

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF IOWA

IN THE MATTER OF	)	DIA NO: 95DPHMB-30
THE COMPLAINT AND STATEMENT	)	CASE NO: 02-91-104
OF CHARGES AGAINST	)	02-91-229
	)	02-93-197
V. THOMAS RILEY, M.D.	)	FINAL ORDER OF THE BOARD
	)	
Respondent	)	

TO: V. THOMAS RILEY, M.D.

On August 11, 1997, a panel of the Iowa Board of Medical Examiners (Board) issued a proposed decision to V. Thomas Riley, M.D., (Respondent), following a disciplinary hearing which was held on March 27, April 9, and April 30, 1997. On August 20, 1997, the state of Iowa appealed from the proposed decision. On September 19, 1997, the Respondent filed a Notice of Appeal.

After the transcript was prepared, an appeal hearing was initially set for January 29, 1998. This date was continued at the Respondent's request. The hearing was continued to March 12, 1998. Briefs were filed by the state and by the appellant.

The appeal hearing was held on March 12, 1998 at 8:30 a.m. in the at the Savary Hotel, 401 Locust, Des Moines, Iowa before a quorum of the Board. The Respondent was represented by his counsel, Michael Sellers. The state was represented by Heather Adams, Assistant Attorney General. The appeal hearing was closed to the public, at the Respondent's request, pursuant to Iowa Code section 272C.6(1). Each attorney was allowed fifteen minutes to present oral argument. The oral arguments were recorded by a certified court reporter.

Following oral arguments, the Board convened in closed executive session to deliberate, pursuant to Iowa Code section 21.5(1)(f)(1997). A transcript of the oral arguments was prepared and deliberations continued and were completed on March 20, 1998. Margaret LaMarche, Administrative Law Judge, was instructed to prepare this final order of the Board, in accordance with their deliberations.

FINDINGS OF FACT

The panel's findings of fact are ADOPTED in their entirety.

CONCLUSIONS OF LAW

The panel's conclusions of law are ADOPTED in their entirety.

DECISION AND ORDER

The panel's decision and order is VACATED. Upon a full review of the transcript, exhibits, briefs, and oral arguments, the Board has grave concerns about the Respondent's present ability to practice medicine in a safe and effective manner. The Respondent's decision making in recommending and selecting treatment for his patients is seriously flawed. The Respondent's lack of judgment and sound scientific basis for his treatment decisions adversely affects his ability to practice in any area of medicine in a safe manner. The Board's foremost concern must be the protection of the public. It is the Board's opinion that the public would not be adequately protected by merely prohibiting the Respondent from performing chelation therapy, administering intravenous hydrogen peroxide or from advising patients that their dental amalgams are toxic and should be removed.

IT IS THEREFORE ORDERED, that the following decision and order shall be substituted for the panel's decision and order:

IT IS THEREFORE ORDERED, that effective immediately upon service of this Final Order of the Board, license no. 22302, issued to V. Thomas Riley, M.D., to practice medicine and surgery in the state of Iowa, shall be INDEFINITELY SUSPENDED.

IT IS FURTHER ORDERED, in accordance with 653 IAC 12.51, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.51(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.

IT IS FURTHER ORDERED, that before an Application for Reinstatement will be considered by the Board, the Respondent must successfully complete a clinical review at the Colorado Personalized Education for Physicians (CPEP) and a neuropsychiatric evaluation at Abbott Northwestern Hospital in Minneapolis, Minnesota, or evaluations by substantially similar facilities approved by the Board. In addition, the Respondent must comply with any recommendations made by either program, prior to making application for reinstatement.

Dated this 20 day of March, 1998.

Teresa A Mock MD  
Teresa A. Mock, Chairperson  
Iowa Board of Medical Examiners

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cc: Michael Sellers  
Heather Adams

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 final order. 653 IAC 12.50(32).

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF IOWA

IN THE MATTER OF	)	DIA NO: 95DPHMB-30
THE COMPLAINT AND STATEMENT	)	CASE NO: 02-91-184
OF CHARGES AGAINST	)	02-91-229
	)	02-93-197
V. THOMAS RILEY, M.D.	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER
	)	OF THE PANEL

TO: V. THOMAS RILEY, M.D.

On October 19, 1995, the Executive Director of the Iowa Board of Medical Examiners (Board) filed a Statement of Charges against V. Thomas Riley, M.D., (Respondent) alleging that over the past several years the Respondent had provided substandard medical care, and pursuant to relevant parts of 653 IAC 13.10(4), unethical medical care, to several patients. The Complaint further alleged that the Iowa Board was authorized to take disciplinary action against the Respondent pursuant to Iowa Code sections 147.55 (2), (3), (8), 148.6(1), (2)(g) and (i), and 653 IAC 12.4 (2) "a", "b", "c", "d", 12.4(3) "a", "b", "c", 12.4(13) and 12.4(28).

An Original Notice and Order for Hearing were issued setting the hearing for January 4, 1996. On November 9, 1995, the Respondent filed his Answer. The hearing was continued at the Respondent's request. The parties engaged in discovery, and the hearing was scheduled and continued several times. On March 17, 1997, the state filed a Motion to Strike the testimony of the Respondent's expert witnesses, which was denied on March 21, 1997.

The hearing commenced on March 27, 1997 at 9:00 a.m. in the conference room of the Board, 1209 East Court Avenue, Des Moines, Iowa. The hearing continued on April 9, 1997 and was completed on April 30, 1997. The Respondent was represented by his counsel, Michael Sellers. The state was represented by Heather Adams and Theresa O'Connell Weeg, Assistant Attorneys General. The hearing was held before a panel of the Board which included: Donna Norman, D.O.; Dale Holdiman, M.D.; Mary C. Hodges and Laura Stensrud, public members. The hearing was closed to the public, at the Respondent's request, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge, presided and was instructed to prepare this decision of the panel, in accordance with their deliberations.

THE RECORD

The record includes the Statement of Charges, the Original Notice, the Order for Hearing, the Answer, the orders rescheduling the

hearing, Motion to Strike and Ruling, the testimony of the witnesses, and the following exhibits:

State Exhibit A:	Complaint Report & Attachments, 1/24/91
State Exhibit B:	Investigative Report, dated 6/6/94
State Exhibit C:	Medical Records, LR
State Exhibit D:	Medical Records, MG
State Exhibit E:	Medical Records, MH
State Exhibit F:	Medical Records, EM
State Exhibit G:	Medical Records, JG
State Exhibit H:	Medical Records, SG
State Exhibit I:	American Dental Association, Facts About Dental Amalgam & Additional Information
State Exhibit J:	Complaint Report, dated 4/1/91
State Exhibit K:	Investigative Report, dated 4/14/94
State Exhibit L:	Complaint Report, dated 5/12/93
State Exhibit M:	Investigative Report, dated 4/18/94; Supplemental Report, dated 12/19/94; Supplemental Report, dated 6/12/95
State Exhibit N:	IV Protocol
State Exhibit O:	Medical Records, KE
State Exhibit P:	Medical Records, SH
State Exhibit Q:	Medical Records, CD
State Exhibit R:	Medical Records, JK
State Exhibit S:	Medical Records, HS
State Exhibit T:	Medical Records, WR
State Exhibit U:	Medical Records, KM
State Exhibit V:	Medical Records, BH
State Exhibit W:	Medical Records, DC

State Exhibit X: Curriculum Vitae, John Howard Renner, M.D.

