

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
MICHAEL A. DEHNER, M.D., : FINAL DECISION AND ORDER
RESPONDENT. : LS # 0604211MED
 :

05MED146

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

Michael A. Dehner, M.D.
43151 Valley View Road
Boscobel, WI 53805

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

A disciplinary proceeding was commenced on April 21, 2006 by the filing and service of a formal Complaint. 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 Wisconsin 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. Michael A. Dehner, M.D., Respondent herein, date of birth 4/3/52, is duly licensed to practice medicine and surgery in the state of Wisconsin, license #40989. This license was first granted on 4/26/99.
2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 43151 Valley View Road, Boscobel, Wisconsin, 53805.
3. At all times relevant to this action, Respondent was practicing as a family practice physician in Boscobel, Wisconsin.
4. L.H., the patient herein, date of birth 12/18/12, resided at the Boscobel Area Health Care facility from 7/23/99 through 5/17/01. The patient's daughter had the health care power of attorney for the patient.
5. The patient had on file with the Boscobel Area Health Care facility, effective 8/16/00, an advanced directive status of "do not resuscitate".
6. Over the period from 4/30/01 through 5/11/01 the patient experienced symptoms of nausea, vomiting, loose stools, weakness, poor appetite and weight loss. On 5/11/01, the staff at the Boscobel Area Health Care facility contacted the patient's attending physician's office and scheduled the patient for an appointment with the patient's attending physician at his office at the Boscobel Clinic at 11:15 a.m. on 5/11/01.
7. On 5/11/01, the patient's attending physician examined the patient at his office and prescribed Tetracycline for an infected ulcer on the patient's right foot. He also ordered Metoclopramide for the patient's nausea. The patient returned to the Boscobel Area Health Care facility following her appointment with her attending physician.
8. The patient continued to experience nausea, vomiting and a poor appetite from 5/11/01 through 5/14/01.
9. On 5/14/01, the patient's attending physician was notified by the staff at the Boscobel Area Health Care facility of the patient's continuing nausea, vomiting, poor appetite and weight loss. The patient's attending physician ordered a CT scan of the patient's chest and a CT scan of the patient's abdomen and pelvis to be performed with oral contrast only. The patient's attending physician also ordered a basic metabolic panel.
10. The specimen for the basic metabolic panel was collected at 1425 on 5/14/01 and the laboratory analysis and report were completed by 1511 on 5/14/01. The laboratory report recorded as follows:

	<u>Result</u>	<u>Normal Range</u>
Sodium	144	136 – 145
Potassium	4.3	3.5 – 5.0
Cl	104	98 – 108
Carbon Dioxide	19.3	24 – 32
Blood Urea Nitrogen	153	7 – 18
Calcium	9.8	8.8 – 10.5
Creatinine	4.4	0.6 – 1.3
Glucose	114	70 – 110

The results of the laboratory studies were telephoned by the laboratory to the Boscobel Area Health Care facility at 1510 on 5/14/01.

11. The staff at the Boscobel Area Health Care facility contacted the patient's attending physician at 1600 on 5/14/01 and advised him of the laboratory values for the sodium, the blood urea nitrogen and the creatinine. The patient's attending physician ordered that the diuretic the patient was taking be discontinued.
12. The CT scan of the patient's chest was obtained on 5/14/01 and the CT scan of the patient's abdomen and pelvis were obtained on 5/15/01. The staff at the Boscobel Area Health Care facility administered the first bottle of oral contrast for the CT scan of the abdomen and pelvis to the patient commencing at 0600 on 5/15/01 and administered the second bottle of oral contrast commencing at 0700 on 5/15/01.
13. On 5/16/01, the radiologist read the CT scans of the patient's chest and of the patient's abdomen and pelvis. He read the CT scan of the abdomen and pelvis as demonstrating a large amount of oral contrast accumulated within a dilated stomach and in the proximal small bowel consistent with an incomplete mechanical small bowel obstruction, marked distension of the urinary bladder and diverticulosis of the descending and sigmoid colon. The radiologist recommended placement of a nasogastric tube. The radiologist dictated his radiology report making these findings and recommendations on 5/16/01 and this radiology report was transcribed on 5/16/01.

