FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER (89 MED 545)
PAULINO BELGADO, JR., M.D. RESPONDENT.	:	

The parties to this action for the purposes of Wis Stats. sec. 227.53 are:

Paulino Belgado, Jr., M.D.
105 Waupaca Street
New London, WI 54961

Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

The parties in this matter, Paulino Belgado, Jr., M.D., personally and with his attorney, Joseph J. Beisenstein, and Pamela M. Stach, Attorney for Complainant, agree to the terms and conditions of the attached Stipulation as the Final Decision in this matter, subject to the approval of the Board. Having determined that it has jurisdiction and authority to act in this matter pursuant to Wis. Stats. sec 448.02(3), the Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Paulino Belgado, Jr., Respondent herein, 105 Waupaca Street, New London, Wisconsin 54961, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin under license #17093 which was granted on February 17, 1970.

2. Respondent specializes in the practice of general surgery.

3. On September 5, 1986, male patient H.M., age 83, was admitted to Clintonville Community Hospital in Clintonville, Wisconsin by Respondent with symptoms of increased difficulty in breathing, coughing and generalized weakness of one week's duration.

4. Physical examination by Respondent revealed the presence of patchy hemorrhages on the roof of the mouth and ecchymotic lesions.

5. Respondent's impressions following examination included congestive heart failure, Class III-IV, bilateral lobar pneumonia and rule out thrombocytopenia or leukemia.

6. Respondent ordered a chest x-ray and administration of oxygen.

7. Arterial blood gases performed upon admission on September 5 and the patient's respiratory rate showed the patient to be in respiratory failure.

8. Initial blood tests performed on September 5, 1986, revealed a white blood cell count of 220,000 with some blast cells.

9. No platelet count was ordered by Respondent on September 5, 1986.

10. Upon admission, Respondent ordered Lasix 20 mg. to be administered intramuscularly immediately and then daily.

11. Respondent made no adjustments to the Lasix dosage amount during the course of the hospitalization.

12. No further arterial blood gases were ordered after the initial order upon admission on September 5.

13. On September 6, 1986, Respondent ordered the administration of Claforan 1.0 gm. in 100 ml. of 5 percent Dextrose in water intravenously three times daily.

14. No other orders for antibiotics were given during the course of the patient's hospitalization.

15. On September 7, 1986, patient H.M. expired.

16. Respondent's conduct in providing care and treatment for patient H.M. fell below the minimum standards of competence established in the profession in the following respects:

A. Respondent failed to order a platelet count in a timely manner.

B. Respondent failed to properly treat the patient's congestive heart failure, including the failure to administer Lasix in an appropriate dosage.

C. Respondent failed to order appropriate arterial blood gases to monitor the patient's response to oxygen therapy.

D. Respondent failed to order appropriate and timely antibiotic coverage.

17. Respondent's conduct created the following unacceptable risks to the patient:

A. Respondent's failure to order a platelet count on September 5, 1986, created the risk of an inability by Respondent to reach a determination if platelet transfusions were needed and the resulting risk of exsanguination if they were not administered.

B. Respondent's failure to properly treat the patient's congestive heart failure, including the failure to administer Lasix in an appropriate dosage created the risk to the patient of hypoxia and death.

C. Respondent's failure to monitor the patient's response to oxygen therapy by ordering arterial blood gases subjected this patient to the risk of inadequate oxygenation, cardiac dysrhythmias and death.

D. Respondent's failure to order appropriate antibiotic coverage in a timely manner subjected this patient to the risks of inadequate treatment, worsening of the patient's pneumonia and death.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stats. secs. 448.02(3). and 227.44(5).

2. Respondent's conduct as herein described tended to constitute a danger to the health, welfare, and safety of the patient and therefore constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(h).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation with the parties is approved.

IT IS FURTHER ORDERED that the license of Paulino Belgado, Jr., M.D. to practice medicine and surgery in the State of Wisconsin is hereby limited on the following terms and conditions:

A. Respondent shall participate in an assessment of his knowledge and skills in the practice of medicine as set forth in the attached Exhibit A. Such assessment shall be conducted by the University of Wisconsin, School of Medicine, Continuing Medical Education Program as coordinated by Thomas Meyer, M.D., and shall commence within 60 days of the effective date of this Order.