State Exhibit Y: Peer Review Report, dated 6/15/95; and the following articles:

- 1) "EDTA Treatment of Intermittent Claudication-A Double Blind Placebo Controlled Study", Journal of Internal Medicine 1992: 231:261-267;
- 2) "Arteriographic Findings in EDTA Chelation Therapy on Peripheral Arteriosclerosis," The American Journal of Surgery, Volume 162, August 1991;
- 3) "Chelation Therapy: Risks Without Benefits?" Harvard Heart Letter, Harvard Medical School, Volume 3, Number 2, October 1992;
- 4) "Chelation Therapy: Unproven Claims and Unsound Theories," Nutrition Forum, Vol. 10, Number 5, September/October 1993;
- 5) "So Much Writing, So Little Science: A Review of 37 Years of Literature on Edetate Sodium Chelation Therapy," The Annals of Pharmacotherapy, December 1993, Volume 27.

State Exhibit Z: Respondent's Appointment Book

State Exhibit AA: In the Matter of Larry J. Hanus, D.D.S., issued 9/1/94 by the Iowa Board of Dental Examiners

State Exhibit BB: Board of Dental Examiners v. Ronald Bob Hufford, 461 N.W.2d 194 (Iowa 1990)

State Exhibit CC: excluded

State Exhibit DD: not offered

State Exhibit EE: not offered

State Exhibit FF: State of Missouri Board of Registration for the Healing Arts v. Edward McDonagh, D.O., License No. D027972, issued

1/27/95; Letter dated 4/30/97 (Missouri Board to Iowa Board)

State Exhibit II: Response to Petition for Rulemaking, Iowa Board of Dental Examiners, issued 3/19/97.

Respondent Exhibit 1: Curriculum Vitae of Charles H. Farr, M.D., Ph.D.

Respondent Exhibit 2: Curriculum Vitae of Mohammed H. Islami, M.D.

Respondent Exhibit 3: Curriculum Vitae of Roy E. Kerry, M.D.

Respondent Exhibit 4: Curriculum Vitae of Respondent

Respondent Exhibit 5: Letter dated 4/23/97 (Adams to Sellers) and the following cases:

a) Sletten v. Briggs, 448 N.W. 2d 607, 608 (N.Dak. 1989)

b) Friedrich v. HHS, 894 F.2d 829 (6th Cir. 1990)

c) Westover v. Metropolitan Life, 771 F.Supp, 1172 (Fla. 1991)

d) Day v. Aetna Life Ins. Co., 1988 WL 91354 (Ohio App.)

e) Moore v. Baker, 989 F. 2d 1129 (11th Cir. 1993)

f) United States v. Evers, 453 F.Supp. 1141 (Ala. 1978)

g) United States v. Evers, 643 F.2d 1043 (5th Cir. 1981)

h) State Board of Medical Examiners V. Rogers, 387 So. 2d 937 (Fla. 1980)

Respondent Exhibit 6: Letter dated 4/21/97 (Chappell, M.D. to Respondent) and the following attached articles:

- a) "A Pilot Double-Blind Study of Sodium-Magnesium EDTA in Peripheral Vascular Disease," Journal of the National Medical Association, Vol.82, NO. 3
- b) "EDTA Chelation Therapy in Chronic Degenerative Disease," Medical Hypotheses, Vol. 27, 41-49 (1988)
- c) Chapter 175-Magnesium EDTA Chelation, Cardiovascular Drug Therapy, 2nd Edition
- d) "A Nonsurgical Approach to Obstructive Carotid Stenosis Using EDTA Chelation," Journal of Advancement in Medicine, Volume 4, Number 3, Fall 1991.
- e) "The Correlation Between EDTA Chelation Therapy and Improvement in Cardiovascular Function: A Meta-Analysis," Journal of Advancement in Medicine, Volume 6, Number 3, Fall 1993.
- f) "EDTA Chelation Treatment for Vascular Disease: A Meta-Analysis Using Unpublished Data," Journal of Advancement in Medicine, Volume 7, Number 3, Fall 1994.
- g) "The Improvement in Renal Function Following EDTA Chelation and Multi Vitamin-Trace Mineral Therapy: A Study in Creatinine Clearance," Medical Hypotheses, Vol. 15: 301-304 (1984)
- h) "The Homeostatic Effect of EDTA With Supportive Multivitamin Trace Mineral Supplementation Upon High-Density Lipoproteins (HDL)" The Journal, p. 34
- I) "Disputes Author's Conclusions on Effectiveness of EDTA Chelation Therapy," Alternative Therapies, September 1996, Vol. 2, No. 5.



#### FINDINGS OF FACT

1. The Respondent was issued license number 22302 to practice medicine and surgery in the State of Iowa on October 27, 1980, as recorded in the permanent records in the office of the Board. The Respondent's license is valid and will next expire on February 1, 1998. (Board licensing file)
2. The Respondent practiced medicine in Waterloo, Iowa, primarily as an ear, nose, and throat specialist. According to his Curriculum Vitae, the Respondent was board certified by the American Board of Otolaryngology Head and Neck Surgery in 1976, by the American Board of Otolaryngic Allergy as a Fellow in 1984, and by the American Board of Chelation Therapy in 1994. The Respondent closed his practice in Waterloo in June 1995. (Testimony of Respondent; Answer; Respondent Exhibit 4)

#### Dental Amalgam Removal

3. The Respondent reported that he had read a 1979 University of Iowa Dental Journal article concerning the release of mercury vapor from dental amalgams. According to the Respondent, while he felt that the article was informative, he took no action based upon it until the "last few years." During the past few years of his medical practice, the Respondent has "discussed" with patients articles that he has read concerning dental amalgams. According to the Respondent, he has advised patients that their dental amalgams could contribute to various maladies, and they should consider having them removed. The Respondent testified that he does not tell patients that they must have the dental amalgams removed, and he leaves the decision of removal to the patients. The Respondent does not test patients for mercury allergy, because he does not feel that the tests are reliable.

a) The Respondent testified that he has referred patients to several dentists, but that patients usually go to their family dentist. When asked why he did not always refer patients to their family dentist, the Respondent replied that since "second opinions" are popular, he may refer the patient to a different dentist for a second opinion. (Testimony of Respondent)

b) The Respondent referred several patients to a Waterloo dentist, Larry Hanus, D.D.S. for evaluation of their dental amalgams. The Respondent did not perform any mercury allergy tests on these patients prior to referral. In 1991, the Respondent told one of these patients, LR, that her mercury fillings were poisoning her system and causing her sinus problems, and she should have them removed. He also told her that her tooth that had been treated with a root canal was "like a dead

fetus" in her body and had to be removed. When LR called Hanus's office he told her that he would need all of her dental records. LR did not want to change dentists and decided not to make an appointment with Dr. Hanus. LR subsequently told her family dentist about the Respondent's comments and referral to Dr. Hanus. LR's dentist participated in filing a complaint against the Respondent with this Board. (Testimony of LR; Respondent; State Exhibits A-C)

c) MH was another patient that the Respondent referred to Dr. Hanus. MH had a history of psychological problems, including somatization disorder. In a somatization disorder, the patient focuses their attention on their body's symptoms. Somatization disorder can become incapacitating if not handled properly. Focusing on the alleged toxic affects of mercury could make a somatization disorder worse. The Respondent began treating MH for allergies on April 25, 1990. (Testimony of Dr. John Renner, M.D.; State Exhibit E)

