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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
JEFFREY C. HAMM, M.D., : FINAL DECISION AND ORDER
RESPONDENT. : *ORDER 0000659*

Division of Enforcement Case No. 09 Med 172

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Jeffrey C. Hamm, M.D.
4340 Casper Court
Hollywood, FL 33021

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Medical Examining Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Jeffrey C. Hamm, M.D., date of birth February 16, 1947, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 27463, which was first granted April 25, 1986.

2. Respondent is also licensed in Florida pursuant to license number ME 0046016. Respondent currently resides and practices in Florida. Respondent is board certified in plastic surgery.

3. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 4340 Casper Court, Hollywood, Florida 33021.

4. On August 24, 1998, The State of Florida Board of Medicine ("Florida Board") filed an Administrative Complaint (Complaint) against Respondent concerning the quality of care he provided to Patient DK during blepacoplasty and lipoplasty surgery in February of 1997. The Complaint alleged the following:

- a. Respondent failed to test Patient DK's blood clotting factors - hemoglobin ("HGB") and hematocrit ("HCT") prior to surgery;
- b. Respondent continued with elective surgery on Patient DK despite intraoperative blood tests that indicated abnormal blood level results;
- c. Respondent failed to perform appropriate follow-up testing of Patient DK during her postoperative recovery; and
- d. Respondent failed to keep medical records that adequately documented Patient DK's post-operative recovery or appropriate pre-operative or post-operative testing.

5. On December 16, 1999, Respondent and the Florida Board entered into a Consent Agreement. On February 16, 2000, the Florida Board rejected the Consent Agreement offering an amendment to the Consent Agreement, which all parties accepted. The Florida Board issued a Final Order concluding that the Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute a violation of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint. The Order further approved the following stipulated dispositions of the Consent Agreement:

- a. Future Conduct – Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto.
- b. Fine – The Board shall impose an administrative fine set in the amount of \$7,500, which shall be paid within 180 days from the date this Final Order is filed.
- c. Reprimand – Respondent shall receive a Reprimand from the Board.
- d. Continuing Medical Education – Within one year of the day of the filing of a Final Order in this case, Respondent shall attend 30 (thirty) hours of Continuing Medical Education (CME), in areas including appropriate pre-operative blood work-up, hematology, and aspects of proper monitoring of patients in the post-operative phase.
- e. Probation – Respondent's license to practice medicine shall be placed on indirect probation for a period of one (1) year with six (6) months of that probation stayed.
- f. Surgical Restrictions – Respondent shall perform surgery only in a hospital, or in an accredited out-patient clinic or accredited office setting, accredited by such out-patient groups as "Quad-A" or similar such accreditation. Respondent shall obtain pre-operative blood work-up, specifically hemoglobin and hematocrit or CBC, SMA-7 and urinalysis, on every prospective surgical patient who is to

undergo anesthesia. In addition, the hemoglobin and hematocrit or CBC must be repeated post-operatively. For all surgeries, Respondent must utilize a licensed anesthesiologist to administer and supervise the anesthesia.

- g. Professional Evaluation Program – Respondent shall submit to the University of Florida’s professional evaluation program prior to the meeting of the Board at which this Agreement is presented, and shall comply with any and all terms and recommendations of said evaluation, including take the Special Purpose Examination (SPEX) if it is recommended by the evaluator, within six months from the date of this Final Order.

6. Respondent met all conditions of the Final Order dated February 16, 2000 and was reinstated with a clear/active license.

7. On December 16, 2006, the Florida Board filed a First Amended Administrative Complaint (Amended Complaint) against the Respondent concerning the quality of care that Respondent provided to Patient MA during liposuction surgery on June 21, 2005. The Amended Complaint alleged the following:

- a. On June 21, 2005, Respondent proceeded with liposuction surgery on Patient MA without reviewing the pre-operative test results prior to surgery;
- b. On or between June 13, 2005 – June 21, 2005, Respondent cleared the patient for surgery despite pre-operative test results that indicated a dangerously high blood glucose level (352 mg/dl);
- c. On or between June 13, 2005 – June 21, 2005, Respondent cleared the patient for surgery without ordering any additional laboratory tests or consultations despite pre-operative test results that indicated a dangerously high blood glucose level (352 mg/dl);
- d. On or about June 21, 2005, Patient MA developed tachycardia following surgery and was admitted to Kindred Hospital where Patient MA developed diabetic ketoacidosis, a life-threatening chemical imbalance marked by an excess of ketones in the bloodstream;
- e. On or about June 23, 2005, Patient MA was transferred to Broward General Medical Center where she was treated for septic shock, respiratory failure, and renal failure; and
- f. Patient MA was not discharged from Broward General Medical Center until August 5, 2005.