14. At 0805 on 5/16/01, the nurse at the Boscobel Area Health Care facility evaluated the patient and noted that her extremities appeared bluish in color, her axillary temperature was 93.7, her blood pressure was 146/80, her pulse was 120, her respirations were 40 and her oxygen saturation on room air was 97%. At 0915, the patient's pulse was 122, her axillary temperature was 94.1 and her oxygen saturation on room air was 84%. The nurse re-evaluated the patient at 0920 on 5/16/01 and her axillary temperature was 95.5, her pulse ranged between 88 and 100, her respirations were 28 and her oxygen saturation on room air was 94%. The patient denied shortness of breath at that time and she did not appear to be cyanotic. The nurse attempted to contact the patient's attending physician to update him on the patient's condition.

15. The patient's attending physician contacted the Boscobel Area Health Care facility by telephone at 1000 on 5/16/01 and the nurse updated him on the patient's condition including her continuing nausea. The patient's attending physician was not aware of and was not advised of the results of the CT scans of the chest and of the abdomen and pelvis. The patient's attending physician gave an order for Compazine suppositories to be administered every 12 hours as needed.

16. On 5/17/01, the Respondent was providing coverage for the patient's attending physician and was responsible for the patient's medical care on 5/17/01.

17. At 0700 on 5/17/01, staff at the Boscobel Area Health Care facility noted that the patient was poorly responsive with a blood pressure of 60/42, respirations of 18 and a pulse of 112. After the patient was returned to bed, her blood pressure was 100/60. The patient's bowel sounds were quiet in all four quadrants. At 0930 on 5/17/01, the patient remained poorly responsive but complained that her stomach hurt.

18. The nurse at the Boscobel Area Health Care facility placed a telephone call to the Respondent at 0930 and spoke with the Respondent at 1015 on 5/17/01. During this conversation, the nurse advised the Respondent of the patient's condition and informed him of the results of the CT scans, including the radiographic diagnoses of a distended bladder, a dilated stomach and an incomplete mechanical small bowel obstruction. Respondent ordered soap suds enemas and a clear liquid diet.

19. The patient was given two soap suds enemas resulting in a moderate amount of liquid stool. The nurse was of the opinion that there was blood in the stool. The patient remained poorly responsive.

20. At 1430 on 5/17/01, the staff at the Boscobel Area Health Care facility contacted the Respondent and updated him on the patient's status and on the results of the soap suds enemas. Respondent ordered that the soap suds enemas be repeated and that the patient be administered Dulcolax tablets.

21. Dulcolax contains bisacodyl which is a stimulant laxative. Dulcolax tablets are taken orally and act systemically to increase peristalsis in the bowel.

22. The patient became progressively less responsive and at approximately 1700 on 5/17/01, the patient's respirations and cardiac function ceased.

23. Respondent did not at any time between the time when he was notified of the results of the CT scan of the abdomen and pelvis and the time of the patient's death consider providing treatment to the patient by inserting a nasogastric tube or recommend to or advise the patient, the daughter having the health care power of attorney or any other member of the patient's family of the option of inserting a nasogastric tube to decompress the patient's stomach and thereby reduce the patient's discomfort and reduce the risk of vomiting and aspiration.

24. Respondent's conduct in providing medical care for the patient as set forth above fell below the minimum standards of competence accepted in the profession in that:

a. Respondent, after being advised of the radiographic evidence of a distended stomach and an incomplete mechanical bowel obstruction, failed to consider providing treatment to the patient by inserting a nasogastric tube and failed to advise the patient, the patient's daughter having the health care power of attorney or any member of the patient's family of the option of inserting a nasogastric tube to decompress the patient's stomach and thereby reduce the patient's discomfort and reduce the risk of vomiting and aspiration.

b. Respondent ordered Dulcolax tablets for the patient when the use of this drug in oral tablet form was contraindicated by the incomplete mechanical small bowel obstruction.

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

a. Respondent's failure to consider insertion of a nasogastric tube and his failure to advise the patient, the patient's daughter who had the health care power of attorney or any other member of the patient's family of the option of inserting a nasogastric tube placed the patient at the unacceptable risks that she would continue to experience discomfort which may otherwise have been relieved or reduced by appropriate treatments and that the patient was at increased risk of vomiting and aspiration.

b. Respondent's decision to order Dulcolax tablets for the patient placed the patient at unacceptable

increased risk of continuing and worsening discomfort and at unacceptable increased risk of perforation of her bowel.

