

BEFORE IOWA BOARD OF PODIATRY

IN THE MATTER OF)	NO. 06-003
)	
NAVIN KUMAR GUPTA,)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
RESPONDENT.)	

COMES NOW the Iowa Board of Podiatry (hereinafter "the Board") and hereby files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license number 00508 on October 5, 1990. Respondent's license is current and will next expire on June 30, 2010. Respondent's address as reported to the Board is 208 South C Street, Indianola, Iowa 50125.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 29-30, 2010, before the Board of Podiatry. The hearing shall begin at 9:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room #526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Podiatry, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

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

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Theresa Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. 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.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 149, and 272C.

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, 149, and 272C and 645 IAC chapter 224.

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 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged pursuant to Iowa Code sections 147.55(2) and 272C.10(2) and 645 IAC 224.2(2) with professional incompetency, by demonstrating one or more of the following:

1. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
2. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other podiatrists in the state of Iowa acting in the same or similar circumstances.
3. A failure to exercise the degree of care which is ordinarily exercised by the average podiatrist acting in the same or similar circumstances.

4. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed podiatrist in this state.

Count II

Respondent is charged pursuant to Iowa Code sections 147.55(3) and 272C.10(3) and 645 IAC 224.2(3) with practice harmful or detrimental to the public.

Count III

Respondent is charged pursuant to 645 IAC 224.2(11) with negligence by the licensee in the practice of the profession.

D. FACTUAL CIRCUMSTANCES

CASE HISTORY:

1. Respondent has a history of prior disciplinary action before this Board.
2. On December 3, 1993, a Statement of Charges was filed against Respondent.
3. On January 30, 1996, Respondent and the Board entered into a Settlement Agreement in which Respondent agreed to restrictions being placed on his license to address competency problems identified in his practice of podiatry.
4. On January 26, 2001, the Board filed a second Statement of Charges against Respondent for failing to comply with the terms of that Settlement Agreement.
5. On October 2, 2002, Respondent entered into a Settlement Agreement with the Board in which he agreed to complete a personalized professional competency

evaluation and comply with any recommendations following that evaluation; and to complete 48 hours of additional continuing education in the areas of infection control, surgical indications, and clinical practice.

6. On February 7, 2003, the Board issued an Amended Order modifying some of the terms of that October 2, 2002, Settlement Agreement

CURRENT CASE:

7. At this time, the Board now alleges Respondent has in the course of his practice of podiatry:
 - a. Failed to provide appropriate preoperative and postoperative care for a patient who presented with heel pain;
 - b. Failed to maintain appropriate medical records;
 - c. Engaged in inappropriate office surgery; and
 - d. Failed to recognize and perform the appropriate procedures.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Theresa Weeg, Assistant Attorney General, at (515) 281-5328.

F. PROBABLE CAUSE FINDING

On this 29th day of January, 2010, the Iowa Board of Podiatry found probable cause to file this Notice of Hearing and Statement of Charges.

This notice of hearing and statement of charges is approved by the board on January 29, 2010.