d) In September 1990, the Respondent ordered blood and urine testing for MH for mercury toxicity at the Mayo Medical Laboratories. The results were normal. Despite these results, the Respondent recommended that MH have her amalgams removed. In addition, on December 7, 1990, the Respondent performed dental amalgam chelation on MH. Dental amalgam chelation involves the intravenous injection of a mixture of substances, including EDTA and vitamin C, for the purported purpose of removing mercury from the patient. MH told the Board's investigator that her symptoms have disappeared since she had her amalgams removed. (Testimony of John Renner, M.D.; Respondent; State Exhibits A, E, N, AA)

e) JG, and her daughter, SG, were both patients of the Respondent from 1986 to 1993. JG was seen for ear problems and allergies. SG was an allergy patient. The Respondent told JG that her daughter should not have amalgam fillings because the mercury can make her allergies worse. He also told JG that when SG needs fillings she should take her to Dr. Hanus, who would give her the other kind of fillings. (Testimony of JG; State Exhibits G, H)

f) In September 1991, EM saw the Respondent for a pain in her cheek. The Respondent told EM that the pain was due to the mercury in her fillings, and he referred her to Dr. Hanus. (State Exhibit A, F)

g) Two of the Respondent's employees testified that the Respondent had told them that the mercury in amalgam fillings would poison their bodies. One of these employees testified that she often heard the Respondent similarly advise his patients. The Respondent suggested to one of the employees that her back problems could be due to the toxins from her amalgam fillings and she should have them removed. (Testimony of Lori Langdale; Patricia Kraft)

4. Dental amalgams have been used for over 150 years. It is very rare for a person to have an allergy to mercury or dental amalgams. The American Dental Association, the National Institutes of Health, the Food and Drug Administration, and the U.S. Department of Health and Human Services have all taken public positions supporting the safety of dental amalgams in persons not allergic to mercury and their value as a restorative material. The amount of mercury vapor released from silver amalgam is very small in comparison from other sources such as diet. There is insufficient scientific evidence to justify claims that mercury from amalgam restorations has adverse effects on the health of patients. (Testimony of John Renner, M.D.; State Exhibits I, X)

a) The Respondent offered the expert testimony of Roy E. Kerry, M.D., a board certified ear, nose, and throat specialist, in support of his theory that the mercury in amalgam is toxic to the body and a factor in systemic disease. Ten years ago, Dr. Kerry took a course offered by Hal Huggins, D.D.S., of Colorado Springs, who is one of the "pioneers" in the anti-amalgam community. Kerry testified that while he was in Colorado, the wife of a dentist had her amalgams removed by Dr. Huggins, and within two days of their removal no longer required her medication for thyroid problems. In fact, Kerry testified, the patient overdosed on her thyroid medication two days after the procedure, because she no longer needed it. Dr. Kerry reports that another patient with thyroid problem had a similar experience. As a result, Dr. Kerry now reduces patient's thyroid medication prior to the removal of their last amalgam.

b) Dr. Kerry also testified that, in his opinion, mercury fillings can also cause hearing loss, vertigo, vision problems, and mood and emotional disorders, menstrual problems and infertility.

c) In Dr. Kerry's opinion, heavy metal toxicity, including mercury toxicity, can cause neurological problems that could be interpreted as somatization disorder. He further testified that a patient's urine and blood screening tests can be negative even though the

patient is suffering from heavy metal toxicity. He attributed this to the body's storage of mercury in the fatty cells and not in the blood and urine, except in cases of recent acute exposure. In his opinion, hair analysis is more helpful than blood or urine tests.

d) Dr. Kerry was asked how he could account for the reports of spontaneous improvement in patients following amalgam removal, if the mercury was stored in the patient's fatty cells. Dr. Kerry responded that the dramatic overnight recoveries must be due to an "electrical phenomena" since there is an electrical relationship between the teeth that makes it important to remove the amalgams in a certain order.

e) Dr. Kerry testified that he is participating in an FDA approved Phase III investigational drug trial of a new drug, DMPS, which binds to mercury for its removal from the system. Upon questioning from the panel, Dr. Kerry testified that the FDA is interested in treating patients with industrial exposure to mercury or acute poisonings. Dr. Kerry recommends an intravenous treatment of sterile water, Vitamin C, calcium, and magnesium following the removal of amalgams.

f) The panel did not find the expert testimony of Dr. Kerry concerning the benefits of amalgam removal to be persuasive. Dr. Kerry relies heavily on patient anecdotal reports of improvement, and the reports of spontaneous improvement following amalgam removal are inconsistent with his theory that the mercury is stored in fatty cells. Most importantly, Dr. Kerry could cite to no peer reviewed journals which have published any scientific studies supporting these theories.

(Testimony of Dr. Roy Kerry, M.D.; Dr. John Renner, M.D.; State Exhibit I)

5. The Iowa Board of Dental Examiners' has disciplined dentists for removing amalgams after advising patients that they should have their dental amalgams removed in order to cure various illnesses or improve their symptoms. One of the dentists who has been disciplined by the Dental Board is Dr. Larry Hanus, D.D.S., who is the dentist to whom the Respondent has referred his patients.

a) The Dental Board has an administrative rule which provides that it is improper and an unacceptable treatment regimen for dentists to recommend the removal of restorations or to remove restorations from the nonallergic patient for the alleged purpose of removing toxic substances from the body. See 650 IAC 27.7(8).

b) On March 19, 1997 the Dental Board filed a Response to Petition for Rulemaking, which sought to amend the language of this rule. Citing numerous studies, policy statements, and dental school responses, the Dental Board declined to amend its rule. The Dental Board stated, "...given the current weight of scientific evidence, it is deceptive for dentists to initiate recommendations to their patients that serviceable amalgams be removed because they are toxic to their bodies without any specific request by the patient or a medical opinion by a qualified physician."

c) In the case of patient MH, the Dental Board declined to discipline Dr. Hanus because the patient had been referred for amalgam removal by the Respondent. However, this record establishes that the Respondent did not have an appropriate medical reason for recommending the removal of MH's amalgams. The blood and urine tests for mercury toxicity from the Mayo Clinic were negative and no further medical tests were performed which established mercury toxicity in this patient. Moreover, the patient had been diagnosed with a somatization disorder and psychological problems, and the Respondent's encouragement of her mercury concern was detrimental to the patient.

(Testimony of Dr. John Renner, M.D.; State Exhibits AA, BB, II)

#### Chelation Therapy

6. Chelation therapy involves the intravenous injection of chelating agents, usually a solution containing Ethylenediamine-tetraacetic acid (EDTA), sodium, magnesium, and/or calcium. The Food and Drug Administration has approved the use of EDTA chelation for use in cases of lead poisoning. However, some physicians, including the Respondent, have used EDTA chelation to treat other diseases, including coronary artery disease and diabetes. (Testimony of Dr. John Renner, M.D.; Dr. Charles Farr, M.D.; Respondent; State Exhibit Y)

a) In Spring 1993, the Respondent took a chelation workshop. According to the Respondent, many patients, who had previously had chelation therapy in other states, had approached him requesting chelation. In Summer 1993, the Respondent began using chelation therapy to treat peripheral vascular disease. The Respondent is certified by the American Board of Chelation Therapy. The American Board of Chelation Therapy is a self-designated board that has not been approved by the American Medical Association or the American Board of Medical Specialties.

