

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ISRAEL V. FERNANDO, M.D., RESPONDENT

FILE Nos. 02-04-067 & 02-04-259

TERMINATION ORDER

Date: July 8, 2014.

1. Respondent was issued Iowa medical license no. 32910 on May 20, 1999.
2. Respondent's Iowa medical license is active and will next expire on March 1, 2016.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. **Practice Setting:** Respondent is an Iowa-licensed physician who currently practices dermatology in Clinton and Davenport, Iowa and in western, Illinois.
5. **First Disciplinary Action:** On August 25, 2005, the Board charged Respondent with engaging in a pattern of professional incompetency in his dermatology practice. On September 14, 2006, Respondent entered into a Settlement Agreement with the Board to resolve the pending charges. Respondent agreed to complete a comprehensive competency

evaluation at the Center for Personalized Education for Physicians (CPEP) and he was placed on probation for a period of five (5) years subject to Board monitoring. He was prohibited from interpreting skin pathology slides and was required to practice only in locations within a sixty air mile radius of each other. He also received a Citation and Warning and was ordered to pay a \$5,000 civil penalty.

6. **Second Disciplinary Action:** On June 19, 2007, the Board filed an Emergency Adjudicative Order immediately suspending Respondent's Iowa medical license after concluding that his continued practice of dermatology constituted an immediate danger to the public health, safety, and welfare. A hearing was held before the Board on July 17, 2007, and the Board suspended Respondent's Iowa medical license and required him to complete a Board-approved remediation program and re-evaluation at CPEP. Respondent successfully completed the Board-approved remediation program and re-evaluation at CPEP. On July 8, 2009, the Board issued a Reinstatement Order terminating Respondent's suspension and placed him on probation for a period of five (5) years subject to Board monitoring. The Board also established the following practice restrictions:

PROHIBITION - PRACTICE LOCATIONS: Respondent shall practice dermatology in three or fewer locations in Iowa and the locations shall be within a sixty air mile radius of each other.

PROHIBITION - READING SLIDES: Respondent shall not interpret skin pathology slides under his Iowa medical license.

7. **Successful Completion of Probation:** On July 8, 2014, Respondent successfully completed the period of probation.

THEREFORE IT IS HEREBY ORDERED: that the terms and conditions of Respondent's probation are terminated. However, Respondent is still subject to the following practice restrictions:

PROHIBITION - PRACTICE LOCATIONS: Respondent shall practice dermatology in three or fewer locations in Iowa and the locations shall be within a sixty air mile radius of each other.

PROHIBITION - READING SLIDES: Respondent shall not interpret skin pathology slides under his Iowa medical license.

IOWA BOARD OF MEDICINE



Hamed H. Tewfik, M.D., Chairman
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

July 8, 2014

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ISRAEL V. FERNANDO, M.D., RESPONDENT

FILE Nos. 02-04-067 & 02-04-259

REINSTATEMENT ORDER

COMES NOW the Iowa Board of Medicine (the Board), and
Israel V. Fernando, M.D., (Respondent), on July 8, 2009, and enter into
this Reinstatement Order.

1. Respondent was issued Iowa medical license no. 32910 on May 20, 1999.
2. Respondent's Iowa medical license is expired due to nonrenewal on March 1, 2008.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. On August 25, 2005, the Board charged Respondent with engaging in a pattern of professional incompetency in his dermatology practice. On September 14, 2006, Respondent entered into a Settlement Agreement with the Board and he agreed to complete a Board-approved comprehensive competency evaluation and he was placed on probation for a period of five years subject to

Board monitoring requirements. He was prohibited from interpreting skin pathology slides and he was required to practice only in locations within a sixty air mile radius of each other. He also received a Citation and Warning and he was ordered to pay a \$5,000 civil penalty.

5. On June 19, 2007, the Board filed an Emergency Adjudicative Order immediately suspending Respondent's Iowa medical license after concluding that his continued practice of dermatology constituted an immediate danger to the public health, safety, and welfare.

6. A hearing was held before the Board on July 17, 2007, and the Board indefinitely suspended Respondent's Iowa medical license requiring him to complete a Board-approved remediation program and re-evaluation at the Center for Personalized Education for Physicians (CPEP), a Board-approved assessment program. Recently, Respondent successfully completed a Board-approved remediation program and re-evaluation at CPEP. Upon review of the CPEP Post-Education Evaluation Report Summary, the Board concluded that Respondent may return to the practice of medicine subject to certain terms and conditions contained in this Order. Therefore, Respondent's suspension is terminated.

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in a pattern of professional incompetency in the practice of dermatology. Respondent is hereby **WARNED** that evidence of such conduct in the future may result in further formal disciplinary action, including revocation of his Iowa medical license.

8. **PROHIBITION - PRACTICE LOCATIONS:** Respondent shall practice dermatology in three or fewer locations in Iowa and the locations shall be within a sixty air mile radius of each other.

9. **PROHIBITION - READING SLIDES:** Respondent shall not interpret skin pathology slides under his Iowa medical license.

10. **FIVE YEARS PROBATION:** Respondent is placed on **probation for a period of five (5) years** subject to the following terms and conditions:

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

B. **Compliance with CPEP Recommendations:** Respondent shall fully comply with all recommendations made by CPEP.

C. **Demonstration that Respondent is Competent to Practice Dermatology:** Respondent shall demonstrate that he is capable of practicing dermatology in a competent manner throughout the period of this Order.

D. **Preceptor/Monitor:** Respondent shall maintain an ongoing professional relationship with his preceptor/monitor, including twice monthly telephone conferences to discuss difficult or unusual cases and areas of medical knowledge identified in the CPEP Post-

Education Evaluation Report Summary which require improvement.

The preceptor/monitor shall agree to inform the Board immediately if there is evidence of subsandard medical care or a violation of the terms of this Order. The preceptor/monitor shall agree to submit written quarterly reports to the Board concerning Respondent's progress not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

- E. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms and conditions of this Order, including attendance at meetings with his counselor. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- F. **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).
- G. **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.

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

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

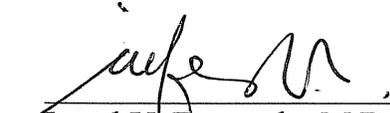
13. This Order constitutes the resolution of a contested case proceeding.

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 license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 24.

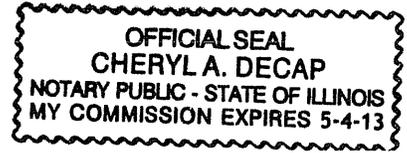
15. Only periods of practice under his Iowa medical license will apply to the duration of this Order.

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.



