

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

THOMAS J. GALLAGHER, M.D.,

FINAL DECISION AND ORDER

RESPONDENT

LS0108221MED  
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The parties to this proceeding for purposes of sec. 227.53, Stats., are:

Thomas J. Gallagher, M.D.

N14 W23900 Stonebridge Rd.

Waukesha, WI 53188

Wisconsin Medical Examining Board

1400 East Washington Ave.

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

1400 East Washington Ave.

P.O. Box 8935

Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was entered into between Thomas J. Gallagher, M.D., and by his attorney, John T. Bode, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Thomas J. Gallagher, M.D., N14 W23900 Stonebridge Rd., Waukesha, Wisconsin, 53188, was born on 12/7/1951 and has been licensed and currently registered to practice medicine and surgery in the State of Wisconsin since 7/13/1979, license # 22363 and specializes in the practice of internal medicine.
2. On 6/26/1998, Patient T.S. presented at Dr. Gallagher's office complaining of rectal bleeding. Patient T.S. had a history of abdominal distress and bleeding hemorrhoids dating back to at least 1995. Dr. Gallagher ordered a sigmoidoscopy and a barium enema contrast x-ray. Dr. Gallagher performed the sigmoidoscopy and saw no abnormal pathology or lesions. A CBC revealed that the hemoglobin and hematocrit were unremarkable.
3. On 7/26/1998, Dr. W. performed the barium enema contrast x-ray that Dr. Gallagher had ordered. Dr. W. reviewed the x-rays and did not find any abnormal pathology or lesions.

4. On 1/28/1999, Patient T.S. returned to Dr. Gallagher complaining of increased rectal bleeding. Dr. Gallagher made a diagnosis of gas bloating secondary to anxiety and/or irritation from dietary supplements or caffeine. Dr. Gallagher instructed Patient T.S. to discontinue all vitamins and dietary supplements for a month to see if Patient T.S.'s symptoms would improve.
5. On 2/8/1999, Patient T.S. was evaluated by Dr. H., a gastroenterologist. On 2/22/1999, Dr. H. performed a colonoscopy on Patient T.S. Dr. H. found a stage 3 rectal cancer lesion located at 20 cm in the distal sigmoid colon.
6. On 3/1/1999, surgeon Dr. M. performed a bowel resection on Patient T.S. A pathology report confirmed that a tumor measuring 3.1 cm was removed.
7. The cancer had spread to Patient T.S.'s lymph nodes. Patient T.S. underwent chemotherapy and radiation therapy.
8. Dr. Gallagher's conduct in providing medical care for the patient from 6/26/1998 through 1/28/1999 was conduct that tended to constitute a danger to the health, welfare and safety of the patient.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to sec. 448.02, Stats.
2. The Wisconsin Medical Examining Board has the authority to resolve this proceeding by Stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.
3. Dr. Gallagher's conduct as set forth in the Findings of Fact was unprofessional conduct contrary to sec. 448.02(3), Stats, and Wis. Admin. Code sec. MED 10.02(2)(h) in that he engaged in conduct that tended to constitute a danger to the health, welfare and safety of a patient.

#### ORDER

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

IT IS FURTHER ORDERED that Thomas J. Gallagher, MD will participate in and satisfactorily complete the 36 hour educational program entitled "Mayo Clinic Gastroenterology and Hepatology Board Review" that will be held from September 9, 2001 through September 13, 2001 at the Mayo Clinic in Rochester, Minnesota.

- a. At the conclusion of the educational program, Dr. Gallagher will submit certification of his attendance from the sponsoring organization to the Wisconsin Medical Examining Board.
- b. At the conclusion of the educational program, Dr. Gallagher will submit a signed affidavit to the Medical Examining Board stating that he has attended the entirety of the educational program.

IT IS FURTHER ORDERED that Dr. Gallagher will participate in and satisfactorily complete the following flexible sigmoidoscopy training program under the direction and supervision of the mentors appointed by the Wisconsin Medical Examining Board.

- a. The flexible sigmoidoscopy training program will require Dr. Gallagher to perform, flexible sigmoidoscopy procedures on fifty (50) patients under the direction and supervision of the mentors appointed by the Wisconsin Medical Examining Board. The flexible sigmoidoscopy training program will include instruction in the techniques for performing and interpretation of the flexible sigmoidoscopy.
- b. Gary Lee Gerstner, M.D. will serve as the primary mentor and have the responsibility for coordinating the mentor program and for filing all of the required reports with the Board. Syed H. Mehdi, M.D. will also serve as a mentor under the terms of this Order.
- c. Dr. Gerstner will file reports every three months following the date of the Order with the Board describing Dr. Gallagher's progress and performance in the mentor program. Dr. Gerstner will confer with Dr. Mehdi prior to preparing and filing these reports.
- d. Dr. Gallagher will complete the flexible sigmoidoscopy training program within one-and-a-half years from the date of this Order.
- e. At the conclusion of the flexible sigmoidoscopy training program, Dr. Gerstner will certify to the Wisconsin Medical Examining Board that Dr. Gallagher has satisfactorily completed all of the requirements of the flexible sigmoidoscopy training program.

IT IS FURTHER ORDERED that certifications, affidavits or other documents required to be filed with the Wisconsin Medical Examining Board be filed with:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

1400 E. Washington Ave.

Madison, WI 53708-8935

All certifications, affidavits or other documents required to be filed with the Wisconsin Medical Examining Board will be deemed to be filed with the Wisconsin Medical Examining Board upon receipt by the Department Monitor.

IT IS FURTHER ORDERED that Dr. Gallagher will be responsible for all of the costs of attending the educational program and all of the costs of developing and administering the flexible sigmoidoscopy training program including the professional fees of the mentors. All costs and professional fees will be paid to the mentors within 30 days of the date in which the mentors submit a statement of costs and fees to Dr. Gallagher.

IT IS FURTHER ORDERED that Thomas J. Gallagher, M.D., will appear before the Wisconsin Medical Examining Board, if an appearance is requested by the Board, at the conclusion of the education program and the flexible sigmoidoscopy training program to establish that he has complied with all of the terms of this Final Decision and Order.

IT IS FURTHER ORDERED that pursuant to sec. 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Dr. Gallagher has violated the terms of this Final Decision and Order of the Wisconsin Medical Examining Board, the Board may order that the license of Dr. Gallagher to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 22<sup>nd</sup> day of August, 2001.

STATE OF WISCONSIN

MEDICAL EXAMINING BOARD

Sidney E. Johnson, M.D.

Secretary