(Testimony of Respondent; Respondent Exhibit 4; State Exhibit Y)

b) Lori Langdale was employed by the Respondent as his receptionist and billing clerk from 1994 until he closed his practice in 1995. During a portion of this time, Patricia Kraft, LPN, was employed by the Respondent as a nurse. These employees credibly testified that the Respondent would perform chelation therapy on 10-17 patients on Monday, Wednesday, and Fridays. The Respondent told Langdale and Kraft that he used chelation to "flush out the system" and that it was helpful for patients with high cholesterol, hypertension, heart disease, and diabetes. The Respondent acknowledged that its benefits were not recognized by the medical community at large. (Testimony of Lori Langdale; Patricia Kraft; Respondent; State Exhibit Z)

c) At first, Kraft assisted the Respondent with the chelation therapy. Kraft prepared the necessary supplies, took the patients' blood pressure, and tested their urine for sugars, blood, protein, and PH. The Respondent would place the IVs, and Kraft or another nurse would remove the IVs two hours later when the treatment was finished. The Respondent was not always in the office when the chelation was completed. This made Kraft nervous, since some patients had side effects, like nausea, light headedness, rapid heartbeat, excessive sweating, and bleeding at the IV site. (Testimony of Patricia Kraft)

d) One of the other nurses in the Respondent's office called the Iowa Board of Nursing concerning the chelation therapy. The Nursing Board told the nurse that she should not assist in the chelation treatments. After that, Dr. Respondent handled the chelation treatments by himself, but Langdale would occasionally assist by doing blood pressures or tearing tape. (Testimony of Patricia Kraft; Lori Langdale)

e) The Respondent did not wear gloves when he placed the IV's in patients. He would go from patient to patient placing all of the IVs. Kraft testified that she never saw him wash his hands between patients. The Respondent admitted not using gloves, but said that he washed his hands and used alcohol. According to the Respondent, he feels he is more comfortable feeling for the patient's vein without gloves. (Testimony of Lori Langdale; Patricia Kraft; Respondent)

f) The Respondent testified that based on clinical evidence of patient improvement, he has concluded that chelation therapy is very effective in treating cardiovascular problems. In his opinion, a large number of coronary bypass operations are unwarranted and EDTA chelation is a recognized alternative, with fewer risks and side effects. The Respondent uses chelation therapy on patients who have reduction of blood flow to the extremities, intermittent claudication or walking problems, cold feet or discoloration of extremities, and reduced hair growth. (Testimony of Respondent)

g) The Respondent testified that prior to chelation therapy he tested patients for kidney and liver impairments and congestive heart failure. He did not test patients for hypercalcemia because he did not feel that it was necessary. The Respondent also referred patients to Dr. Mohammed Islami, M.D., a cardiovascular surgeon, who has performed surgery on 15-20 of the Respondent's patients. (Testimony of Respondent; Dr. Mohammed Islami, M.D.)

h) The Respondent testified that he discusses the chelation therapy and its alternatives with all patients and that patients sign consent forms. (Testimony of Respondent; State Exhibit W)

i) Patients were charged \$80.00 per chelation treatment and patients received a series of thirty treatments. Insurance companies do not pay for chelation therapy, and most patients were asked to pay on the day they received treatment. About two months after Langdale began working for the Respondent, he told her not to put any chelation documentation into the office computer. Later, he had patients pay him directly for all chelation treatments, bypassing Langdale who handled the rest of the office billing and collection. (Testimony of Lori Langdale; Respondent)

j) On June 7, 1995, an investigator for the Board went to the Respondent's office with a subpoena for the Respondent's appointment book. Lori Langdale gave the investigator the Respondent's appointment book. When the Respondent found out he was very angry and told her that his attorney had advised him he did not have to comply with Board subpoenas. On June 9, 1995, the Board's investigator obtained a subpoena for all of the Respondent's chelation patient records. Before the subpoena could be served, the Respondent took approximately fifty chelation patient charts to his car. The Respondent later told the investigator that his

attorney would seek to quash the subpoena. The patient charts were never given to the Board, and the Respondent testified that the charts had been returned to the patients themselves. (Testimony of Lori Langdale; Respondent; State Exhibit M)

7. Dr. John Renner, M.D., is a family practice physician who began studying medical "misinformation" 14 years ago. His research and study has specifically included chelation therapy. Dr. Renner has reviewed over 1200 articles and abstracts on the subject and has spoken to dozens of patients who have undergone chelation. He has testified about health care fraud before state licensing boards and in malpractice cases. He has also reviewed publications of the American College for the Advancement of Medicine (ACAM) which promotes the use of chelation. He is familiar with the positions of the National Heart and Lung Association, the American Medical Association, the American Heart Association, and the Food and Drug Administration on the use of EDTA chelation. At one time, the Food and Drug Administration listed EDTA chelation as one of the top ten health frauds. All of these authorities have concluded that there is no valid scientific evidence to support the conclusion the EDTA chelation therapy is effective to treat cardiovascular disease, arteriosclerosis or diabetes, or to improve the enzyme system or flush toxins (other than lead) from the body.

a) Dr. Renner relies on studies published in refereed or peer reviewed medical journals which have tight editorial board review of all published articles or studies. (Testimony of Dr. John Renner, M.D.; State Exhibit Y)

b) To be valid, studies must be properly controlled without other variables. For this purpose, double blind, placebo controlled studies have the highest level of reliability. One such study of 159 patients with stable intermittent claudication, concluded that no long term therapeutic effect of EDTA chelation could be demonstrated, and EDTA chelation does not have a potential role in the clinical therapy and management of peripheral vascular disease. That study was published in 1992 in the Journal of Internal Medicine (State Exhibit Y).

c) There has never been a good controlled study on the effect of chelation on cardiovascular and other diseases. All of the articles and studies that have supported the use of chelation have been published in non peer reviewed journals which are unorthodox or published by pro-chelation groups, such as ACAM. The October 1992 Harvard Heart Letter from the Harvard Medical School expressed similar reservations about the pro chelation studies.



(Testimony of Dr. John Renner, M.D.; State Exhibit Y; Respondent Exhibit 6)

d) The October 1992 Harvard Heart Letter cited the risks of chelation therapy as including kidney damage, dangerous arrhythmias from lower blood calcium levels, low blood sugar, low blood pressures, inflammation of the blood vessels, and pain at the infusion site. The Harvard Heart Letter concluded that chelation therapy is of unproven value and is potentially harmful and unless and until new data suggests otherwise, chelation therapy appears to entail risks without benefits. This opinion was shared by Dr. Renner. (Testimony of Dr. John Renner, M.D.; State Exhibit Y)

e) In the opinion of Dr. Renner, the chelation consent form which the Respondent states that he used with all patients, and which is found as a part of the patient record for patient DC, is "terribly misleading." This consent form states "It is believed in your case Chelation Therapy is proper under these criteria, and you will quite probably improve in the condition for which you are under treatment, and in your overall health, from its use." This statement is enticing patients with promises of improvement. The consent form further characterizes chelation therapy as "experimental." In Dr. Renner's opinion, such a statement is misleading because it suggests to the patient that the treatment is being used a part of a research protocol, which is not true. (Testimony of Dr. John Renner, M.D.; State Exhibit W)

8. The Respondent presented the expert testimony of Dr. Charles Farr, M.D., who has been using chelating agents on patients since the early 1970's. Dr. Farr estimated that he has given close to one million chelation treatments to patients and has published papers in "lesser" journals, i.e. non peer reviewed journals. Dr. Farr testified that he helped establish the worldwide protocol for chelation therapy, a protocol which is followed by the Respondent. Dr. Farr disputes the findings of the double blind study cited by Dr. Renner and opines that "outcome based" studies are being hailed as the way of the future. Dr. Renner defined outcome based studies as involving surveys of patient perceptions of how they feel at a given moment and a comparison of those responses based upon the therapies employed.