8. On February 3, 2009, Respondent and the Florida Board entered into a Settlement Agreement in which Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute a violation of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint. On April 3, 2009, the Florida Board rejected the Settlement Agreement, and offered a Counter Settlement Agreement that all parties accepted. On April 23, 2009, the Florida Board issued a Final Order accepting the following:

- a. Reprimand – The Board shall reprimand the license of Respondent;
- b. Fine – The Board of Medicine shall impose an administrative fine of ten thousand dollars (\$10,000) against the license of Respondent to be paid within sixty days

from the date from the termination of the active suspension of the Respondent's license;

- c. Reimbursement of Costs – Respondent agrees to pay to the Department for any administrative costs incurred in the investigation and prosecution of the case. The agreed upon amount to be paid in this case is \$42,494.74;
- d. Community Service – Respondent shall perform fifty (50) hours of community service within one year of the date of filing of the Final Order. Community service is defined as the delivery of medical services directly to patients, or the delivery of other volunteer services outside the Respondent's regular practice setting in the community without fee or cost;
- e. Continuing Medical Education – Within one year of the date of the filing of a Final Order, Respondent shall attend six (6) hours of Continuing Medical Education in Diabetic Surgical Patients;
- f. Continuing Medical Education – “Risk Management” – Respondent shall complete five (5) hours of Continuing Medical Education in “Risk Management” within one (1) year of the date of filing of the Final Order;
- g. Suspension Language – Respondent's license shall be suspended for a period of one (1) year with nine (9) months stayed;
- h. Probation Language – Upon termination of Respondent's suspension, Respondent shall appear before the probationer's committee and Respondent's license to practice medicine shall be placed on probation for a period of one (1) year following the suspension;
 - a. Restrictions during Probation:
 - i. Practice only under indirect supervision;
 - ii. Not able to practice without an approved supervisor
 - iii. Required the supervisor to review all patient lab results prior to surgery;
 - iv. Required the supervisor to file quarterly reports with the Board.
- i. Surgical Restrictions – Respondent shall perform surgery only in a hospital, or in an accredited out-patient clinic or in an accredited office setting. Respondent shall review the results of pre-operative blood work-up for all patients who are to undergo anesthesia, and repeat those tests post-operatively. Respondent shall not perform major liposuction surgical procedures (removal of 1000 cc or more of fatty tissue), but will be allowed to perform minor liposuction surgical procedures which are incidental to abdominoplasty;
- j. Respondent shall submit to a Quality Assurance review of his medical practice to be performed by a licensed risk manager and provide the Board's Probation Committee with the quality assurance report within six (6) months from the date of the Final Order. Respondent shall comply with any and all recommendations made by the risk manager and shall document compliance with said recommendations by submitting a follow-up report completed by the licensed risk manager that verifies Respondent's compliance;
- k. The Board retains jurisdiction in this matter to extend the period of probation should the quality assurance review of Respondent's practice indicate that an extended period of probation is appropriate; and

1. Respondent shall remain in compliance with all the surgical restrictions that were previously imposed in the Florida Board's 2000 Final Order.
9. Respondent has set out the following in order to meet the requirements of the April 2009 Order:
 - a. Respondent paid the \$10,000 fine;
 - b. Respondent paid reimbursement costs of \$42,494.74;
 - c. Respondent completed 50 hours of community service;
 - d. Respondent completed 6 hours of CME in diabetic surgical patients;
 - e. Respondent fulfilled 5 hours of CME in Risk Management by attending the first full day of a full Board of Medicine meeting;
 - f. Respondent served a 3-month suspension, which actually lasted 5 months due to the meeting dates of the Probation Committee of the Florida Board of Medicine. The Suspension formally ended on August 29, 2009, at which time the Respondent resumed practicing medicine;
 - g. A one-year probationary period commenced on August 29, 2009;
 - h. Respondent obtained an approved monitor.
 - i. Respondent's cases, and all of the laboratory values for all cases, are reviewed with the monitor prior to surgery;
 - j. The monitor submits quarterly reports documenting the Respondent's practice based upon review of at least 25% of his cases;
 - k. Respondent's patients receive laboratory testing, both pre-and post-operatively.
 - l. Respondent submits quarterly reports to the Probation Committee documenting his practice; and
 - m. Respondent submitted a Practice Analysis by a Certified Risk Manager, which found no deficiencies.
10. On August 27, 2010, the Probationers Committee, Florida Board of Medicine, reinstated Respondent's Florida license with no restriction as Respondent had met all conditions of the April 2009 Order.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.02, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).
2. Respondent, by having his license limited in Florida, has violated Wis. Admin. Code § MED 10.02(2)(q) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

IT IS HEREBY ORDERED that the stipulation of the parties is approved.

IT IS FURTHER ORDERED that Jeffrey C. Hamm, M.D. is hereby REPRIMANDED.

IT IS FURTHER ORDERED that the Board recognizes the successful completion of all terms of the Final Orders imposed by The State of Florida Board of Medicine and does not feel additional disciplinary action is required.

IT IS FURTHER ORDERED that, in the event Jeffrey C. Hamm, M.D. decides to commence practice of medicine and surgery under his Wisconsin license, he shall notify the Board of his intentions and practice address at least ninety (90) days prior to his return.

IT IS FURTHER ORDERED that:

1. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of ELEVEN HUNDRED FIFTY dollars (\$1,150.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing and mailed to the Department Monitor at the address provided above.

2. Payment of costs shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Telephone: (608) 267-3817
Fax: (608) 266-2264

3. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs as ordered, the Respondent's license (No. 27463) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs as ordered.

4. This Order shall become effective on the date of its signing.

Wisconsin Medical Examining Board

By: Skailaf
A Member of the Board

2/16/11