B. Respondent shall participate in and successfully complete an educational program established through the Continuing Medical Education program under the direction and supervision of Dr. Meyer. This program shall be based upon the results of the assessment and shall include a home study component, a

clinical component, a monitoring component, and an evaluation component. Prior to commencing the educational program, Dr. Meyer shall submit a proposal to the Medical Examining Board, or its designee, for approval.

C. In the event Dr. Meyer is unable to develop a program which adequately addresses the issues identified in the assessment, he shall so notify the Medical Examining Board and this matter shall be returned to the Division of Enforcement for further proceedings.

D. Respondent shall begin the educational program within 30 days of its approval by the Medical Examining Board or its designee. He will complete the program within the time parameters established by Dr. Meyer.

E. At the conclusion of the home study and clinical components of the educational program, Dr. Meyer shall submit a report to the Medical Examining Board evaluating Respondent's participation and performance in the program and indicating whether Respondent has successfully completed the requirements of the program.

F. Respondent shall immediately develop and utilize a record keeping procedure which will reflect the concept of problem-oriented medical records with emphasis on patient history, subjective complaints, clinical observations, consultations, diagnoses, and treatment recommendations. The proposed procedure shall be submitted to and approved by Dr. Meyer as part of the educational program.

G. For a period of six months from the effective date of this Order, Respondent shall obtain a physician proctor to oversee all medical and surgical care provided to all hospitalized patients. Respondent shall discuss all proposed medical care with the proctoring physician prior to admission. Respondent shall discuss any changes in the patient's condition and treatment plan during the course of the hospitalization and at discharge with the proctoring physician.

H. For a period of six months from the effective date of this Order, Respondent shall discuss all surgical cases with a proctoring surgeon, including preoperative indications and evaluations, prior to scheduling surgical procedures.

I. For a period of six months from the effective date of this Order, Respondent shall have a proctoring surgeon present in surgery during the provision of intra-operative care.

J. For a period of six months from the effective date of this Order, Respondent shall have a proctoring physician evaluate and approve the postoperative treatment of the surgical patient.

K. Respondent shall participate in a quarterly review of his medical records and practice for a period of one year following successful completion of the home

study and clinical components of the educational program. This review shall be conducted by a physician recommended by Dr. Meyer and approved by the Medical Examining Board, and shall include a determination of compliance with the procedure established under Paragraph F. above. The records to be reviewed will be selected at random by the reviewing physician. The reviewing physician shall report his or her findings to Dr. Meyer who will provide a written report to the Medical Examining Board regarding these findings at the conclusion of the period of review. In the event the reviewing physician is unable to complete the review, Dr. Meyer shall appoint a successor physician to serve as the reviewer and advise the Medical Examining Board of his or her identity.

L. The limitations set forth in Paragraphs F through K above shall be coordinated through Dr. Meyer as part of the educational program and the individuals providing the proctoring and performing the audits shall submit written reports to Dr. Meyer as requested.

M. Respondent shall permit all individuals participating in the educational program set forth above to submit information regarding Respondent's participation in the program to the Board as requested. Dr. Meyer shall certify to the Board the results of the assessment and educational program upon completion of each.

N. All expenses incurred under Paragraphs A through M above shall be the responsibility of the Respondent.

O. Respondent shall be responsible for the timely filing of all reports required under Paragraphs A through M above.

P. Respondent shall appear before the Medical Examining Board, at the option of the Board, to provide evidence of completion of the terms set forth above. If such appearance is required, it shall occur after certification by Dr. Meyer of the results of the assessment and educational program and the Board shall notify the Respondent in writing.

Q. Upon receipt of certification of successful completion of the terms and conditions set forth above, the Medical Examining Board shall remove all restrictions on Respondent's license. In the event Respondent has not completed the terms of the limited license, the Board may refuse to reinstate full licensure.

R. In the event Respondent's license is not restored in full due to his failure to comply with the terms set forth above, such denial by the Medical Examining Board shall not constitute a denial of a license within the meaning of Wis. Stats. sec. 227.01(3)(a).

IT IS FURTHER ORDERED that Respondent shall pay to the Department of Regulation and Licensing the expert witness fees incurred in this matter in the amount of $660.

IT IS FURTHER ORDERED that Counts I, II, III, and V of the pending complaint are hereby dismissed.