a) In his curriculum vitae, Dr. Farr provides the names of twelve physicians as references. Four of these physicians have been disciplined by their own state licensing boards.

b) Dr. Farr was also disciplined by his own state licensing board twenty years ago for prescribing drugs without conducting a patient exam. He was subsequently charged for violating his probation. In addition, Dr. Farr has heard, indirectly, that he may be the subject of an investigation by the Food and Drug Administration.

c) Dr. Farr concedes that none of his studies or articles which are listed in his curriculum vitae were published in peer reviewed journals. Dr. Farr's curriculum vitae lists several distinguished faculty awards from the International Bio-Oxidative Medicine Foundation, of which Dr. Farr is the founding father.

d) The Respondent produced several articles on chelation therapy which appeared in various journals, including the Journal of the National Medical Association, the Journal of Advancement in Medicine, and Medical Hypotheses, and some textbook articles. None of these are peer reviewed journals, nor are they journals which are generally relied upon by the medical profession. The EDTA chelation study by Efrain Olszewer, which purports to be a double-blind study, was seriously flawed in at least two respects. It involved only ten patients and the study became "unblinded" before it was completed. The author of two of the articles has had his medical license revoked for incompetency. None of the articles supplied by the Respondent would have been accepted for publication in a peer reviewed journal.

(Testimony of Dr. Charles Farr, M.D.; Dr. John Renner, M.D.; Respondent; Respondent Exhibits 1, 5; State Exhibit FF)

9. The Respondent also presented the testimony of Dr. Mohammed Islami, M.D., a board certified vascular surgeon who practices in Waterloo, Iowa. The Respondent and Dr. Islami have referred patients to each other over the years, and Dr. Islami has performed cardiovascular surgery on approximately 15-20 of the Respondent's patients. Dr. Islami considers the Respondent to be honest, sincere, well read, and an excellent surgeon. Dr. Islami and his family members have been treated for allergies by the Respondent. In addition, two of Dr. Islami's sons have had surgery by the Respondent.

a) Dr. Islami expressed no concern that the surgical treatment of any of the 15-20 surgical patients was delayed due to the Respondent's alternative therapies.

b) Many of the Respondent's patients told Dr. Islami that their conditions had improved after chelation therapy by the Respondent. In Dr. Islami's opinion,

treatment decisions can be based upon anecdotal reports.

c) Dr. Islami's practice is confined to surgery. He does not recommend chelation therapy to patients, nor does he perform chelation therapy. However, in his opinion, chelation therapy has a place in the treatment of cardiovascular disease.

(Testimony of Dr. Mohammed Islami, M.D.; Respondent Exhibit 2)

#### Intravenous Infusion of Hydrogen Peroxide

10. The EDTA chelation therapy protocol of Dr. Farr calls for alternating intravenous infusion of a hydrogen peroxide solution with the EDTA chelation treatments. According to Dr. Farr, the alternating administration of the two solutions has a "synergistic" effect on the body and the use of the hydrogen peroxide "rebalances the body's potentials." The Respondent administered intravenous hydrogen peroxide less frequently, but utilized Dr. Farr's protocol when he did. He and his employees have estimated that approximately five patients per week received intravenous hydrogen peroxide. According to the Respondent, he only provided intravenous hydrogen peroxide infusions to those patients who had them elsewhere and specifically requested it. He further testified that he received no patient complaints about the treatment and all of the patients were "happy" with it. (Testimony of Dr. Charles Farr, M.D.; Respondent; State Exhibit N)

10. In the opinion of Dr. Renner, the intravenous administration of hydrogen peroxide is below the standard of care for physicians. Dr. Renner had difficulty explaining the rationale for the use of hydrogen peroxide, but noted that some practitioners believe it provides more oxygen while others believe it is an anti-infective agent. Dr. Renner disagrees with both rationales. Dr. Renner testified that deaths have resulted from the intravenous use of hydrogen peroxide by chelationists and believes that there is also a risk of stroke, thrombophlebitis, seriously lowered serum calcium, and air embolis. When there are no documented benefits or medical purposes for the treatment, Dr. Renner concludes that it is all risk and no benefit. (Testimony of Dr. John Renner, M.D.)

#### Prescription of Vitamin C For a Pregnant Woman

11. The statement of charges alleged that the Respondent inappropriately prescribed intravenous infusion of Vitamin C to treat an ear infection in a pregnant woman. A review of the investigative report and the patient record reveals that in fact, the Respondent prescribed ear drops for the patient's ear infection. In addition, the Respondent recommended that the patient, who was also under the care of an obstetrician, take 2000 to 3000 milligrams of vitamin C orally. The patient took the

vitamin C for a few days but discontinued them on the advice of her obstetrician. The obstetrician was subsequently interviewed by the Board's investigator, who stated that while the recommended daily dose is 70 milligrams a day, the amount recommended by the Respondent would not have harmed the patient or her fetus. Dr. Renner testified that vitamins in megadoses become drugs, and it is foolish and a bad practice to give megadoses to pregnant women. He also expressed a concern that the large amount of Vitamin C could have a rebound scurvy effect on the baby. (State Exhibit K; Testimony of Respondent; Dr. John Renner, M.D.)

#### CONCLUSIONS OF LAW

1. Iowa Code section 147.55(1993) provides in relevant part:

**147.55 Grounds.**

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

...

2. Professional incompetency

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

8. Willful or repeated violations of the provisions of this Act.

2. Iowa Code section 148.6 (1993) provides in relevant part:

**148.6 Revocation.**

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

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, ... in which proceeding actual injury to a patient need not be established;...

...

- i. Willful or repeated violation of lawful rule or regulation adopted by the board...
3. 653 IAC 12.4 provides in relevant part:

**653-12.4(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions set forth in rule 12.2(272C), 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:

...  
**12.4(2)** Professional incompetency. Professional incompetency includes but is not limited to:

- 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 by the physician 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.
- 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.

**12.4(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery...and includes any representation contrary to their legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another.

b. Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of medical ethics and code of ethics set out in rules 13.10...as interpreted by the board.

c. 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...

...

12.4(13) 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,...in which proceeding actual injury to a patient need not be established;...

...

12.4(28) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections...148.6.

653 IAC 13.10(4) provides that a physician should practice a method of healing founded on a scientific basis; and the physician should not voluntarily associate with anyone who violates this principle.

#### Recommendation of Dental Amalgam Removal

4. The preponderance of the evidence established that the Respondent provided substandard and unethical medical care when he recommended to several patients that they have mercury amalgam fillings removed from their teeth, and by telling them that the fillings were the cause of various maladies that the patients were suffering.

The testimony of the Respondent's employees, as well as the testimony of two former patients and the medical records of patient MH, all established that the Respondent did advise patients that their dental amalgams were "toxic," contributed to their illnesses, and should be removed. The illnesses which the Respondent suggested could be improved or cured by the removal of amalgams included allergies, backache, and psychological problems. The Respondent admits that he performed no tests to establish mercury toxicity or allergy in these particular patients, prior to advising them to have the amalgams removed. In at least one patient, the Respondent performed "dental amalgam chelation" following the removal of her amalgams.

The overwhelming scientific evidence supports the safety of dental amalgam materials. There is no scientific evidence supporting the theory that dental amalgams contribute to systemic disease in non allergic patients. This was established through expert testimony, articles from peer reviewed journals, and published decisions of the Iowa Board of Dental Examiners. The American Dental Association, the National Institute of Health, the Food and Drug

Administration, and the U.S. Department of Health and Human Services have all taken public positions supporting the use of dental amalgam. All of the evidence cited by the Respondent or his expert witness was based solely on anecdotal reports of patient improvement. Anecdotal reports are an inadequate basis upon which to base professional medical advice.