Israel V. Fernando, M.D., Respondent



Subscribed and sworn to before me on 26 June, 2009.

Notary Public, State of Illinois

Cheryl A. Decap

This Order is approved by the Board on July 8, 2009.

Siroos S. Shirazi

Siroos S. Shirazi, M.D., Chair
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) FILE NO. 02-04-067, 02-04-259
EMERGENCY ADJUDICATIVE ORDER) DIA NO. 07DPHMB013
and)
STATEMENT OF CHARGES AGAINST) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
ISRAEL FERNANDO, M.D.) DECISION AND ORDER

Date: August 9, 2007.

On June 19, 2007, the Iowa Board of Medicine (Board) filed a Statement of Charges against Israel Fernando, M.D. (Respondent) charging him with professional incompetency, in violation of Iowa Code sections 147.55(2), 148.6(2)(g) and (i), 272C.10(2) (2005) and 653 IAC 23.1(2)(c), (d), (e), and (f). The Board also filed an Emergency Adjudicative Order immediately suspending Respondent's Iowa medical license and finding that his continued practice of medicine constitutes an immediate danger to the public health, safety, and welfare.

The hearing was held on July 17, 2007, at 12:30 p.m. before the following members of the Board: Yasyn Lee, M.D., Chairperson; Blaine Houmes, M.D.; Siroos Shirazi, M.D.; Allen Zagoren, D.O.¹; Sally Schroeder and Tom Drew, public members. Respondent Israel Fernando, M.D. appeared and was represented by attorneys Randall Stefani and James Goldberg. Assistant Attorneys General Heather Palmer and Theresa O'Connell Weeg represented the state. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1) and 653 IAC 25.18(12). The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare a written decision, in accordance with their deliberations.

THE RECORD

The record includes the Emergency Adjudicative Order, Statement of Charges and Notice of Hearing; testimony of the witnesses; State Exhibits 1-45 (See Exhibit Index for

¹ Dr. Zagoren was appointed by the Governor to serve as an Acting Board Member in this proceeding.

description) and Respondent Exhibits A-L.

FINDINGS OF FACT

Respondent Education, Licensure and Practice

1. Respondent graduated from the University of Santo Tomas Medical School in Manila, Philippines in 1977. After a one-year rotating internship, Respondent completed a general surgery residency in 1983. Respondent worked as a staff general surgeon in Manila from 1983 until 1989, when he moved to the United States. In 1995, Respondent completed the steps to obtain medical licensure in the United States and started a transitional internal medicine residency at Boston University Medical Center. Respondent completed the second and third years of the general medicine residency at Carney Hospital of Preventive Medicine in Boston, followed by a practicum year (PGY IV) in general preventive medicine. Respondent also completed a master's degree in public health at Boston University School of Public Health in 1998.

From 1999–2002, Respondent completed a dermatology fellowship at the Advanced Dermatology and Laser Center in Moline, Illinois and El Centro California. This fellowship was offered through the American Board of Physician Specialties (ABPS) and was not ACGME accredited. In Iowa, Respondent's participation in the fellowship was supervised by David P. Knapp, M.D.² In 2005, Respondent was confirmed as a Diplomate in Dermatology by the ABPS and in Internal Medicine. (Testimony of Respondent; State Exhibit 37; Respondent Exhibits A, B)

2. Respondent was issued license number 32910 to practice medicine and surgery in the state of Iowa on May 20, 1999. He is also licensed in the state of Illinois. (State Exhibits 38, 39; Testimony of Respondent)

3. From 2002 until the summary suspension of his license on June 19, 2007, Respondent practiced dermatology in several locations in eastern Iowa and western Illinois, including Advanced Dermatology in Moline, Illinois, and at

² The parties entered into the following stipulation: Dr. Knapp has been the subject of three disciplinary proceedings by the Board, two of which occurred subsequent to his participation in Dr. Fernando's fellowship. Dr. Knapp's competency was at issue in some of the proceedings.

Ottumwa Dermatology, in Ottumwa, Iowa. (Testimony of Respondent; State Exhibit 37)

Disciplinary History

4. Following receipt of two complaints, the Board appointed a peer review committee to review Respondent's dermatology practice. On August 25, 2005, the Board found probable cause to charge Respondent with demonstrating a pattern of professional incompetency in his dermatology practice and engaging in practice harmful or detrimental to the public. The Board alleged, in part, that Respondent:

- Was not properly qualified to perform histopathologic interpretations under the CMS guidelines and had demonstrated an inability to perform histopathologic interpretations;
- Demonstrated an inability to perform histopathologic interpretations;
- Demonstrated evidence of inappropriately up-grading histopathologic interpretations of dermatologic lesions, resulting in increased risk of complications and significantly increased financial expense;
- Inappropriately practiced in numerous practice locations at significant distances thereby increasing the risk that he is unable to appropriately address serious complications and emergencies;
- Inappropriately misdiagnosed two separate specimens for Patient #1 leading to inappropriate treatment, an unnecessarily complex procedure, increased scarring, increased future risk of skin cancer, and significantly increased financial expense;
- Performed a rhombic flap, which was an unnecessarily complex procedure given the size and nature of Patient #1's lesion;
- Inappropriately failed to obtain an appropriate medical history for Patient #2, performed a procedure without adequately explaining the procedure's nature and risks, and inappropriately treated the patient with a medication for which the patient had a known allergy.

(State Exhibits 1-27)

5. On June 5-6, 2006, Respondent voluntarily underwent a two-day competency evaluation at the Physician Assessment and Clinical Education Program (PACE) in San Diego, California. The PACE evaluation focused on general medicine and dermatopathology and did not assess Respondent's knowledge or clinical abilities in general dermatology.

Respondent had not practiced general medicine for a number of years. Respondent performed poorly on nearly every examination during the assessment, including scores in the 10th (lowest) decile on three of the standardized examinations created by the NBME and below average (6th decile) on the fourth written examination. Respondent scored below average on the PRIMUM computerized examination. Respondent was able to conduct an acceptable history and physical on a mock patient but received an inadequate score on his oral clinical exam and his ability to interpret skin pathology was judged to be substandard. Based on these results, PACE had grave concerns about Respondent's ability to practice dermatopathology safely without first undergoing an intensive updating of his current medical knowledge and skills. (State Exhibits 28-30)

6. On September 14, 2006, Respondent and the Board entered into a Settlement Agreement and Final Order resolving the Statement of Charges filed on August 25, 2005. Respondent agreed to:

- A Citation and Warning;
- A \$5,000 civil penalty;
- Fully comply with all recommendations made by PACE and not to practice medicine in any area other than dermatology in the future;
- Be prohibited from interpreting skin pathology under his Iowa medical license until he is qualified by law and approved by the Board to provide such services;
- Practice only in locations within a sixty air mile radius of each other;
- Within sixty (60) days, successfully complete a competency evaluation at a Board approved program which focuses on Respondent's dermatology practice and fully comply with all recommendations of the program including any formal educational plan,

approved by the Board, addressing all identified areas of deficiency.

