

**BEFORE THE IOWA BOARD OF MEDICINE**

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

**ERNEST L. GALBREATH, D.O., RESPONDENT**

**FILE No. 03-07-778**

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**CONSENT SETTLEMENT AGREEMENT**

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COMES NOW, the Iowa Board of Medicine (Board), and Ernest L. Galbreath, D.O., (Respondent), and on August 18, 2011, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Consent Settlement Agreement to resolve this matter.

1. Respondent was issued Iowa medical license no. 02694 on September 27, 1991.
2. Respondent's Iowa medical license is active and will next expire on April 1, 2012.
3. The Board has jurisdiction pursuant to Iowa Code chapters 147, 148 and 272C.

**STATEMENT OF THE MATTERS ASSERTED**

4. Respondent is an Iowa-licensed psychiatrist who formerly practiced medicine in Iowa.
5. On November 3, 2010, Respondent completed a comprehensive clinical

competency evaluation at the Center for Personalized Education for Physicians (CPEP) a nationally-recognized assessment program. CPEP identified concerns in the following areas: medical knowledge, clinical judgment and reasoning, and documentation. CPEP recommended that Respondent complete a supervised educational program including an educational preceptor, continuing medical education, self-study and a recordkeeping course.

6. On February 11, 2011, the Board filed formal disciplinary charges against Respondent alleging that he performed hundreds of trigger point injections that were not medically necessary, and billed the Iowa Medicaid Program for those injections.

7. The Board subsequently received information which indicates that Respondent may suffer from a physical, neurological or mental condition which may impair his ability to practice medicine with reasonable skill and safety.

### SETTLEMENT AGREEMENT

8. **WARNING:** Respondent is hereby **WARNED** for performing hundreds of trigger point injections that may not have been medically necessary and billing the Iowa Medicaid Program for those injections in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that such practice in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

9. **TRIGGER POINT INJECTIONS:** Respondent hereby consents to being and is hereby permanently prohibited from performing trigger point injections.

10. **INDEFINITE SUSPENSION:** Upon the Board's approval of this Order, Respondent consents to his Iowa medical license being hereby **indefinitely suspended**.

Respondent shall not engage in any aspect of the practice of medicine under his Iowa medical license during the period of suspension.

**Comprehensive Neuropsychological Testing:** Prior to seeking to reinstatement, Respondent shall complete comprehensive neuropsychological testing under the direction of a Board-approved neuropsychologist and submit a written assessment report which indicates that Respondent is safe to return to the practice of medicine. Respondent is responsible for all costs associated with the neuropsychological testing.

11. **REINSTATEMENT:** The Board will consider reinstatement of Respondent's Iowa medical license upon and application for reinstatement pursuant to Iowa Code chapters 17A, 147, 148 and 272C and 653 IAC 26. Respondent's license shall not be reinstated except upon a showing that the basis for suspension of the Respondent's medical license no longer exists, and that is in the public interest for the license to be reinstated, and upon any other terms and conditions the Board may choose to impose, including a monitoring program, any recommendations by CPEP, any medical treatment the Board may prescribe, a practice monitoring program, Respondent shall file any quarterly reports and make any Board appearances the Board may require, as well as paying any monitoring fees. Prior to seeking reinstatement, Respondent shall demonstrate to the Board that all of his delinquent medical records have been brought up-to-date and that he is safe to practice medicine.

12. 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 licensure or to impose other license discipline as authorized in Iowa Code chapters 148 and 272 and 653 IAC 25.

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

16. 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.

17. 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.

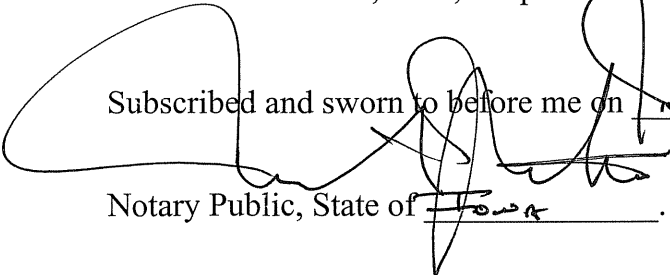
18. This Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

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

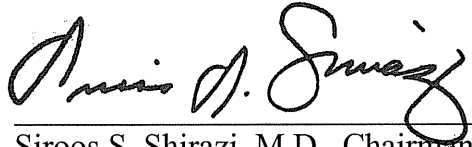


Ernest L. Galbreath, D.O., Respondent

Subscribed and sworn to before me on July 27, 2011.

  
Notary Public, State of Iowa.

This Order is approved by the Board on August 18, 2011.

A handwritten signature in cursive script, reading "Siros S. Shirazi". The signature is written in black ink and is positioned above a horizontal line.

Siros 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 STATEMENT OF CHARGES AGAINST**

**ERNEST L. GALBREATH, D.O., RESPONDENT**

**FILE No. 03-07-778**

\*\*\*\*\*

**STATEMENT OF CHARGES**

\*\*\*\*\*

**COMES NOW** the Iowa Board of Medicine (Board) on February 11, 2011, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 02694 on September 27, 1991. Respondent's license is active and will next expire on April 1, 2012.

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

1. Hearing. A disciplinary contested case hearing shall be held on May 12, 2011, 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 Statement of Charges you are required by 653 IAC 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 16, 2011 at 10:00 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: 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.

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 Theresa O'Connell Weeg at 515-281-6858.

## **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. **Physical or Mental Impairment:** Respondent is charged pursuant to Iowa Code section 148.6(2)(h) and 653 IAC 23.1(8) with suffering from a physical or mental impairment. Physical or mental impairment includes, but is not limited to, any physical, neurological or mental condition which may impair a physician's ability to practice medicine with reasonable skill and safety.

### COUNT II

12. **Practice Harmful or Detrimental to the Public:** Respondent is charged pursuant to 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. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a physician to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent physician acting in the same or similar circumstances in this state, or when a physician is unable to practice medicine with reasonable skill and safety as a result of a mental or physical impairment or chemical abuse.

### COUNT III

12. **Unprofessional or Unethical Conduct:** Respondent is charged pursuant to Iowa Code sections 147.55(3) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unprofessional or unethical. Engaging in unethical or unprofessional conduct includes, but is

not limited to, the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within this state or elsewhere.

#### **COUNT IV**

13. **Failure to Conform to the Minimal Standard of Practice:** Respondent is charged pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and 272C.10(2) and 653 IAC 23.1(2)(f) with failing to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery in Iowa.

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

14. Respondent is an Iowa-licensed physician who formerly practiced in Iowa and currently practices psychiatry in Moline, Illinois.

15. The Board alleges that Respondent performed hundreds of trigger point injections that were not medically necessary, and billed the Iowa Medicaid Program for those injections.

16. Recently, the Board received information which indicates that Respondent suffers from a serious physical, neurological or mental condition which may impair his ability to practice medicine with reasonable skill and safety.

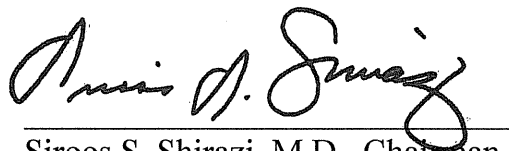
#### **E. SETTLEMENT**

17. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 IAC 25.17. 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**

18. On this 11<sup>th</sup> day of February, 2011, the Iowa Board of Medicine found probable  
cause to file this Statement of Charges.

A handwritten signature in cursive script, reading "Siros S. Shirazi". The signature is written in black ink and is positioned above a horizontal line.

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