IT IS FURTHER ORDERED, pursuant to the authority of Wis. Stats. sec. 448.02(4) and Wis. Adm. Code RL Ch. 6, that upon the determination of probable cause to believe that Paulino Belgado, Jr. M.D. has violated any of the terms of this Order the Board may, in its discretion, order that the license of Paulino Belgado be summarily suspended pending full investigation of the alleged violation.

IT IS FURTHER ORDERED that this Order shall become effective upon the date of its signing.

Dated this 23 day of Sept, 1993.

Clark O. Olsen, M.D.
Secretary, Medical Examining Board

PMS:dms
ATY-ALG40

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION (89 MED 545)
PAULINO BELGADO, JR., M.D. RESPONDENT.	:	

It is hereby stipulated between Paulino Belgado, M.D., personally and through his Attorney Joseph J. Beisenstein, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Paulino Belgado, Jr., Respondent herein, 105 Waupaca Street, New London, Wisconsin 54961, is duly licensed to practice medicine and surgery in the State of Wisconsin under license number 17093 which was granted on February 17, 1970.

2. A Complaint consisting of 5 counts was filed against and duly served upon Respondent on November 18, 1992.

3. Respondent has read the Complaint and understands the nature of the allegations against him.

4. Respondent is aware of and understands each of the Respondent's rights including the right to a hearing on the allegations against him at which time the state has the burden of proving these allegations by preponderance of the evidence; the right to confront and cross-examine witnesses against him; the right to call witnesses in his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decisions and to present briefs or oral arguments to the officials who are to render the Final Decision; the right to petition for rehearing; and all of the rights afforded the Respondent under the United States Constitution, the Wisconsin Constitution and the Wisconsin Administrative Code.

5. Respondent freely, voluntarily and knowingly waives each and every one of the rights set forth in paragraph 4 above.

6. The Division of Enforcement recommends that the Wisconsin Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order in resolution of this matter.

7. For the purpose of this Stipulation only, Respondent withdraws his previously filed Answer with regard to Count IV of the Complaint and, while neither admitting nor denying the allegations, voluntarily agrees to entry of the attached Final Decision and Order by the Medical Examining Board.

8. Violation of the terms and conditions specified in this Stipulation and Final Decision and Order shall constitute a basis for disciplinary action by the Medical Examining Board.

9. The parties to this Stipulation understand that the Department of Regulation and Licensing, Division of Enforcement will take no further action against Respondent's license

based on the allegations contained in the Complaint unless Respondent violates the terms and conditions of this Stipulation and Final Decision and Order in which event the Department may reinstate the Complaint and reinstitute proceedings against Respondent.

10. This agreement in no way prohibits the Medical Examining Board from any further action against Respondent based on acts not alleged in the present Complaint which might be violative of Wisconsin Medical Examining Board statutes and rules.

11. The parties agree to waive the Proposed Decision of the Administrative Law Judge and submit this Stipulation directly to the Medical Examining Board. All parties agree that counsel for the parties and the board advisor assigned to this case, may appear before the Board in open session to argue on behalf of acceptance of this Stipulation.

12. This Stipulation and Final Decision and Order, if adopted and entered by the Medical Examining Board, shall become effective on the date of signing.

13. Respondent voluntarily agrees to pay expert witness fees in this case in the amount of $660.00. Payment shall be made within 30 days to the Department of Regulation and Licensing, P.O. Box 8935, Madison, Wisconsin. All other costs of these proceedings incurred by either party are hereby waived.

14. In the event any term or condition of this Stipulation and Final Decision and Order is not accepted or entered by the Medical Examining Board, then no term of this Stipulation; and Final Decision and Order shall be binding in any manner on any party to this Stipulation.

Dated: August 25 1993

JOSEPH J. BEISENSTEIN
Attorney for Respondent

Dated: August 27, 1993

PAMELA M. STACH, Attorney
Department of Regulation and Licensing

I, Paulino Belgado, Jr., M.D., having read the above Stipulation and having discussed its contents with my attorney and understanding its terms, do hereby, freely, voluntarily and knowingly enter into this Stipulation.

Dated: August 24, 1993

PAULINO BELGADO, JR. M.D.

PMS:dms
ATY-ALG39

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review, the times allowed for each, and the identification of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period c mmences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit c urt through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is September 28, 1993.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.