The Settlement Agreement and Final Order further provided that Respondent's medical license would be placed on probation for a period of five years, subject to terms and conditions that included obtaining a practice monitor, continuing medical education and self-study, quarterly reports, and payment of a monitoring fee. (State Exhibit 31)

Compliance With Settlement Agreement

7. Respondent paid the \$5,000 civil penalty on September 22, 2006. Respondent has timely provided all required quarterly reports and has paid the monitoring fees. Respondent has appeared before the Board at its request. Despite good faith efforts, Respondent has thus far been unsuccessful in obtaining a practice monitor. (Testimony of Shantel Billington; Respondent; State Exhibits 32-36; Respondent Exhibits E-H)

8. On January 11-12, 2007, Respondent submitted to a comprehensive clinical competency evaluation at the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado. The assessment addressed Respondent's training and practice in dermatology and included clinical interviews with three physician consultants based on patient charts that Respondent submitted from his practice as well as hypothetical case discussions. Simulated patients represented clinical cases typically seen in a dermatology practice. Respondent's Physician-Patient communication was also evaluated.

On March 19, 2007, CPEP prepared a detailed written report. CPEP concluded that overall, Respondent's knowledge was inadequate; his clinical judgment and reasoning ranged from good to poor; his communication skills were mixed with simulated patients and good with peers; and his documentation ranged from adequate to good. Respondent's cognitive function screen was within normal limits. CPEP felt it was unclear whether Respondent had insight into his educational needs. CPEP identified a very lengthy itemized list of areas of demonstrated need in the categories of knowledge, judgment, and communication.

Ultimately CPEP concluded that the best option for Respondent would be to retrain in a residency setting, in light of his identified deficiencies, his lack of dermatology residency training, and the benefits of immediate point of care feedback and learning for the specialty of dermatology. However, CPEP also offered to develop an Educational Intervention consisting of Clinical Instruction Experience, an Educational Preceptor, Continuing Medical Education and Self-Study, and a Communication Course, Coaching, or Self-Study. (State Exhibit 37)

9. Won Kyu Lee, M.D. has practiced dermatopathology in the state of Michigan since 1995. His laboratory has a clientele of dermatologists, including a number who are ABMS board-certified. Respondent has been sending slides to Dr. Lee's laboratory since 2000. Dr. Lee reviewed the CPEP report on Respondent's behalf. Dr. Lee conceded that CPEP is well regarded in the physician community. In Dr. Lee's opinion it is difficult to evaluate competency in two days, especially when the physician has not been trained in the traditional manner. He further pointed out that in actual practice, Respondent has the opportunity to see the patient, touch any lesions, and ask questions. (Testimony of Won Kyu Lee, M.D.)

10. On June 1, 2007, Respondent signed a CPEP Participation Agreement for an Educational Intervention and Post-Education Evaluation. On June 5, 2007, Respondent sent CPEP their customary \$400 fee and asked for CPEP's assistance in locating an appropriate Preceptor and/or a Supervised Clinical Training Experience as outlined in the Participation Agreement. As of the date of the hearing, CPEP had not yet signed the Participation Agreement, and no Educational Intervention Plan has been presented to the Board. (Testimony of Respondent; Respondent Exhibits F, H)

CONCLUSIONS OF LAW

EMERGENCY ADJUDICATIVE ORDER

The Board has authority to use emergency adjudicative proceedings in a situation involving an immediate danger to the public health, safety, and welfare requiring immediate agency action. However, the Board may only take such action as is necessary to prevent or avoid the immediate danger to the public health, safety, and welfare. After

issuance of the emergency order, the Board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger. Iowa Code section 17A.18A; 653 IAC 25.29.

Before issuing the emergency adjudicative order, the Board shall consider factors including, but not limited to, the following:

- a. Whether there has been sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public, health, safety and welfare;
- d. Whether the imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety and welfare;
- e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

653 IAC 25.29(1).

The Board considered these factors and concluded that the preponderance of the evidence in this record supports the decision to immediately suspend Respondent's license to practice medicine in Iowa. Respondent had been practicing dermatology and dermatopathology in Iowa since 1999. He has not practiced general medicine. Based on the results of the Board's investigation of two complaints, the peer review report, the PACE evaluation report, and the CPEP evaluation report, it is apparent that the deficiencies in Respondent's knowledge and clinical judgment in general medicine, dermatopathology and general dermatology are so widespread and serious that it is not safe for him to practice any aspect of medicine until he completes a comprehensive program of remediation. The testimony of Dr. Lee did not materially challenge any of CPEP's conclusions.

Respondent asserts that the September 14, 2006, Settlement Agreement is a binding contract requiring the Board to allow him to continue to practice dermatology so long as he

complies with CPEP's recommended program of remediation. The Board disagrees. Prior to the CPEP evaluation, the Board believed that Respondent could safely complete a remediation program while continuing to practice dermatology, so long as he had an ABMS board-certified dermatologist to serve as his practice monitor. After reviewing the CPEP report, the Board is convinced that the cited deficiencies are so widespread and serious that it is inconsistent with public health, safety, and welfare to allow Respondent to practice dermatology until he has successfully completed a comprehensive remediation program. In addition, while the CPEP report was issued on March 19, 2007, as of the date of the hearing Respondent had not submitted a Remediation Plan for Board approval, nor had he identified a Practice Monitor as required by the Settlement Agreement.

COUNT I

Respondent is charged with professional incompetency, pursuant to Iowa Code section 147.55(2), 148.6(2)(g) and (i), 272C.10(2)(2005) and 653 IAC 12.4(2)(a),(b),(c), and (d). Iowa Code section 147.55(2) provides that a license to practice a profession shall be revoked or suspended when the licensee is guilty of professional incompetency. Iowa Code section 272C.10(2) provides that a licensing board shall by rule include provisions for the revocation or suspension of a license for professional incompetency.

Iowa Code section 148.6 provides in relevant part:

148.6 Revocation.

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...

g. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy in which proceeding actual injury to a patient need not be established;...

...

i. Willful or repeated violation of lawful rules or regulations adopted by the board...

