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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
JAMES LEWIS, M.D., :
RESPONDENT. :

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

James Lewis, M.D.
703 14th Street
Baraboo, WI 53913

State of Wisconsin
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 agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. 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. That James Lewis, Respondent herein, 703 14th Street, Baraboo, WI 53913, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin by license #16028 which was issued on July 12, 1967.

2. That Respondent specializes in family practice.

3. That on June 9, 1982, Patient J.P., a 45 year old white male, presented at Respondent's office with complaints of substernal chest pain radiating into the left shoulder and arm with shortness of breath.

4. That prior to the office visit of June 9, 1982, Patient J.P. had a recent history for approximately one month of respiratory difficulties while lying in bed, apparent cessation of breathing for short periods of time while

sleeping, severe chest pain, numbness in his hands and arms, and a grayish complexion upon rising in the morning. The symptoms had become more severe since onset.

5. That in 1964, Patient J.P. had a myocardial infarction at the age of 26.

6. That Patient J.P.'s wife accompanied the patient during the office visit to Respondent and relayed the history contained in paragraphs 4 and 5 above to Respondent at that time.

7. That Respondent examined Patient J.P. and found him to be markedly hypertensive with a blood pressure reading of 158/108 and a history of smoking one pack of cigarettes per day for 20 years.

8. That Respondent ordered an exercise stress test for Patient J.P. to be performed on June 14, 1982.

9. That Respondent provided no possible diagnosis nor medical advice or instructions to the patient for the interim period.

10. That between June 9 and June 14, the patient's symptoms continued.

11. That on June 14, 1982, Patient J.P. presented at St. Claire's Hospital in Baraboo, Wisconsin for conduction of the exercise stress test.

12. That Respondent took no further medical history at that time nor did he inquire into the frequency or duration of any chest pain suffered by Patient J.P.

13. That Patient J.P.'s wife was present during the conduction of the exercise stress test on June 14, 1982, and repeated the history set forth in paragraphs 4 and 5 above to Respondent at that time.

14. That on June 14, 1982, Respondent conducted the exercise stress test on Patient J.P. at 85% of the patient's maximum heart rate. Respondent determined that the test results were essentially normal.

15. That Respondent advised the patient that he was "fine," provided no explanation of his symptoms and provided no instructions for any follow-up care.

16. That subsequent to the performance of these exercise stress tests on June 14, 1982, Patient J.P.'s condition remained the same.

17. That on July 10, 1982, the patient suffered severe chest pain and collapsed on the kitchen floor of his home.

18. That Patient J.P. was taken by rescue squad to the Emergency Room at Meriter-Methodist Hospital, Madison, Wisconsin, where he died due to cardiorespiratory arrest.

19. That Respondent's conduct as set forth above fell below the minimal standards of competence established in the profession in the following respects:

a. Respondent failed to appropriately and adequately elicit and record a thorough and precise past medical history for the patient.

b. Respondent failed to appropriately and adequately elicit and record a complete and thorough history of the patient's current condition, presenting symptoms and Respondent's physical findings upon examination.

c. Respondent failed to adequately evaluate the patient's condition during the initial office visit.

d. Respondent failed to consider the entire coronary risk to this patient given the patient's hypertension, history of chest pain and smoking habits.

e. Respondent failed to perform appropriate testing in order to determine the cause of the patient's symptoms including the failure to perform a lipid assessment and an adequate exercise stress test.

f. Respondent failed to provide medical instructions and advice to the patient during the period between the office visit on June 9, 1982 and the exercise stress test on June 14, 1982. Such advice should have included instructions to the patient to inform Respondent of any further symptomatology or worsening of the patient's condition.

g. Respondent failed to adequately evaluate the patient's condition immediately subsequent to the exercise stress test.

h. Respondent failed to reach an accurate diagnosis of the patient's condition.

i. Respondent failed to conduct a thorough discussion and explanation of the diagnostic possibilities for the patient's symptoms with the patient.

j. Respondent failed to advise the patient of the possibility of referral to a cardiologist.

