

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	
	:	FINAL DECISION AND ORDER
DAVID J. DRAKE, M.D.	:	FOR REMEDIAL EDUCATION
	:	LS 0611151MED

[Division of Enforcement Case No. 06 MED 101]

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

David J. Drake, M.D.
P.O. Box 044215
Racine, WI 53404

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 and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 (“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. David J. Drake, M.D., (“Licensee”), date of birth October 22, 1964, is duly licensed and currently registered as a physician in the state of Wisconsin (license #40447). This license was first granted on September 25, 1998.
2. Licensee’s address of record with the Medical Examining Board is P.O. Box 044215, Racine, WI 53404.
3. At all times relevant to this action, Licensee was an employee of Aurora Medical Group, in Racine, Wisconsin.
4. On December 3, 2000, Patient L.H., (DOB 02/16/1905), was admitted to St. Mary’s Hospital in Racine, Wisconsin after a series of falls in her home. On December 12, 2000, her regular physician, Nedal S. Mejalli, M.D., determined that Patient L.H. was not an appropriate candidate for surgery and admitted her to Lincoln Lutheran Convalescent Center. Her diagnoses were: left femur fracture, diabetes, gastroesophageal reflux disease, congestive heart failure, coronary artery disease, bladder cancer, osteoarthritis of the knees, severe diverticulosis and renal insufficiency. Patient L.H. also had a stage II coccyx wound.
5. Initially, Patient L.H.’s coccyx wound was treated with: a mattress and chair cushion designed to relieve pressure; heel boots and sheepskin to the feet; repositioning every two hours; encouraged independent mobility and tissue load

shifting; protein supplement, zinc and vitamin C; reassessment of treatment effectiveness every two weeks; and measurements of the open area every seven days.

6. Over time, Patient L.H. experienced more pain and a general deterioration in health. She declined physical therapy and other treatment and refused to get out of bed.

7. On February 12, 2001, Dr. Mejalli noted that Patient L.H.'s coccyx wound was infected and prescribed 500 mg of Keflex, three times per day for ten days.

8. On March 3, 2001, Patient L.H.'s coccyx wound tested positive for methicillin resistant staphylococcus aureus (MRSA). MRSA is a type of staph bacteria that is resistant to certain antibiotics, including methicillin and other more common antibiotics such as penicillin and amoxicillin. MRSA can lead to skin infections, and more serious infections may cause pneumonia, bloodstream infections or surgical wound infections.

9. On March 3, 2001, Licensee, who was on call for Dr. Mejalli, prescribed vancomycin, 250 mg, three times daily for two weeks.

10. On March 5, 2001, nursing staff contacted Dr. Mejalli via telephone and reported Patient L.H.'s wound culture results, as well as the prescription for vancomycin.

11. On March 7, 2001, Lincoln Lutheran Convalescent Center's medical director, Bonnie L. Wirfs, M.D., examined Patient L.H. but noted that she was unable to examine the MRSA sacral ulcer. Dr. Wirfs continued the oral vancomycin.

12. On March 21, 2001, nursing staff observed that Patient L.H.'s coccyx wound was slightly improved and healing slowly.

13. On March 26, 2001, Dr. Mejalli transferred Patient L.H. to St. Mary's Hospital due to decreased appetite, decline in attitude and the sacral decubitus.

14. On April 7, 2001, Patient L.H. died of unrelated urosepsis.

15. Vancomycin, when administered orally, is ineffective in addressing MRSA because it does not cross through the intestinal lining. The only indication for oral vancomycin is in the treatment of pseudomembranous colitis, in which it must be administered orally to effectively treat the colon. Effective treatment of Patient L.H.'s condition with vancomycin would have required intravenous administration.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3).

2. The Wisconsin Medical Examining Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Licensee shall, within 6 months of the date of this Final Decision And Order, take and complete 6 hours of Category 1 continuing education concerning wound care and infections, including methicillin resistant staphylococcus aureus and treatment thereof. Each course attended in satisfaction of this Order must be preapproved by the Medical Examining Board or its designee. Licensee shall be responsible for locating courses satisfactory to the Board and for obtaining the required approval of the courses from the Board or its designee. Licensee shall, within 60 days of completion of this educational requirement, file an affidavit with the Board stating under oath that he has attended in its entirety each of the

courses approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organizations. This affidavit and the supporting documentation of attendance shall be filed with:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708-8935

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

2. Licensee shall be responsible for paying the full cost of attendance at these courses. Licensee shall not apply any of the continuing education credits earned in satisfaction of this Order toward satisfaction of his Wis. Stat. § 448.13 biennial training requirements.

IT IS FURTHER ORDERED:

3. Licensee shall, within 60 days from the date of this Order, pay costs of this proceeding in the amount of \$734.18. Payment shall 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

4. In the event Licensee fails to timely pay costs as ordered or fails to comply with the ordered continuing education, Licensee's license (#40447) SHALL BE SUSPENDED, without further notice or hearing, until Licensee has complied with the terms of this Order. The Board or its designee shall remove the suspension, if provided with sufficient information that Licensee is in compliance with the Order and that it is inappropriate for the suspension to remain in effect. The Board in its discretion may impose additional conditions and limitations for a violation of any of the terms of this Order.

5. Licensee is responsible for compliance with all of the terms and conditions of this Final Decision and Order.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Gene Musser MD
A Member of the Board

11/15/06
Date