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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
 :
DWIGHT H. BROWN, M.D., : LS-0703144-MED
RESPONDENT. :

Division of Enforcement Case #04 MED 30

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

Dwight H. Brown, MD
1223 Waterville Ct.
Oconomowoc, WI 53066

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

PROCEDURAL HISTORY

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Board on 3/14/07. Prior to the hearing on the Complaint, the parties in this matter agreed 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. Respondent Dwight H. Brown (dob 8/30/37) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license #14946, first granted on 5/12/64. Respondent is an ophthalmologist, and is certified by the American Board of Ophthalmology.

2. On 10/11/01, Respondent performed an extracapsular cataract extraction with phacoemulsification and intraocular lens placement on the right eye of patient S.T., a man born in 1932.

3. The patient returned to care on 10/12/01, where Respondent removed the eye patch. The patient reported being unable to see anything out of the eye, at that time. Respondent informed the patient that the lens material left in the eye would be absorbed gradually, and that his vision would return. Respondent's chart note states, in its entirety: "AC deep and clear. OD-LP Lens material anterior to implant. Recheck 10/16/01." No intraocular pressure reading was recorded; Respondent represents to the Board that this is because there was no change.

4. On 10/16/01, the patient returned to care. Respondent's chart note reads, in its entirety: "OD-LP. Lens material anterior to implant. Taking only 1 diamox daily. Tension 17 OD. (1.) Flurbiprofen .03 5cc sig 1 drop OD BID. (2.) Diamox Sequels #14 sig. OU qAM. (3.) Tobradex OD qiD. Recheck 1 week." Diamox is an oral medication for excessive intraocular pressure, not normally given unless there is a concern about such pressure, but pressure is recorded as within normal limits;

additionally, Respondent's note incorrectly indicates that these pills are to be applied to each eye. Respondent represents to the Board that the patient was properly instructed in the use of the medication.

5. On 10/23/01, the patient returned to care. Respondent's chart note reads, in its entirety: "Gave 2.5 cc 2% Mydrfrir to use HS. OD-LP. AC deep and clear; lens material anterior to lens implant. Tension 12. Recheck 1 week." The patient still reported having no vision in that eye, at that time. This is a normal intraocular pressure (tension) reading, and there is no charted need for medication, including the previously prescribed medications but there is no charted instruction to the patient about them. Given that there was still lens material retained, more potent steroids should have been prescribed, but were not.

6. On 10/30/01, the patient returned to care. Respondent's chart note reads, in its entirety: "OD-LP. Tension 12. Gave Betoptic S to use BID. Second opinion 10/25/01. Saw Dr. McCormick of Wau[kesha]. Recheck 11/13/01." There is no charted justification for Betoptic, which reduces intraocular pressure, given the charted "tension." At this time, the patient still has only light/dark vision, and a reasonable ophthalmologist would have referred the patient for surgery to remove the retained material, or taken the patient back into surgery to remove the retained material.

7. On 11/13/01, the patient returned to care. Respondent's chart note reads, in its entirety: "OD-LP, tension 12 OD. SL lens material absorbing. Rx Flurbiprofen .03 5cc, OD BID; Tobradex OD QID. Recheck 3 weeks." At this point, a reasonable ophthalmologist would have referred the patient for surgery to remove the retained material, or taken the patient back into surgery to remove the retained material.

8. In May, 2006, for reasons unrelated to this matter, Respondent retired fully from the practice of medicine and surgery.

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

B. The conduct described in ¶2-7, above, constituted negligence in treatment within the meaning of the Code and statutes.

ORDER

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

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of Dwight H. Brown, M.D., is LIMITED as provided in Wis. Stat. § 448.02(3)(e), and as follows: Respondent shall not perform any surgical procedure.

IT IS FURTHER ORDERED, that respondent shall pay the COSTS of investigating and prosecuting this matter of \$1,900, within 30 days of this Order.

IT IS FURTHER ORDERED, that pursuant to Wis. Stats. §§ 227.51(3) and 448.02(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 Respondent'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 Respondent fails to timely submit full payment of the costs as ordered the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has paid them in full, together with any accrued interest.

Dated this March 19, 2008.

WISCONSIN MEDICAL EXAMINING BOARD

by: Gene Musser MD
a member of the Board