653 IAC 23.1 provides in relevant part:

653-23.1(272C) Grounds for discipline. The board has authority to discipline for any violation of Iowa Code chapter 147, 148,...272C or the rules promulgated thereunder. The grounds for discipline apply to physicians...The board may impose any of the disciplinary sanctions set forth in rule 25.25(1), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses....

23.1(2) Professional incompetency. Professional incompetency includes, but is not limited to, any of the following:

...

c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice.

d. A substantial deviation by the physician from the standards of learning or skill ordinarily possessed and applied by other physicians and surgeons in the state of Iowa acting in the same or similar circumstances.

e. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances.

f. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy in the state of Iowa.

The preponderance of the evidence established that Respondent is in violation of Iowa Code sections 147.55(2), 148.6(2)(g), 272C.10(2)(2005) and 653 IAC 23.1(2)(c), (d), (e), and (f) by his substantial lack of knowledge or ability to discharge his professional obligations, by his substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians and surgeons in the state of Iowa acting in the same or similar circumstances, by his failure

to exercise in a substantial respect that degree of care ordinarily exercised by the average physician or surgeon, and by repeated departures from the minimal standard of acceptable and prevailing practice of medicine and surgery.

As previously discussed, the preponderance of the evidence in this record establish widespread deficiencies in Respondent's medical knowledge, clinical judgment, and communication, which must be remediated before he can be considered safe to return to the practice of dermatology. The Board agrees with CPEP's conclusion that the ideal setting for such remediation would be a formal residency program in dermatology. However, given the highly competitive nature of such residencies, the Board does not believe that any ACGME approved residency program is likely to admit Respondent. For this reason, the Board is willing to allow Respondent the option of completing a comprehensive remediation program through CPEP or another Board-approved program.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the **INDEFINITE SUSPENSION** of Iowa medical license 32910, issued to Respondent Israel Fernando, M.D., shall continue until he fully complies with all of the following requirements:

A. Submission of Remediation Program: Respondent must submit a written Remediation Program for Board approval. The submitted Remediation Program must include either:

1. A formal residency program approved by the American Board of Dermatology and the Board; or

2. A written formal educational intervention plan addressing all of the areas of demonstrated need identified in the CPEP evaluation. The formal educational intervention plan must include an educational preceptor and continuing medical education and self study, as outlined in the CPEP report.

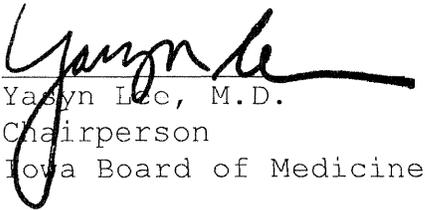
B. Completion of Remediation Program: Respondent must successfully complete the Remediation Program following its approval by the Board.

C. Re-evaluation: Following completion of the approved Remediation Program, Respondent shall be re-evaluated, either at CPEP or at another Board-approved

evaluation program, to determine whether he is ready to safely return to the practice of dermatology. Following the re-evaluation, the Board will determine if Respondent's license will be reinstated. Upon reinstatement, Respondent shall be placed on probation subject to appropriate terms and conditions.

IT IS FURTHER ORDERED, in accordance with 653 IAC 25.33, that Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 25.33(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

Dated this 9th day of August, 2007.


Yasyn Lee, M.D.
Chairperson
Iowa Board of Medicine

cc: Heather Palmer and
Theresa O'Connell Weeg, for the state

Randall Stefani and
James Goldberg, for Respondent

Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure act, from and after the date of the Board's order.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE DISCIPLINARY CHARGES AGAINST

ISRAEL V. FERNANDO, M.D., RESPONDENT

FILE Nos. 02-04-067 & 02-04-259

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medical Examiners on June 19, 2007, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license number 32910 on May 20, 1999. Respondent's Iowa medical license is active and will next expire on March 1, 2008.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on July 17, 2007, before the Iowa Board of Medical Examiners. The hearing shall begin at 12:30 p.m. and shall be located in the conference room at the Iowa Board of Medical Examiners 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 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 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.

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, 2nd 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 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 should direct any questions to Kent M. Nebel, J.D., the Board's 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 (2007).

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 (2007) and 653 Iowa Administrative Code Chapter 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 Iowa Administrative Code 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

10. Respondent is charged with professional incompetency pursuant to Iowa Code section 147.55(2), 148.6(2)(g) and (i), and 272C.10(2) (2005), and 653 IAC sections 23.1(2)(c), (d), (e), and (f), by demonstrating one or more of the following:

- A. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- B. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same

or similar circumstances;

- C. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances; and
- D. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in Iowa.

D. STATEMENT OF MATTERS ASSERTED

11. **Iowa Medical Practice:** Respondent practices dermatology in several locations in eastern Iowa.

12. **Residency Training:** Respondent is not residency trained in dermatology.

13. **Investigative Information:** The Board received information which raised serious concerns that Respondent engaged in a pattern of professional incompetency in the practice of dermatology.

14. **Peer Review:** The Board appointed a peer review committee to review Respondent's dermatology practice. On July 28, 2005, the Board reviewed the peer review report and concluded that Respondent demonstrated a pattern of professional incompetency in his dermatology practice. The Board also concluded that Respondent engaged in practice harmful and/or detrimental to the public. The Board found a pattern of professional incompetency and practice harmful and/or detrimental to the public.

15. **Statement of Charges:** On August 25, 2005, the Board charged Respondent with engaging in professional incompetency and practice harmful or detrimental to the public in the practice of dermatology, including but not limited to the following:

A. **Histopathologic Interpretations:** Respondent is not appropriately qualified to perform histopathologic interpretations under CMS Guidelines:

- (1) He has no formal training in histopathologic interpretations.
- (2) He has not completed residency training in dermatology or dermatopathology.
- (3) He is not board certified in dermatology or dermatopathology. Respondent demonstrated an inability to perform histopathologic interpretations. Respondent inappropriately failed to differentiate melanocytic nevus cells from keratinocytes. Respondent demonstrated evidence of inappropriately up-grading histopathologic interpretations of dermatologic lesions, resulting in an increased risk of complications and significantly increased financial expense.

B. **Practice Setting:** Respondent inappropriately practiced in numerous practice locations which were significant distances apart which increased the risk that he was unable to appropriately address serious complications and emergencies.

C. **Patient #1:** Respondent inappropriately misdiagnosed two separate specimens (biopsy and excised tissue) for Patient #1 leading to inappropriate treatment, an

unnecessarily complex procedure, increased scarring, increased future risk of skin cancer and significantly increased financial expense.

Respondent performed a rhombic flap, an unnecessarily complex procedure, when it was not appropriate given the size and nature of Patient #1's lesion.