Given the scientific evidence supporting the safety of dental amalgam, published both in the early 1990's and today, it was misleading, deceptive, and untrue for the Respondent to advise his patients to have their dental amalgams removed in order to improve or cure various illnesses. The Respondent testified that he should be able to share with his patients articles he has read and that it is solely their choice whether to take action based on that information. By this testimony, the Respondent exhibits a complete lack of consideration for the impact his opinions, as a licensed physician, have on his patients. Most, if not all patients will assume that the Respondent has a sound scientific basis for the medical advice that he provides. A physician must have sound medical evidence to support the "ideas" he or she shares with patients. Otherwise, the physician is merely alarming the patient without reason and is enticing the patient to accept unproven treatment methods.

The Respondent's treatment of patient MH was especially troubling. The patient presented with a history of psychological problems and somatization disorder. Without any apparent concern for the impact of such information on her somatization disorder, the Respondent told the patient that her dental amalgams could be the source of her various illnesses. This patient was particularly susceptible to the Respondent's advice. When laboratory testing by the Mayo Clinic ruled out mercury toxicity for this patient, the Respondent told the patient that the tests were unreliable and advised her to go ahead with the amalgam removals. Following the removals, the Respondent performed "dental amalgam chelation" on this patient, in accordance with his established protocol. The Respondent acted both unethically and irresponsibly in his treatment of this patient.

By telling patients that their amalgam fillings were toxic and could or did contribute to various illnesses, the Respondent has knowingly made misleading, deceptive or untrue statements, and has engaged in unethical conduct, and in a practice harmful or detrimental to the public, in violation of Iowa Code section 147.55(3) and 653 IAC 12.4(3)"a," "b", and "c," and 653 IAC 13.10(4).

In addition, the Respondent's recommendations to patients that they remove their dental amalgams was also professional incompetency, as that term is defined by Board rule. The Respondent had no scientific basis for recommending the removal of amalgams in these

patients. The Respondent did not perform any tests to establish that the patients were allergic to mercury or had mercury toxicity. Moreover, as pointed out by the Iowa Dental Board in their published decisions, the unnecessary removal of amalgams can result in dental complications for patients. See In the Matter of Hanus, filed by the Iowa Board of Dental Examiners on September 1, 1994.

The Respondent has demonstrated a substantial lack of knowledge or ability to discharge his professional obligations and has deviated from the standards of learning or skill ordinarily possessed and applied by other physicians and surgeons in Iowa acting in the same or similar circumstances. The Respondent has violated Iowa Code sections 147.55(2), 148.6(2)(g) and 653 IAC 12.4(2)"a", "b", and "c."

#### Chelation Therapy For Treatment of Coronary Artery Disease and Diabetes

5. The Respondent admits that he provided intravenous EDTA chelation therapy to numerous patients for the purpose of treating coronary artery disease and other illnesses. The scientific evidence does not support the use or effectiveness of EDTA chelation therapy for these purposes. Indeed, the scientific studies and articles in peer reviewed journals draw just the opposite conclusion-that the effectiveness of chelation therapy for the treatment of coronary artery disease is unproven.

The panel concluded that the expert testimony offered by the Respondent in support of the effectiveness of chelation therapy for these purposes was not credible. The credibility of the Respondent's expert witnesses was impeached. Dr. Farr had been disciplined by his own licensing board twenty years earlier and several of the physicians whose names he provided as professional and character references had been disciplined by their own licensing boards. Dr. Farr relied on anecdotal reports of patient improvement to make treatment decisions. Although the panel specifically continued the hearing for this purpose, no peer reviewed studies or journal articles were produced by the Respondent or his experts. The articles produced by the Respondent were published in non peer reviewed, obscure journals and contained studies that were seriously flawed.

The panel was particularly concerned by the Respondent's statements supporting his own use of chelation therapy. First, the Respondent suggests that all of his chelation patients had approached him for chelation, having received it elsewhere previously. The Respondent argues that the patients should have the right to select this type of therapy if they have decided that they do not want to have surgery or other treatment. The Respondent claims that he performed all necessary laboratory tests on these patients to rule out contraindications for chelation therapy.



The Board has no way of confirming the Respondent's statements since the Respondent has disposed of most of his chelation patient charts by returning them to the patients. The Board does not even know who these patients are, let alone what was said to them or what tests were actually performed by the Respondent. Nevertheless, even if all of the patients came to the Respondent specifically requesting chelation, the Respondent has a professional and ethical obligation to ensure that he has a sound medical and scientific basis for the treatment he recommends. See 653 IAC 13.10(4). The Respondent cannot provide ineffective treatment, for a fee, and then claim that it is solely a question of patient choice. It is further noted that the patient consent form, which the Respondent claims each patient signed, informs the patient that chelation therapy "will quite probably improve the condition for which you are under treatment." Given the lack of scientific or medical evidence to support this statement, it cannot be concluded that the patients gave informed consent to this procedure.

Second, the Respondent points out that the risks associated with chelation are far less than the mortality rates associated with bypass and other surgeries. Similarly, in discussing the merit of double-blind studies, the Respondent suggested that it would be unethical to deprive a placebo group of chelation therapy. Both of those statements presume the effectiveness of the chelation therapy, which clearly was not established. These statements demonstrate that the Respondent's decision making concerning chelation therapy is both unscientific and confused.

Finally, the Respondent testified that he does not wear gloves while inserting IV needles for chelation therapy, because gloves interfere with his ability to feel the patient's vein. The Respondent's rejection of universal precautions is clearly below the standard of care in Iowa.

Several reported cases which addressed chelation therapy were included in the record at the Respondent's request. See Respondent Exhibit 5. Several of these cases concern the refusal of Medicare or other insurance companies to pay for chelation therapy treatments. See Friedrich v. Secretary of Health and Human Services, 894 F.2d 829 (6th Cir. 1990); Westover v. Metropolitan Life Insurance Company, 771 F.Supp. 1172 (M.D. Fla. 1991); Day v. Aetna Life Insurance Co., 1988 WL 91354 (Ohio App.) A fourth case held that a surgeon did not violate Georgia's informed consent law when he failed to inform a patient about EDTA therapy since EDTA therapy was not a generally recognized and accepted alternative to carotid endarterectomy surgery. Moore v. Baker, et. al., 989 F.2d. 1129 (11th Cir. 1993). The two Evers cases involved an unsuccessful federal action to enjoin a physician for allegedly mislabeling calcium EDTA. As noted by the Fifth Circuit in its decision, the Evers cases presented a narrow issue concerning one

section of the Federal Food, Drug, and Cosmetic Act. United States v. Evers, 643 F.2d 1043 (5th Cir. 1981); United States v. Evers, 453 F.Supp. 1141 (N.D. Ala. 1978) None of these cases are on point with the issue presented here.

In Sletten v. Briggs, 448 N.W. 2d 607 (N.Dak. 1989), the Supreme Court of North Dakota affirmed the one year suspension of Dr. Briggs' license for violating a settlement stipulation with the North Dakota Board. Dr. Briggs' license to practice medicine had been revoked by the state of Minnesota for prescribing EDTA chelation therapy to treat arthrosclerosis or heart disease. The Minnesota Board had found that the use of chelation therapy for anything other than heavy metal poisoning is inconsistent with the prevailing medical practice in Minnesota and concluded that Dr. Briggs committed unprofessional conduct "by virtue of his prescription of unapproved, ineffective and unsafe drugs, chemical and supplements,...his use of therapy, procedures and techniques which have not demonstrated effectiveness in the treatment of disease and which create a risk of harm for patients,..."

