

Public

STATE OF NEW YORK DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

SAMIR R. WAHBY, M.D.
CO-06-06-3453-A

**COMMISSIONER'S
SUMMARY
ORDER**

TO: SAMIR R. WAHBY, M.D.
1172 Foxridge Drive
Fort Dodge, IA 50501-7157

SAMIR R. WAHBY, M.D.
1220 Central Avenue
Fort Dodge, IA 50501

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr.P.H., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, Board of Medical Examiners of the State of Iowa (hereinafter "Iowa Board Board"), has made a finding substantially equivalent to a finding that the practice of medicine by **SAMIR R. WAHBY, M.D.** (license number 152248) in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the documents of the Iowa Board, attached hereto as Appendix "A" and made a part hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **SAMIR R. WAHBY, M.D.**, shall not practice medicine in the State of New York.

Any practice of medicine in the State of New York in violation of this (Commissioner's) Order shall constitute Professional Misconduct within the meaning of New York Education Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by New York Education Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the State of Iowa. The hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Summary Hearing to be provided to the Respondent after the final conclusion of the Iowa proceeding. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299 via Certified Mail, Return Receipt Requested, of the final conclusion of the Iowa proceeding immediately upon such conclusion.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO
PRACTICE MEDICINE IN NEW YORK STATE BE
REVOKED OR SUSPENDED AND/OR THAT YOU
MAY BE FINED OR SUBJECT TO OTHER SANCTIONS
SET FORTH IN NEW YORK PUBLIC HEALTH LAW
SECTION 230-A. YOU ARE URGED TO OBTAIN AN
ATTORNEY FOR THIS MATTER.

DATE: Albany, New York

September 13, 2006



ANTONIA C. NOVELLO, M.D., M.P.H, Dr. P. H.
Commissioner

Inquires should be addressed to:

Robert Bogan
Associate Counsel
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

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

SAMIR R. WAHBY, M.D.,

RESPONDENT.

) **FILE NO. 02-06-459**
)
)
)
)

**EMERGENCY ADJUDICATIVE
ORDER**
)
)
)
)

COMES NOW the Iowa Board of Medical Examiners on June 30, 2006, 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 no. 23372 on December 21, 1982.
2. Respondent's Iowa medical license is active and will next expire on June 1, 2008.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. Respondent is an orthopedic surgeon practicing in Fort Dodge, Iowa.

5. Respondent has demonstrated a pattern of willful non-compliance with the terms and conditions established by the Board and the Iowa Physician Health Program (IPHP) to protect the public. Respondent's pattern of inappropriate behavior has put his patients at serious risk of harm.

6. On June 24, 2005, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP) for monitoring of his substance abuse and mental health problems. On March 2, 2006, the Board filed disciplinary charges against Respondent for violating the terms of his IPHP Physician Health Contract, which included, but were not limited to, the following:

- A. On September 7, 2005, Respondent failed to provide a urine sample as required as part of his drug screening program.
- B. From September 2 - 11, 2005, Respondent failed to call into the drug screening program as required.
- C. On November 9, 2005, the IPHP referred the case to the Board for review due to these violations.
- D. Respondent failed to provide a CV for a substance abuse aftercare provider despite requests from the IPHP dated August 23, 2005, September 16, 2005, and November 29, 2005.
- E. Respondent failed to verify his participation in IPHP-approved substance abuse aftercare despite numerous requests.
- F. Respondent failed to meet with his Program Monitor as required.

- G. On October 25, 2005, Respondent failed to provide a urine sample as required as part of his drug screening program
11. On January 20, 2006, Respondent failed to provide the IPHP a quarterly report as required.
7. On February 3, 2006, the IPHP voted to refer Respondent to the Board for disciplinary action for violating the terms of his IPHP Physician Health Contract.
8. On May 31, 2006, Respondent entered into a Settlement Agreement with the Board to resolve the pending disciplinary charges, which established certain terms and conditions to protect the public.
9. Respondent has violated the terms and conditions of the May 31, 2006, Settlement Agreement, including, but not limited, to the following:
- A. **\$5,000 Civil Penalty:** Respondent was required to pay a \$5,000 civil penalty within twenty (20) days of the date of the Order as required. (Paragraph 9, May 31, 2006, Settlement Agreement). Respondent has not paid this civil penalty as of the date this Order was filed.
- B. **Anger Management Assessment:** Respondent has failed to complete an anger management assessment at a Board-approved assessment program no later than June 16, 2006, as required. (Paragraph 11, May 31, 2006, Settlement Agreement).

- C. **Drug Screening Program:** Respondent has failed to fully comply with the requirements of the Board's drug-screening program. Respondent has failed to make appropriate arrangements for witnessed urine drug screening on numerous occasions between April 3, 2006, and the present. (Paragraph 12(D), May 31, 2006, Settlement Agreement). The Board has thus been unable to ensure that he has maintained his sobriety, which places his patients at serious risk of harm.

CONCLUSIONS OF LAW

10. The facts set forth above raise serious concerns that Respondent is unable to practice medicine with reasonable skill and safety at this time.

11. 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, as the Board's probations monitor has been in regular contact with him regarding the requirements of the Settlement Agreement and has expressed the Board's concerns regarding his noncompliance with the Order.

12. 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.

13. 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 willfully and repeatedly violated the requirements of the Board's monitoring program that he consented to in order to ensure his substance abuse and mental health problems were properly monitored. Respondent's case has been pending before the Board for over one year, and during that time period Respondent has not demonstrated a verifiable period of sobriety and full compliance with his treatment provider's recommendations, his IPHP contract, and the Settlement Agreement that he entered into with the Board. Respondent's flagrant and ongoing noncompliance with the monitoring requirements raise grave concerns whether he is safe to practice medicine at this time.

15. The imposition of monitoring requirements or other interim safeguards would not be sufficient to protect the public health, safety, or welfare as Respondent has already demonstrated a repeated unwillingness to comply with previous monitoring requirements established by the IPHP and the Board. 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 12.37(2)(b) & (c).

18. A hearing on this Emergency Adjudicative Order, and the Amended Statement of Charges which have been filed in this matter, shall be scheduled for July 21, 2006. The hearing will begin at 12:00 noon and will be held at the Board office, located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

This order dated June 30, 2006.



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