- D. **Patient #2:** Respondent inappropriately failed to obtain an appropriate medical history for Patient #2. Respondent inappropriately performed a procedure on Patient #2 without adequately explaining the nature and the risks of the procedure. Respondent inappropriately treated Patient #2 with a medication with which Patient #2 had a known allergy.

16. **Settlement Agreement:** On September 14, 2006, Respondent entered into a Settlement Agreement with the Board to resolve the disciplinary charges. He received a Citation and Warning, he agreed to pay a \$5,000 civil penalty and he was placed on probation for a period of five years. He also agreed to the following terms and conditions:

- A. **Reading Slides:** Respondent is prohibited from interpreting skin pathology under his Iowa medical license until he is qualified by law and he is approved by the Board to provide such services.
- B. **Practice Locations:** The locations where Respondent practices dermatology shall be within a sixty air mile radius of each other. This restriction shall not apply to any physician associated with Respondent in the practice of dermatology.

C. **PACE Competency Evaluation:** Respondent completed a comprehensive competency evaluation at the Physician Assessment And Clinical Education Program (PACE) in San Diego, California. The PACE evaluation focused on general medicine and dermatopathology, not general dermatology. PACE reached the following conclusions:

- (1) **General Medicine:** PACE identified very serious areas of deficiency in Respondent's ability to practice general medicine and he agreed not to practice medicine in any area other than dermatology in the future.
- (2) **Interpreting Skin Pathology:** PACE determined that Respondent is not competent to interpret skin pathology as of the present time.
- (3) **General Dermatology:** Apart from the dermatopathology assessment, PACE did not evaluate Respondent's competence to practice dermatology. Respondent agreed to fully comply with all recommendations made by PACE.

D. **CPEP Competency Evaluation:** On January 12, 2007, Respondent completed a comprehensive dermatology competency evaluation at the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado. CPEP concluded that Respondent demonstrated a need for remediation in the following areas; medical knowledge, clinical judgement and communication, including the following:

- (1) Knowledge - Recognition of lesions, including but not limited to:
 - Pseudoxanthoma elasticum;
 - Lupus;
 - DFSP;

- Osler-Weber-Rendu disease;
- Darier's disease;
- Neurofibromatosis;
- Pyoderma gangrenosum;
- Squamous cell carcinoma;
- Seborrheic keratosis;
- Malignant melanoma and subtypes, including unusual locations such as the iris;
- Eccrine Poroma;
- Bullous diseases, such as pemphigus vulgaris and bullous pemphigus;
- Kaposi's sarcoma;
- Pernio;
- Potential causes of and differential diagnosis for:
 - Conditions identified above;
 - Painful tumors;
 - Erythroderma;
- Treatment of:
 - Lesions listed above*;
 - Nodular acne;
 - Tinea;
 - Rosacea;
 - Hidradenitis suppurativa;
- Other:
 - Risks of Accutane;
 - Dermatopathology for the general dermatologist;
 - Infection associated with lichen planus;
 - Locations of squamous cell carcinoma at higher risk for metastasis and the appropriate evaluation for those lesions;
 - Malignant melanoma, including appropriate evaluation, subtypes, and classification systems based on pathological depth.

(2) Judgment

- Assess lesion size in indicated circumstances;
- Structured formulation of differential diagnoses;
- Surgical decision-making:
 - Excision/biopsy in indicated situation;
 - Appropriate biopsy technique;
 - Appropriate repair technique;
- Appropriate frequency and intervals for patient follow--up.

(3) Communication

- Appropriate positioning relative to the patient while interviewing;
- Allow a shared agenda and collaboration with the patient;
- Incorporation of open-ended questioning techniques;
- Engage patients during the physical exams;
- Achieve more accurate perception of patient rapport.

In light of the deficiencies identified, his lack of dermatology residency training, and the benefits of immediate point of care feedback and learning for the specialty of dermatology, CPEP concluded that the best option would be for Respondent to retrain in a residency training setting. CPEP also offered to develop an alternative Education Intervention for Respondent.

- E. **Letter of Warning:** On January 29, 2007, the Board issued a Letter of Warning to Respondent raising serious concerns that he inappropriately dispensed creams without proper labeling to patients in his dermatology practice.

17. After careful consideration of all of the information obtained by the Board in this matter, including the investigative material, peer review report, PACE evaluation report and the CPEP evaluation report, the Board concluded that Respondent is not safe to practice any aspect of the practice of medicine, including but not limited to general medicine, dermatopathology or general dermatology in a competent manner until he successfully completes Board-approved residency training. On May 25, 2007, the Board asked Respondent to voluntarily cease the practice of medicine until he completes training in a residency setting. On May 31, 2007, Respondent filed a response refusing to stop practicing medicine and indicated that he is unwilling to complete Board-approved residency training as recommended by CPEP.

E. SETTLEMENT

18. 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 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

19. On this June 19, 2007, the Iowa Board of Medical Examiners found probable cause to file this Notice of Hearing.



Yessyn Lee, M.D., Chairperson
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE DISCIPLINARY CHARGES AGAINST

ISRAEL V. FERNANDO, M.D., RESPONDENT

FILE Nos. 02-04-067 & 02-04-259

EMERGENCY ADJUDICATIVE ORDER

COMES NOW the Iowa Board of Medical Examiners on June 19, 2007, and finds that it was presented with evidence which establishes that Respondent's continued practice of medicine constitutes an immediate danger to the public health, safety, and welfare. The Board has conducted a full investigation of this matter. A summary of the evidence obtained in that investigation is as follows:

FINDINGS OF FACT

1. Respondent was issued Iowa medical license number 32910 on May 20, 1999.
2. Respondent's Iowa medical license is active and will next expire on March 1, 2008.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

4. **Iowa Medical Practice:** Respondent practices dermatology in several locations in eastern Iowa.

5. **Residency Training:** Respondent is not residency trained in dermatology.

6. **Investigative Information:** The Board received information which raised serious concerns that Respondent engaged in a pattern of professional incompetency in the practice of dermatology.

7. **Peer Review:** The Board appointed a peer review committee to review Respondent's dermatology practice and the peer review committee concluded that Respondent demonstrated a pattern of professional incompetency.

8. **Statement of Charges:** On August 25, 2005, the Board found probable cause to file disciplinary charges against Respondent for engaging in a pattern of professional incompetency and practice harmful or detrimental to the public in the practice of dermatology, including but not limited to the following:

A. **Histopathologic Interpretations:** Respondent is not appropriately qualified to perform histopathologic interpretations under CMS Guidelines:

- (1) He has no formal training in histopathologic interpretations.
- (2) He has not completed residency training in dermatology or dermatopathology.
- (3) He is not board certified in dermatology or dermatopathology. Respondent demonstrated an inability to perform histopathologic interpretations.