In response to the action of the Minnesota board, the North Dakota Board of Medical Examiners commenced an investigation of Dr. Briggs which resulted in the execution of a settlement agreement. Pursuant to the settlement agreement, Dr. Briggs stipulated that he would not "initiate the use of any diagnostic or treatment methodology found by the Minnesota Board of Medical Examiners to be outside of the range of reasonably acceptable medical practice in the State of Minnesota." Dr. Briggs violated this stipulation, and his license was suspended. While this case is not controlling in Iowa, it does support the Board's conclusion that the Respondent's use of EDTA chelation therapy is not within the acceptable and prevailing practice of medicine.

The Respondent cites a Florida case, as support for the proposition that he should not be disciplined for his use of EDTA chelation therapy. State Board of Medical Examiners v. Rogers, 387 So. 2d 937 (Fla. 1980) In that case, the Florida Supreme Court held that the action of the Florida Board of Medical Examiners restraining Dr. Rogers from further utilization of chelation treatment was an arbitrary and unreasonable exercise of the state's police power. Again, this case is not controlling on the Board. Although the panel disagrees with the ultimate conclusions of the Florida Supreme Court, it must also be noted that there are apparently several factual distinctions between the cases of Dr. Rogers and the Respondent. The Florida Court specifically found that there was no evidence in the record that chelation therapy was in any manner harmful to the patient or that Dr. Rogers misled his patient into believing that this methodology of treatment was a cure for arteriosclerosis. In fact, the Florida Supreme Court cited to the findings of the district court which stated, in relevant part, that Dr. Rogers had provided "full disclosure that this methodology has

not been proven effective." 387 So. 2d at 939. Clearly, that is not consistent with the findings of this Board with respect to the Respondent's actions.

By using EDTA chelation therapy to treat large numbers of patients with coronary artery disease and diabetes, the Respondent has been professionally incompetent, in violation of Iowa Code sections 147.55(2), 148.6(2)(g) and 653 IAC 12.4(2)"a", "b", "c", and "d". The Respondent has demonstrated a substantial lack of knowledge to discharge his professional obligations within the scope of the physician's practice. He has substantially deviated from the standards of learning and skill ordinarily possessed and has failed to exercise in a substantial respect that degree of care which is ordinarily exercised by other physicians in the state of Iowa acting under the same or similar circumstances. The Respondent has repeatedly departed from the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

Additionally, the Respondent's statements to patients that their conditions will quite probably improve following chelation therapy was misleading and deceptive, in violation of Iowa Code section 147.55(3) and 653 IAC 12.4(3)"a". By providing patients with a treatment that was scientifically and medically unproven as effective, and which posed unnecessary risks, the Respondent has engaged in unethical conduct and in a practice harmful or detrimental to the public, in violation of Iowa Code section 147.55(3) and 653 IAC 12.4(3)"a," "b", and "c," and 653 IAC 13.10(4).

Treating Patients For Various Maladies Through The Use Of Intravenous Infusions of Hydrogen Peroxide.

6. The preponderance of the evidence established that the Respondent gave patients intravenous infusions of a solution of hydrogen peroxide, apparently for the same reasons that he gave EDTA chelation therapy. Dr. Farr testified as to his asserted basis for intravenous hydrogen peroxide. The Respondent testified that he followed Dr. Farr's protocol, except that he gave fewer hydrogen peroxide infusions than the protocol called for. It is estimated that approximately five patients a week received the intravenous hydrogen peroxide solution.

The Respondent's administration of an intravenous hydrogen peroxide solution to patients was substandard care and unethical for the same reasons cited in the discussion of EDTA chelation therapy. The Respondent produced no scientific studies or published articles in peer reviewed journals which establish the effectiveness of intravenous hydrogen peroxide to treat any condition. The Respondent primarily relies upon the fact that his patients wanted the treatments, reported that they felt better after the treatments, and had no complaints about them. From the

Respondent's testimony, it is entirely unclear if he understood the purported purpose of these treatments. The Respondent's professional and ethical obligations as a licensed physician are not met when he provides treatments, based solely on patient requests, without regard to whether there is any scientifically proven basis for their effectiveness. It cannot be ignored that the Respondent profits by providing these ineffective treatments. By administering hydrogen peroxide to patients the Respondent has violated Iowa Code sections 147.55(2), 147.55(3), 148.6(2)(g), and 653 IAC 12.4(2), (3), and 13.10(4).

The Use Of Intravenous Vitamin C On A Pregnant Female Patient For The Treatment of Ear Infection

7. The preponderance of the evidence failed to establish that the Respondent treated a pregnant woman intravenously with Vitamin C for an ear infection. The Respondent prescribed ear drops for the woman's ear infection. In addition, he recommended that she take 2000 to 3000 milligrams of vitamin C daily. The panel did not understand why the Respondent would advise a pregnant woman, who was under the care of an obstetrician, to take large doses of vitamin C. However, the vitamin C was apparently not offered as a specific treatment for ear infection, and the woman's obstetrician did not feel that the vitamin C was harmful to the woman or her fetus. The panel is unable to conclude, based on this record, that the Respondent's vitamin C recommendation to this patient violated the standard of care.

DECISION AND ORDER

IT IS THEREFORE ORDERED, that if this proposed decision of the panel becomes a final decision, that the license to practice medicine and surgery in the state of Iowa issued to V. Thomas Riley, M.D., license no. 22302, shall be placed on probation for an indefinite period, subject to the following terms and conditions:

- A. The Respondent is prohibited from performing chelation therapy, from administering intravenous hydrogen peroxide, and from advising patients that their dental amalgams are toxic and/or should be removed.
- B. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with the conditions of probation.
- C. The Respondent shall make appearances annually and/or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time, and place for the appearances.


D. In the event the Respondent violates or fails to comply with any of the terms or provisions of this Order, the Board may initiate appropriate action to revoke or suspend the Respondent's license or to impose other licensee discipline as authorized by law.

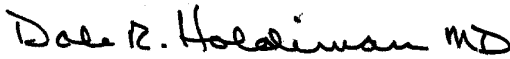
E. The Respondent shall pay a civil penalty of \$10,000.00 within thirty (30) days of the Board's final decision.

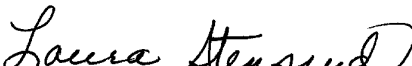
IT IS FURTHER ORDERED, in accordance with 653 IAC 12.51, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.51(3). All fees and costs shall be paid in the form 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.

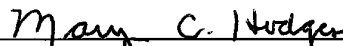
Dated this 11<sup>th</sup> day of AUGUST, 1997.

THE PANEL:

  
Donna Norman, D.O.

  
Dale Holdiman, M.D.

  
Laura Stensrud, Public Member

  
Mary Hodges, Public Member

cc: Michael Sellers  
Theresa O'Connell Weeg  
Heather Adams

In accordance with 653 IAC 12.50(29), a proposed decision becomes a final decision unless appealed to the Board by a party adversely affected by serving a notice of appeal on the executive director within thirty (30) days after service of this proposed decision. The Board may also review a proposed decision on its own motion.