20. That Respondent's conduct created the following unacceptable risks for the patient:

a. Respondent's failure to elicit and record a thorough and precise past medical history of the patient, a complete history of the patient's current condition, presenting symptoms, and Respondent's own physical findings, and his failure to perform appropriate tests, created the unacceptable risk to the patient that the cause of the patient's coronary pain would remain undiagnosed, worsen, and cause the eventual demise of the patient.

b. Respondent's failure to provide medical instructions and advice to the patient regarding the continuation or worsening of the symptoms, his failure to conduct a thorough discussion and explanation with the patient of the diagnostic possibilities for the patient's symptoms, failure to reach any diagnosis and his failure to advise the patient of the possibility of referral to a cardiologist, created the unacceptable risk that the patient would not comprehend the severity of his medical condition, would fail to seek additional medical advice with continuation or worsening of his medical condition, and that the condition would therefore worsen by failure to provide appropriate treatment for that condition and would lead to the eventual demise of the patient.

CONCLUSIONS OF LAW

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

2. Respondent's conduct as herein described constitutes a violation of Wis. Stats. Sec. 448.02(3) and Wis. Adm. Code Sec. MED 10.02(2)(h) as defined in Gilbert v. State of Wisconsin, 119 Wis.2d 168 (1984).

ORDER

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

IT IS FURTHER ORDERED that James Lewis, M.D., shall be and hereby is REPRIMANDED for his conduct.

IT IS FURTHER ORDERED that the license of James Lewis, M.D. to practice medicine and surgery is hereby limited on the following terms and conditions:

A. The limitations set forth herein shall remain in full force and effect for a period of one year from the effective date of the Board Order adopting this Stipulation.

B. Respondent will not engage in the practice of medicine for a period of 30 days commencing June 1, 1990 and ending July 1, 1990.

C. Respondent shall participate in and successfully complete an educational program established through the University of Wisconsin School of Medicine, Continuing Medical Education Program by March 31, 1991. A copy of said program is attached hereto as Exhibit A. This deadline may be extended by the Board or its agents upon request of Respondent but in any event shall not be extended beyond one year from the date of any Board Order adopting this Stipulation.

D. Respondent shall permit the individuals conducting the educational program set forth in paragraph C above to submit information regarding Respondent's participation in the programs.

E. Respondent shall permit a supervising physician (entitled "mentor" in the educational program) to conduct a review of Respondent's office and hospital records on a quarterly basis during the pendency of the limited license. Respondent shall further agree to review and discuss these hospital records with the supervising physician on a quarterly basis.

F. Respondent shall permit the supervising physician to provide written quarterly reports of the results of the review to the Medical Examining Board and the University of Wisconsin School of Medicine, Continuing Medical Education Program.

G. Respondent shall provide the Medical Examining Board with evidence of completion of the educational program set forth in paragraph C above.

H. All expenses incurred under paragraphs B through G above shall be the responsibility of Respondent.

I. Respondent shall develop and utilize a recordkeeping 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.

J. During the term of the limited license, the Board or its agents, may conduct a random audit of Respondent's patient charts to ensure compliance with the terms of paragraph I above.

K. 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 at the end of the one year period of limitation and the Board shall notify the Respondent in writing.

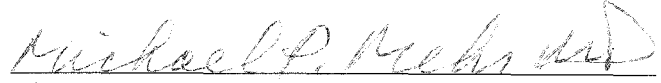
L. At the end of the one year period of limitation and upon receipt of evidence of completion of the terms set forth above, the Board shall remove all restrictions on Respondent's license. In the event Respondent has not completed the terms of the limited license, the Board may refuse to reinstate full licensure.

M. 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).

N. Respondent agrees to pay to the Department of Regulation and Licensing the deposition and expert witness fees accrued in this matter in the amount of \$2239.95.

IT IS FURTHER ORDERED that Count I of the Complaint is hereby dismissed.

Dated this 23 day of May, 1990.



Michael P. Mehr, M.D.
Secretary
Medical Examining Board

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ATY-1029