Respondent inappropriately failed to differentiate melanocytic nevus cells from keratinocytes. Respondent demonstrated evidence of inappropriately up-grading histopathologic interpretations of dermatologic lesions, resulting in an increased risk of complications and significantly increased financial expense.

- B. **Practice Setting:** Respondent inappropriately practiced in numerous practice locations which were significant distances apart which increased the risk that he was unable to appropriately address serious complications and emergencies.
- C. **Patient #1:** Respondent inappropriately misdiagnosed two separate specimens (biopsy and excised tissue) for Patient #1 leading to inappropriate treatment, an unnecessarily complex procedure, increased scarring, increased future risk of skin cancer and significantly increased financial expense. Respondent also performed a rhombic flap, an unnecessarily complex procedure, when it was not appropriate given the size and nature of Patient #1's lesion.
- D. **Patient #2:** Respondent inappropriately failed to obtain an appropriate medical history for Patient #2; inappropriately performed a procedure on Patient #2 without adequately explaining the nature and the risks of the procedure; and inappropriately treated Patient #2 with a medication with which Patient #2 had a known allergy.

9. **Settlement Agreement:** On September 14, 2006, Respondent entered into a Settlement Agreement with the Board to resolve the disciplinary charges. He received a Citation and Warning, agreed to pay a \$5,000 civil penalty, and was placed on probation for a period of five years. He also agreed to the following terms and conditions:

- A. **Reading Slides:** Respondent is prohibited from interpreting skin pathology under his Iowa medical license until he is qualified by law and he is approved by the Board to provide such services.
- B. **Practice Locations:** The locations where Respondent practices dermatology shall be within a sixty air mile radius of each other. This restriction shall not apply to any physician associated with Respondent in the practice of dermatology.
- C. **PACE Competency Evaluation:** Respondent completed a comprehensive competency evaluation at the Physician Assessment and Clinical Education Program (PACE) in San Diego, California. The PACE evaluation focused on general medicine and dermatopathology, not general dermatology. PACE reached the following conclusions:
 - (1) **General Medicine:** PACE identified very serious areas of deficiency in Respondent's ability to practice general medicine and he agreed not to practice medicine in any area other than dermatology in the future.
 - (2) **Interpreting Skin Pathology:** PACE determined that Respondent is not competent to interpret skin pathology as of the present time.

- (3) **General Dermatology:** Apart from the dermatopathology assessment, PACE did not evaluate Respondent's competence to practice dermatology. Respondent agreed to fully comply with all recommendations made by PACE.

D. **CPEP Competency Evaluation:** On January 12, 2007, Respondent completed a comprehensive dermatology competency evaluation at the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado. CPEP concluded that Respondent demonstrated a need for remediation in the following areas; medical knowledge, clinical judgement and communication, including the following:

- (1) Knowledge - Recognition of lesions, including but not limited to:
- Pseudoxanthoma elasticum;
 - Lupus;
 - DFSP;
 - Osler-Weber-Rendu disease;
 - Darier's disease;
 - Neurofibromatosis;
 - Pyoderma gangrenosum;
 - Squamous cell carcinoma;
 - Seborrheic keratosis;
 - Malignant melanoma and subtypes, including unusual locations such as the iris;
 - Eccrine Poroma;
 - Bullous diseases, such as pemphigus vulgaris and bullous pemphigus;
 - Kaposi's sarcoma;
 - Pernio;
 - Potential causes of and differential diagnosis for:
 - Conditions identified above;
 - Painful tumors;
 - Erythroderma;
 - Treatment of:
 - Lesions listed above*;
 - Nodular acne;

- Tinea;
 - Rosacea;
 - Hidradenitis suppurativa;
 - Other:
 - Risks of Accutane;
 - Dermatopathology for the general dermatologist;
 - Infection associated with lichen planus;
 - Locations of squamous cell carcinoma at higher risk for metastasis and the appropriate evaluation for those lesions;
 - Malignant melanoma, including appropriate evaluation, subtypes, and classification systems based on pathological depth.
- (2) Judgment
- Assess lesion size in indicated circumstances;
 - Structured formulation of differential diagnoses;
 - Surgical decision-making:
 - Excision/biopsy in indicated situation;
 - Appropriate biopsy technique;
 - Appropriate repair technique;
 - Appropriate frequency and intervals for patient follow-up.
- (3) Communication
- Appropriate positioning relative to the patient while interviewing;
 - Allow a shared agenda and collaboration with the patient;
 - Incorporation of open-ended questioning techniques;
 - Engage patients during the physical exams;
 - Achieve more accurate perception of patient rapport.

In light of the deficiencies identified, his lack of dermatology residency training, and the benefits of immediate point of care feedback and learning for the specialty of dermatology, CPEP concluded that Respondent should retrain in a residency training setting. CPEP also offered to develop an alternative Education Intervention for Respondent if the Board deemed this option appropriate.

E. **Letter of Warning:** On January 29, 2007, the Board issued a Letter of Warning to Respondent in an unrelated case which raised serious concerns that he inappropriately dispensed creams without proper labeling to patients.

10. After careful consideration of all of the information obtained by the Board in this matter, including the investigative material, peer review report, PACE evaluation report and the CPEP evaluation report, the Board concluded that the deficiencies in Respondent's professional competency (general medicine, dermatopathology and general dermatology) are so widespread and serious that he is not safe to practice any aspect of medicine in a competent manner until he successfully completes Board-approved residency training. On May 25, 2007, the Board asked Respondent to voluntarily cease the practice of medicine until he completes training in a residency setting. On May 31, 2007, Respondent filed a response refusing to stop practicing medicine and indicated that he is unwilling to complete Board-approved residency training as recommended by CPEP.

CONCLUSIONS OF LAW

11. The facts set forth above indicate that Respondent has engaged in a pattern of professional incompetency in the practice of medicine and that he lacks the appropriate training to practice general medicine, dermatopathology and general dermatology.

12. The Board concludes that this matter has been fully investigated and that this investigation has been sufficient to ensure the Board is proceeding on the basis of reliable information. Respondent was given an opportunity to respond to the allegations against him.

13. The facts set forth above establish that Respondent's continued practice of medicine poses an immediate danger to the public health, safety, or welfare. The Board believes there is a serious and immediate threat to patient health if Respondent is allowed to continue to practice medicine before the Board reaches a final resolution of the formal charges pending against him.