26. A minimally competent physician, to avoid or minimize the unacceptable risks to the patient:

a. Would have considered providing treatment to the patient by inserting a nasogastric tube and would have recommended to the patient, the patient's daughter who had the health care power of attorney and to the patient's family that they consider insertion of a nasogastric tube to decompress the patient's stomach, to decrease the patient's discomfort and to reduce the risk of vomiting and aspiration.

b. Would not have ordered Dulcolax tablets for the patient after he was aware of the radiographic findings of an incomplete mechanical small bowel obstruction.

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. The conduct described in paragraphs 4 through 26, above, constitutes a violation of Wis. Stat. § 448.02(3) and Wis. Admin. Code § MED 10.02(2)(h) in that Michael A. Dehner, M.D. engaged in conduct that tended to constitute a danger to the health, safety and welfare of the patient.

3. The Wisconsin Medical Examining Board has the authority pursuant to Wis. Stat. § 440.22 to assess the costs of this proceeding against Michael A. Dehner, M.D.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Michael A. Dehner, M.D. is reprimanded.

IT IS FURTHER ORDERED that:

2. The license of Michael A. Dehner, M.D. to practice medicine and surgery in the state of Wisconsin is hereby limited as follows:

a. Michael A. Dehner, M.D. will within one year of the date of this Final Decision and Order take and satisfactorily complete a minimum of 30 credit hours of continuing education in a gastroenterology review course, a significant portion of which includes instruction in the diagnosis and treatment of conditions of the gastrointestinal tract in the geriatric population. The continuing education course taken in satisfaction of this requirement will be pre-approved by the Wisconsin Medical Examining Board or its designee. Michael A. Dehner, M.D. will attend the course taken in satisfaction of this requirement in its entirety.

b. Michael A. Dehner, M.D. will within 60 days of completion of the required continuing education course provide evidence satisfactory to the Wisconsin Medical Examining Board that he has attended the approved course in its entirety. This evidence will include:

i. Certification of attendance from the sponsoring organization; and

ii. Affidavit given under oath by Michael A. Dehner, M.D. verifying that he has attended the approved course in its entirety.

c. Michael A. Dehner, M.D. will pay all costs of attending the approved course and of verifying attendance at the course.

d. Michael A. Dehner, M.D. shall not apply any of the 30 credit hours earned in compliance with the terms of this Order toward satisfaction of his Wis. Stat. § 448.13 biennial training requirements.

e. All requests for approval of courses, certifications of attendance, affidavits and other documents required to be filed with the Wisconsin Medical Examining Board will be mailed, faxed or delivered to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone no. (608) 267-3817
Fax (608) 266-2264

f. The limited license will terminate and Michael A. Dehner's license to practice medicine and surgery in the state of Wisconsin will be restored to full and unrestricted active status when all of the terms of this Order have been complied with.

IT IS FURTHER ORDERED that:

3. Michael A. Dehner, M.D. will, within 90 days from the date of this Order, pay costs of this proceeding in the amount of \$4,000.00. Payment will be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

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

4. 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 Michael A. Dehner'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 Michael A. Dehner, M.D. fails to pay costs as ordered or fails to comply with the ordered continuing education, Michael A. Dehner's license #40989 SHALL BE SUSPENDED, without further notice or hearing, until Michael A. Dehner, M.D. has complied with the terms of this Order.

5. This Order is effective on the date of its signing.

Wisconsin Medical Examining Board

By: Bhupinder Saini
A Member of the Board

7/19/06
Date

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
MICHAEL A. DEHNER, M.D.,	:	LS# 0604211MED
RESPONDENT.	:	

05MED146

It is hereby stipulated between Michael A. Dehner, M.D., and by his attorney, Maile E. Beres; and Gilbert C. Lubcke, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending formal disciplinary proceeding involving Respondent's licensure by the Wisconsin Medical Examining Board, case 05MED146. Respondent consents to the resolution of this formal disciplinary proceeding by stipulation.
2. Respondent understands that by signing 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 a preponderance of the 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, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board. 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.
5. 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 consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Wisconsin Medical Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Michael A. Dehner, M.D.
43151 Valley View Road
Boscobel, WI 53805

Date

Maile E. Beres
Attorney for Michael A. Dehner, M.D.
Borgelt, Powell, Peterson & Frauen, S.C.
735 N. Water St., Suite 1500
Milwaukee, WI 53202-4188

Date

Gilbert C. Lubcke, Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date

Case: 05MED146
Costs: \$ 4,000.00
Forfeiture: \$ 0.00