.

13. **Pennsylvania Disciplinary Action:** On or about November 16 2011, Pennsylvania State Board of Medicine (Pennsylvania Board) issued a Final Order in a disciplinary action against Respondent. The Pennsylvania Board concluded that Respondent practiced medicine while his ability to practice was impaired by mental disability and that he engaged in unprofessional conduct when he departed from, or failed to conform to, a quality standard of the profession, including, but not limited to, the following:

- A. Respondent inappropriately used latex gloves while performing surgery on a patient with a history of latex allergy in June 2006.
- B. On August 3, 2007, Pinnacle Health in Harrisburg, Pennsylvania, revoked Respondent's clinical privileges due to concerns that Respondent's clinical

judgment and surgical care fell below the accepted standards of practice.

C. On April 28-29, 2010, at the direction of the Pennsylvania Board, Respondent attended a two-day assessment at the Upstate New York Clinical Competency Center. During the evaluation:

- 1) Respondent was argumentative and very aggressive and demonstrated an inability to communicate with patients, reviewing staff, interviewers and ancillary personnel.
- 2) Respondent refused to take the Surgical Clinical Science Knowledge Test so there is no objective evaluation of Respondent's knowledge base in surgery.
- 3) Respondent performed very poorly in the Ethics and Communication Knowledge Test and the Interpretation of Medical Literature Test.
- 4) During the psychological evaluation, Respondent demonstrated difficulty getting along with others, communicating with others, and functioning as part of a team. The Upstate New York Clinical Competency Center concluded that Respondent met the criteria for Narcissistic Personality Disorder.
- 5) Peer review found that Respondent failed to diagnose and manage complications in a timely manner.

D. The Upstate New York Clinical Competency Center made the following recommendations:

- 1) Respondent should undergo psychological counseling for Narcissistic Personality Disorder with a licensed professional.
- 2) Respondent should complete at least 40 credits of continuing medical education in ethics, communication skills and surgical knowledge within one year.
- 3) Respondent should be required to recertify in surgery.
- 4) Respondent should have his charts and cases monitored for six months.

14. **Sanctions:** The Pennsylvania Board placed Respondent on a period of indefinite probation, for no less than one year, subject to the following terms and conditions:

A. **Monitoring:** Respondent was ordered to fully comply and cooperate with the Bureau of Professional and Occupational Affairs, Professional Health Monitoring Program (PHMP) and Disciplinary Monitoring unit in their monitoring of Respondent's impairment. Respondent failed to fully comply and cooperate with the Bureau of Professional and Occupational Affairs, Professional Health Monitoring Program (PHMP) and Disciplinary Monitoring unit in their monitoring of Respondent's impairment as required by the Pennsylvania Board.

- B. **Relocation:** If Respondent relocates to another Jurisdiction, he must either enroll in the other jurisdiction's impaired professional program or if the other jurisdiction does not have an impaired professional program, Respondent must notify the licensing board that he is impaired. Respondent failed to enroll in the Iowa Physician Health Program or notify the Board that he is impaired as required by the Pennsylvania Board.
- C. **Counseling:** Respondent was ordered to enter into psychological counseling with a treatment provider approved by the PHMP and fully comply with the recommendations of the treatment provider. Respondent failed to enter into psychological counseling with a treatment provider approved by the PHMP and fully comply with the recommendations of the treatment provider as required by the Pennsylvania Board.
- D. **Support Groups:** Respondent was ordered to participate in support group programs if recommended by the treatment provider and provide written verification of his participation. Respondent failed to participate in support group programs and provide written verification of his participation as required by the Pennsylvania Board.
- E. **Practice Monitor:** Respondent was ordered to practice under the supervision of a practice monitor approved by the PHMP. Respondent failed to practice under the supervision of a practice monitor approved by the PHMP as required

by the Pennsylvania Board.

- F. **Drug Testing:** Respondent was ordered to submit to drug testing if recommended by the PHMP-approved provider. Respondent failed to submit to drug testing if recommended by the PHMP-approved provider as required by the Pennsylvania Board.
- G. **Evaluation:** Respondent was ordered to submit to mental or physical evaluations, examinations or interviews upon request of the PHMP. Respondent failed to submit to mental or physical evaluations, examinations or interviews upon request of the PHMP as required by the Pennsylvania Board.

#### E. SETTLEMENT

15. 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

16. On August 30, 2013, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



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Gregory B. Hoversten, D.O., Chairman

Iowa Board of Medicine  
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