14. The facts set forth above establish that Respondent may not continue to practice medicine without posing an immediate danger to the public health, safety or welfare. Respondent has engaged in a pattern of professional incompetency and he lacks the appropriate training, knowledge, judgment, skills and ability to practice general medicine, dermatopathology and general dermatology.

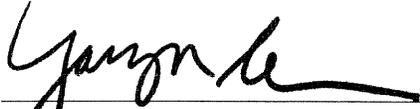
15. The imposition of other interim safeguards would not be sufficient to protect the public health, safety, or welfare. It is not safe for Respondent to continue to practice medicine until this matter is resolved.

16. The Board finds that suspension of Respondent's ability to practice medicine under his Iowa medical license is necessary to protect the public health, safety or welfare until this case is finally resolved.

17. Respondent shall be notified immediately of this order pursuant to 653 IAC 25.29.

18. A hearing on this Emergency Adjudicative Order, and the Statement of Charges which have been filed concurrently with this order, shall be scheduled on July 17, 2007. The hearing will begin at 12:30 p.m. and will be held at the Board office, located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

This order dated June 19, 2007.

A handwritten signature in black ink, appearing to read "Yasyn Lee", written over a horizontal line.

Yasyn Lee, M.D., Chairperson
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ISRAEL V. FERNANDO, M.D., RESPONDENT

FILE Nos. 02-04-067 & 02-04-259

SETTLEMENT AGREEMENT and FINAL ORDER

COMES NOW the Iowa Board of Medical Examiners (the Board), and Isreal V. Fernando, M.D., (Respondent), on September 14 2006, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2005), and enter into this Settlement Agreement and Final Order to resolve the contested case currently on file.

1. Respondent was issued license number 32910 to practice medicine and surgery in Iowa on May 20, 1999.
2. Respondent's Iowa medical license is active and will next expire on March 1, 2008.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. **STATEMENT OF CHARGES:** On August 25, 2005, the Board charged Respondent with engaging in professional incompetency and practice harmful or detrimental to the public. Respondent filed an Answer with the Board denying the charges.

5. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in professional incompetency in his provision of dermatological care to at least one patient. Respondent is hereby **WARNED** that evidence of such conduct in the future may result in further formal disciplinary action, including revocation of your Iowa medical license.

6. **CIVIL PENALTY:** Respondent shall be assessed a civil penalty in the amount of **\$5,000**. The civil penalty shall be paid prior to the Board's approval of this Order and shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

7. **COMPREHENSIVE COMPETENCY EVALUATION:** Respondent, on his own initiative, completed a comprehensive competency evaluation at the Physician Assessment And Clinical Education Program (PACE) in San Diego, California. The PACE evaluation focused on general medicine and dermatopathology, not general dermatology. PACE identified very serious areas of deficiency in Respondent's ability to practice general medicine, and determined Respondent is not competent to interpret skin pathology as of the present time. Apart from the dermatopathology assessment, PACE did not evaluate Respondent's competence to practice dermatology. Respondent shall fully comply with all recommendations made by PACE. Respondent shall not practice medicine in any area other than dermatology in the future. Respondent is not residency-trained in dermatology but he has completed a three-year program in

dermatology under the guidelines of the American Association of Physician Specialists.

8. **READING SLIDES:** Respondent is prohibited from interpreting skin pathology under his Iowa medical license until he is qualified by law and he is approved by the Board to provide such services.

9. **PRACTICE LOCATIONS:** The locations where Respondent practices dermatology shall be within a sixty air mile radius of each other. This restriction shall not apply to any physician associated with Respondent in the practice of dermatology.

10. **COMPREHENSIVE DERMATOLOGY EVALUATION:** Within sixty (60) days of the date of this Order or as soon as practicable, Respondent shall successfully complete a competency evaluation at a Board-approved competency evaluation program which focuses on Respondent's dermatology practice. Upon completion of the evaluation a written report shall be provided to the Board by the program which identifies any areas of deficiency. If areas of deficiency are identified, Respondent shall submit, for Board approval, a formal educational plan which addresses all identified areas of deficiency. Respondent shall fully comply with all recommendations made by the evaluation program and the Board following the evaluation, including any program of remediation. All costs associated with the evaluation and remediation shall be Respondent's responsibility.

11. **FIVE YEARS PROBATION:** Respondent's Iowa medical license shall be placed on **probation for a period of five years** subject to the following terms and conditions:

- A. **Monitoring Program:** Respondent shall contact the Coordinator of Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-6491 to establish a monitoring program. Respondent shall fully comply with all requirements of the monitoring program.
- B. **Demonstration that Respondent is Competent to Practice Dermatology:** Respondent shall demonstrate that he is capable of practicing dermatology in a competent manner throughout the period of this Order.
- C. **Notice to Hospitals and Clinics:** Respondent shall provide the Board with the name, address and telephone number of the administrator at all current and future locations where he practices medicine. The Board will provide the administrator with all Board Orders relating to this matter. The administrator shall provide a written statement indicating that they have read the Board Orders and agree to inform the Board immediately if there is any evidence of substandard practice or a violation of the terms of this Order.

D. **Remediation Plan:** Respondent shall submit a written remediation plan addressing all areas of deficiency, for Board approval, including but not limited to the following:

- 1) **Practice Monitor:** Respondent shall participate in a Board-approved supervised clinical experience to address all areas identified for remediation. Respondent shall submit for Board approval the name of an ABMS board-certified dermatologist to serve as his practice monitor. The Board shall provide the practice monitor a copy of all Board orders relating to this matter. The practice monitor shall provide a written statement indicating that the monitor has read and understands the Board orders relating to this matter and agrees to act as the practice monitor under the terms of this agreement. The Board shall consider the evaluation report specified in paragraph 10 above, in determining the scope of the practicing monitoring. The practice monitor shall review a representative sample of Respondent's medical charts for patients treated by Respondent under his Iowa medical license and provide regular and rapid feedback regarding Respondent's practice. The practice monitor shall visit one of Respondent's practice locations in Iowa at least one day every two weeks to review a representative sample of medical

charts for patients treated under Respondent's Iowa medical license. Respondent shall meet regularly with the practice monitor to review cases and documentation, discuss decisions related to those cases, review specific topics and engage in a quality improvement processes. The worksite monitor shall agree to inform the Board immediately if there is evidence of improper medical care, a violation of the terms of this Settlement Agreement or any violation of the laws and rules governing the practice of medicine. The monitor shall agree to submit written quarterly reports to the Board concerning Respondent's progress not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

- 2) **Continuing Medical Education and/or Self-Study:** Respondent shall successfully complete Board-approved continuing medical education courses and self-study which include, but are not limited to the areas of demonstrated need as determined by the Board-approved evaluation program.
- 3) **Remediation costs:** All costs associated with the remediation shall be Respondent's responsibility.

