

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
	:	89 MED 646
GARLAND W. YARBOROUGH, M.D.,	:	
RESPONDENT.	:	

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

Garland W. Yarborough, M.D.
3077 North Mayfair Rd.
Wauwatosa, WI 53222

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 decision 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. Garland W. Yarborough, M.D. (D.O.B February 26, 1949) is duly licensed in the state of Wisconsin as a physician (license #23313). This license was first granted on July 11, 1980.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 3077 North Mayfair Rd., Wauwatosa, Wisconsin 53222.
3. Respondent specialized in the practice of Gastroenterology and internal medicine.

4. The patient J.A. was a 42-year old male who consulted with Dr. Magtangol Dequina on August 7, 1985, with complaints of rectal bleeding and weight loss of between 20-30 lbs. in a two month period, and a possible earlier diagnosis of bowel tumor in May, 1985 by another physician.

5. Following his office examination of the patient on August 7, 1985, Dr. Dequina had the patient admitted to the hospital to rule out a bowel malignancy. The patient underwent a visceral survey including barium enema, colonoscopy, and an upper GI series. These tests were normal with the exception of the GI series which indicated a widening of the duodenal loop and reported as highly suspicious for pancreatitis or a neoplastic lesion.

6. Dr. Dequina then requested a consultation with the Respondent to perform an Endoscopic Retrograde Cholangio Pancreatography (ERCP).

7. On August 9, 1985, Dr. Dequina ordered thyroid screening tests, but the results of these tests were not available until August 14, 1985. The thyroid screening tests were positive for hyperthyroidism and concluded to be the cause of the patient's severe weight loss.

8. A CT scan of the abdomen was performed on August 13, 1985, and showed the liver, gallbladder, pancreas and kidneys to be normal.

9. The Respondent examined the patient on August 13, 1985, and explained the ERCP procedure. He was aware of the results of the upper GI series and that the CT scan was normal. He was not aware of the results of the patient's thyroid studies. Dr. Yarborough concluded that the ERCP procedure was indicated despite the known risk that a patient may contract pancreatitis secondary to the performance of the procedure.

10. Dr. Yarborough performed the procedure according to appropriate standards on August 14, 1985. The procedure took between 30-40 minutes. Dr. Yarborough made several attempts to cannulate the ampulla but was not successful and the procedure was terminated. Approximately 3-4 hours following the procedure the patient developed abdominal pain, nausea and vomiting, and subsequently developed pancreatitis. The patient became critically ill, developing respiratory distress and plural effusion. His medical condition was described as life-threatening. The patient was discharged from the hospital on September 12, 1985.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Section 448.02(3), Wis. Stats.

2. The Wisconsin Medical Examining Board is authorized to enter into the attached Stipulation pursuant to Section 227.44(5).

3. Respondent's conduct set forth in the Findings of Fact constitutes negligence in violation of Sec. 448.02(3), Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Stipulation is accepted.

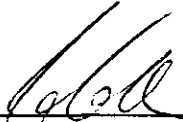
IT IS FURTHER ORDERED, that Dr. Garland W. Yarborough, license #23313, is hereby reprimanded.

IT IS FURTHER ORDERED, that the Medical Examining Board shall close investigative file 89 MED 646.

This Order shall become effective upon the date of its signing.

MEDICAL EXAMINING BOARD

By:


Clark O. Olsen, M.D., Secretary

22 Jun 94
Date

RRH:djm
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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

GARLAND W. YARBOROUGH, M.D.,
RESPONDENT.

STIPULATION
89 MED 646

It is hereby stipulated between Garland W. Yarborough, personally on his own behalf and Roger R. Hall, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement. Garland W. Yarborough consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Garland W. Yarborough understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision 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 other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Garland W. Yarborough is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this stipulation.

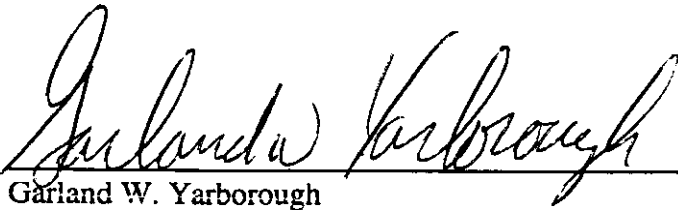
4. Respondent agrees to enter into the stipulation for personal reasons including the savings of considerable financial expenses, expert witness fees and the savings of professional time that would otherwise be associated with having a hearing and contesting issues.

5. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

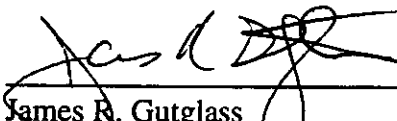
6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Medical Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.


8. The Division of Enforcement joins Garland W. Yarborough in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.


Garland W. Yarborough


Date 4/20/94


James R. Gutglass
Attorney for Respondent
Gutglass, Erickson & Bonville

Date 5/20/94


Roger R. Hall, Attorney
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708

Date 5/24/94

BY: 

72 per 94

RRH:djm
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