On March 13, 1997, the Respondent faxed a memo which was directed to one of the attorneys representing the state and a second assistant attorney general, who was not representing the state in this matter. In that memo, the Respondent claimed to have already advised the state's attorney as to the identity of one expert witness and a general description of a second expert witness. The state's attorney disputes this representation. On March 14, 1997, the Respondent's attorney finally faxed his responses, again directing them to the state's attorney and the assistant attorney

general not assigned to this case. Apparently the attorney general's office routed the fax to the second assistant attorney general and the appropriate attorney did not receive it until March 17, 1997.

In his answers, the Respondent indicates he will be calling three expert witnesses, two from out of state and one from Waterloo, Iowa. Due to the failure of Respondent's counsel to timely file responses, the state does not have adequate time to depose the three expert witnesses. The state has moved to strike the testimony of the Respondent's expert witnesses.

#### DISCUSSION

The failure of the Respondent's attorney to file timely responses to the state's Interrogatories is inexcusable. This Interrogatories have been pending for over one year.

Excluding expert witnesses in a hearing to determine professional competency is a severe sanction which is normally only granted following the failure of a party to comply with an Order Compelling Discovery. See Rule 134, Iowa Rules of Civil Procedure. In this case, no Motion to Compel was filed, although the state was clearly entitled to an Order to Compel, anytime after April 1996. When the hearing was scheduled for March 27, 1997, I do not understand why the state waited until February 26, 1997 to formally demand answers to the Interrogatories or why a Motion to Compel was not filed when the answers were not promptly filed on March 5, 1997.

In its correspondence, the state indicated a willingness to accept Interrogatory answers until the end of the business day on March 13, 1997. The Respondent then filed his answers on March 14, 1997, one day later than the deadline established by the state. When the appropriate attorney's name appeared first on the fax transmitting the answers, the Respondent cannot be held responsible for the additional delay by the attorney general's office in providing them to the appropriate attorney.

If the Respondent had failed to comply with an Order to Compel, I would have no difficulty in granting the Motion to Strike. There is no question that the state's preparation and presentation of its case has been prejudiced by the Respondent's untimely answers. However, the state was willing to accept answers on March 13, 1997, but requests that witnesses be stricken when answers were filed one day later. This is too severe a sanction under all of the circumstances presented.

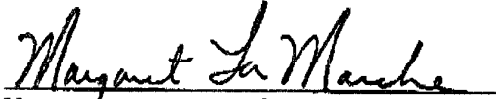
The state has indicated that it opposes a continuance due to the length of time this case has been pending and potential risk of harm to the public. Any alternative remedies, short of excluding the expert witnesses, will be given full consideration.



ORDER

IT IS THEREFORE ORDERED, that the state's Motion to Strike is DENIED.

Dated this 21st day March, 1997.



Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Appeals Division  
Lucas State Office Building-Second Floor  
Des Moines, Iowa 50319  
(515)274-3867

cc: Theresa O'Connell Weeg and Heather Adams  
Assistant Attorneys General  
by FAX: (515) 281-4209

Michael Sellers  
Attorney for Respondent  
by FAX: (515) 221-2702

Dennis Carr  
Board of Medical Examiners  
by FAX: (515)242-5908

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA  
\*\*\*\*\*  
IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

V. THOMAS RILEY, MD, RESPONDENT

Nos. 02-91-104, 02-91-229 & 02-93-197

\*\*\*\*\*  
STATEMENT OF CHARGES  
\*\*\*\*\*

COMES NOW Ann M. Martino, PhD, Executive Director of the Iowa Board of Medical Examiners (the Board), on October 19, 1995, and at the direction of the Board, files this Statement of Charges against V. Thomas Riley, MD (the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That James D. Collins, Jr., MD, Chairperson; Laura J. Stensrud, Vice Chairperson; Edra E. Broich, Secretary; James M. Catherine, MD; Eddie D. DeHaan, MD; Mary C. Hodges; Dale R. Holdiman, MD; Teresa A. Mock, MD; Donna M. Norman, DO; and Roger F. Senty, DO, are the duly appointed, qualified and acting members of the Board.

2. That the Respondent was issued license number 22302 to practice medicine and surgery in Iowa on October 27, 1980.

3. That the Respondent's license is valid and will next expire on February 1, 1996.

4. That over the past several years the Respondent has provided substandard medical care, and, pursuant to relevant parts of 653 IAC 13.10(4), unethical medical care, to several patients through practices which include:

A. Recommending that several patients have mercury amalgam fillings removed from their teeth, and telling the patients

that the fillings were the cause of various maladies from which the patients were suffering;

B. The use of chelation therapy on one or more patients for the treatment of coronary artery disease and diabetes;

C. The use of intervenous infusion of vitamin C on a pregnant female patient for treatment of ear infection; and,

D. Treating patients for various maladies through the use of intervenous infusions of hydrogen peroxide.

5. That the Board is authorized to take disciplinary action against the Respondent pursuant to provisions of Iowa Code sections 147.55, 147.55(2), 147.55(3), 147.55(8), 148.6(1), 148.6(2), 148.6(2)g and 148.6(2)i and 653 IAC 12.4, 12.4(2), 12.4(2)a, 12.4(2)b, 12.4(2)c, 12.4(2)d, 12.4(3), 12.4(3)a, 12.4(3)b, 12.4(3)c, 12.4(13), and 12.4(28) which state in whole or in part:

147.55 - Grounds. A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

147.55(2) - Professional incompetency.

147.55(3) - Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public  
...

147.55(8) - Willful or repeated violations of the provisions of this Act.

148.6(1) - The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in

section 147.55, chapter 272C, or this subsection.

148.6(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:

148.6(2)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 ...

148.6(2)i - Willful or repeated violation of lawful rule or regulation adopted by the board ...

653-12.4 - Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2, 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:

653-12.4(2) - Professional incompetency. Professional incompetency includes but is not limited to:

653-12.4(2)a - A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;

653-12.4(2)b - A substantial deviation by the physician 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;

653-12.4(2)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;

653-12.4(2)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.

653-12.4(3) - Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public ...

653-12.4(3)a - Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery ... and includes any representation contrary to their legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another.

653-12.4(3)b - Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of medical ethics and code of ethics set out in rules 13.10 ... as interpreted by the board.

653-12.4(3)c - 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 ...

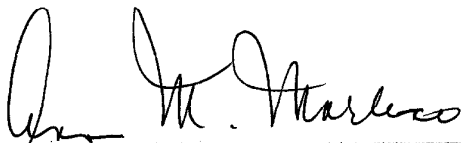
653-12.4(13) - Being guilty of a repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery ...

653-12.4(28) - Violating any of the grounds for the revocation or suspension of a

license listed in Iowa Code sections 147.55  
and 148.6.

WHEREFORE the undersigned charges that the Respondent is subject to disciplinary action pursuant to the provisions of sections 147.55, 147.55(2), 147.55(3), 147.55(8), 148.6(1), 148.6(2), 148.6(2)g and 148.6(2)i of the 1995 Code of Iowa and 653 IAC 12.4, 12.4(2), 12.4(2)a, 12.4(2)b, 12.4(2)c, 12.4(2)d, 12.4(3), 12.4(3)a, 12.4(3)b, 12.4(3)c, 12.4(13), and 12.4(28). The undersigned prays that the board enter an order fixing a time and place of hearing for the Statement of Charges. The undersigned further prays that upon final hearing, the Board enter its findings of fact and decision to revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent, and for such other relief as the Board deems just in the premises.

IOWA BOARD OF MEDICAL EXAMINERS



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DMC/\* 10-17-95

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