- E. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms and conditions 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 this Order.
- F. **Board Appearances:** Respondent shall appear before the Board annually or upon request of the Board for the duration of the period of probation. 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 12.6(6)(d).
- G. **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 no later than the 15th of the month three months after the date of this order and every quarter thereafter. The monitoring fee shall be sent to: Coordinator of Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medical Examiners. 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 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 272 and 653 IAC 12.2.

14. Only periods of time that Respondent continually practices under his Iowa medical license shall apply to duration of this Order. Respondent shall notify the Board within thirty days of any change in practice location.

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

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. This Order is voluntarily submitted 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.

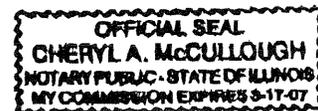
19. The Board's approval of this Order shall constitute a **Final Order** of the Board.


Israel V. Fernando, M.D., Respondent

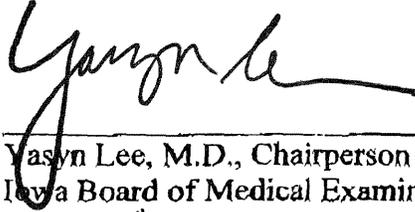
Subscribed and sworn to before me on 15 August, 2006.

Notary Public, State of Illinois.





This Order is approved by the Board on September 14, 2006.



Yasyn Lee, M.D., Chairperson
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)
STATEMENT OF CHARGES AGAINST) DIA NO. 05DPHMB023
) CASE NOS.02-04-067 & 02-04-259
)
ISREAL V. FERNANDO, M.D.) RULING ON MOTION TO
) AMEND STATEMENT OF CHARGES
Respondent.)
) 08-08-06P02:26 RCVD

The above-captioned matter is set for hearing on August 18th 2006 before the State of Iowa Board of Medical Examiners. The Administrative Law Judge assigned to assist in the matter is unavailable to address the instant motion prior to the hearing. For that reason the undersigned shall rule on the motion.

The State filed the Motion to Amend Statement of Charges on July 14, 2006. The Motion was based upon investigative information that was provided to the Respondent on July 5, 2006. The Respondent has not filed a resistance to the Motion.

The undersigned finds that the Motion to Amend Statement of Charges shall be GRANTED. The Respondent was apprised of the information in the amendment nearly a month and a half before the hearing. The Respondent has had plenty of time to prepare of the information in the amendment. Additionally, the amendment does not add any new charges, it merely adds another allegation of misconduct under one of the original counts.

The State's Motion to Amend Statement of Charges is hereby GRANTED.

Dated this 7th day of August 2006.



John M. Priester
Administrative Law Judge
Division of Administrative Hearings
Department of Inspections and Appeals
Lucas State Office Building
Des Moines IA 50319

cc: Theresa O'Connell Weeg, AAG

DIA No. 05PHMB023

Page 2

Randall H. Stefani, Attorney
Ahlers & Cooney
100 Court Ave., Suite 600
Des Moines IA 50309
Iowa Board of Medical Examiners
400 S.W. 8th Street, Suite C
Des Moines IA 50309

Margaret LaMarche, DIA
Administrative Law Judge

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ISRAEL V. FERNANDO, M.D., RESPONDENT

FILE Nos. 02-04-067 & 02-04-259

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medical Examiners (the Board), on August 25, 2005, and files this Statement of Charges against Israel V. Fernando, M.D., (Respondent), a physician licensed pursuant to Iowa Code Chapter 147 (2005) and alleges:

1. Respondent was issued license number 32910 to practice medicine and surgery in Iowa on May 20, 1999.
2. Respondent's Iowa medical license is active and will next expire on March 1, 2006.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged with professional incompetency pursuant to Iowa Code section 147.55(2), 148.6(2)(g), and (i), and 272C.10(2) (2005), and 653 IAC sections 12.4(2)(a), (b), (c), and (d), by demonstrating one or more of the following:

- A. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- B. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;
- C. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances; and
- D. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

COUNT II

5. Respondent is charged under Iowa Code section 147.55(3) (2005) and 653 Iowa Administrative Code section 12.4(3) with engaging in practice harmful or detrimental to the public.

CIRCUMSTANCES

6. Respondent practices dermatology in several locations in eastern Iowa.

7. The Board received information which raised serious concerns that Respondent engaged in a pattern of professional incompetency in the practice of dermatology.

8. The Board appointed a peer review committee to review Respondent's dermatology practice. On July 28, 2005, the Board reviewed the peer review report and concluded that Respondent demonstrated a pattern of professional incompetency in his dermatology practice. The Board also concluded that Respondent engaged in practice harmful and/or detrimental to the public. The Board found a pattern of professional incompetency and practice harmful and/or detrimental to the public, including but not limited to the following:

Histopathologic Interpretations:

- A. Respondent is not appropriately qualified to perform histopathologic interpretations under CMS Guidelines:
1. He has no formal training in histopathologic interpretations.
 2. He has not completed residency training in dermatology or dermapathology.
 3. He is not board certified in dermatology or dermapathology.

- B. Respondent has demonstrated an inability to perform histopathologic interpretations. Respondent inappropriately failed to differentiate melanocytic nevus cells from keratinocytes.
- C. Respondent demonstrated evidence of inappropriately up-grading histopathologic interpretations of dermatologic lesions, resulting in an increased risk of complications and significantly increased financial expense.

Practice Setting:

Respondent inappropriately practices in numerous practice locations which are significant distances apart increasing the risk that he is unable to appropriately address serious complications and emergencies.

Patient #1 (D.D.):

- A. Respondent inappropriately misdiagnosed two separate specimens (biopsy and excised tissue) for Patient #1 leading to inappropriate treatment, an unnecessarily complex procedure, increased scarring, increased future risk of skin cancer and significantly increased financial expense.
- B. Respondent performed a rhombic flap, an unnecessarily complex procedure, when it was not appropriate given the size and nature of Patient #1's lesion.

Patient #2 (S.K.):

- A. Respondent inappropriately failed to obtain an appropriate medical history for Patient #2.
- B. Respondent inappropriately performed a procedure on Patient #2 without adequately explaining the nature and the risks of the procedure.
- C. Respondent inappropriately treated Patient #2 with a medication with which Patient #2 had a known allergy.

On this the 25th day of August, 2005, the Iowa Board of Medical Examiners finds cause to file this Statement of Charges.



Bruce L. Hughes, M.D., Chairperson
Iowa Board of Medical Examiners
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Des Moines, Iowa 50309-4686