

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., :
RESPONDENT. :

FINAL DECISION AND ORDER
LS0808207MED

Division of Enforcement Case # 07MED300

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

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., date of birth 4/3/52, is duly licensed as a physician and surgeon 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 working as a physician and surgeon at the Boscobel Clinic and the Boscobel Area Health Care facility in Boscobel, Wisconsin. Dr. Dehner specializes in family practice but he is not board certified in family practice. Dr. Dehner did not have privileges at the Boscobel Area Health Care facility to perform c-section deliveries.

4. Dr. Dehner provided the prenatal care for the patient and continued to provide care through the labor and delivery which occurred on 6/7/04.

5. The patient had been on bedrest during the latter portion of her pregnancy due to her elevated blood pressure and swelling in her ankles. At the time of the patient's last office visit with Dr. Dehner on 6/7/04, Dr. Dehner was concerned about the patient's blood pressure and had her admitted to the hospital to monitor her blood pressure and for fetal monitoring and a nonstress test. The patient was admitted to the hospital at 15:15 on 6/7/04. The fetus at the time of admission was of an estimated gestational age of 36 weeks.

6. The patient appeared to be in early labor when she was admitted to the hospital and Dr. Dehner made the decision to have the patient remain in the hospital. An external fetal monitor was attached and was functioning by approximately 15:18 on 6/7/04. At 17:45, the nurse noted in the nursing notes that the patient had developed vaginal bleeding and that the fetal heart tones which had previously been in the 130s and 140s showed decelerations dropping into the 98 to 100 range and possibly fell as low as 50. The patient had not had a history of bleeding during her pregnancy but first noted the bleeding when she felt a "gush" of blood while she was seated in a rocking chair in the hospital. The nurse placed the patient on her left side, administered oxygen and at approximately 17:45 contacted Dr. Dehner using the 911 pager system to advise him of the situation and to request that he come to the hospital to evaluate the patient.

7. The first 30 minutes of the fetal monitor strip demonstrated that this was a nonreactive nonstress test with evidence of prolonged decelerations with no evidence of accelerations with fetal heart tones dropping into the 80s for a period of time. The fetal monitor strip thereafter was nonreassuring with evidence of fetal distress.

8. Dr. Dehner arrived at the hospital to evaluate the patient at 18:30 and performed a vaginal examination. The vaginal examination disclosed continued bleeding and that the patient's cervix was high and closed with no significant dilation.

9. Dr. Dehner's potential differential diagnoses following the vaginal examination included bloody show, abruptio placenta and placenta previa. Dr. Dehner did not order an ultrasound to further evaluate the potential of an abruptio placenta because no technician was on duty to operate the ultrasound equipment. Dr. Dehner ruled out abruptio placenta because in his opinion at the time the mother and the baby appeared to be stable.

10. Dr. Dehner's vaginal examination disclosed that the patient's cervix was high and closed with no dilation essentially ruling out a bloody show as a cause for the patient's bleeding. A previous ultrasound obtained earlier in the pregnancy demonstrated that the placenta was attached posteriorly along the back of the uterus ruling out placenta previa as a cause of the bleeding.

11. At 18:30, Dr. Dehner should have recognized that abruptio placenta was the most probable diagnosis and that this condition may require emergency intervention for the delivery of the fetus. Dr. Dehner should have contacted the surgeon who had privileges to perform c-section deliveries at the hospital to request that he come to the hospital immediately to provide emergency c-section intervention if necessary. Dr. Dehner knew that the surgeon was approximately 40 minutes away from the hospital at that time.

12. Dr. Dehner placed a call to the surgeon at 18:35 to advise him that he had a patient in the hospital who had experienced some bleeding, that the baby had had some abnormal fetal monitor readings which had corrected and that he was planning on initiating Pitocin induction. Dr. Dehner advised the surgeon that he may need a c-section delivery in the future but he did not request that the surgeon come to the hospital immediately to prepare for a potential emergency intervention c-section delivery. Dr. Dehner did not contact the surgeon again to request his attendance for an emergency c-section delivery until 20:40 after he noted an undulating sine wave pattern on the fetal monitor at approximately 19:10 which he interpreted as an indication of fetal distress and after he ruptured the patient's membranes at 20:20 and noted discharge of blood tinged amniotic fluid.

13. Dr. Dehner gave oral Cytotec to the patient at approximately 19:00 to assist with ripening of the patient's cervix and make the patient's cervix more amenable to dilation. Cytotec may also stimulate contractions. At approximately the time that Dr. Dehner gave the Cytotec, he noted the development of the sinusoidal wave on the fetal monitor strip which he interpreted as an indication of fetal distress. Dr. Dehner then initiated Pitocin to induce contractions at approximately 19:30. Dr. Dehner continued to administer the Pitocin to the patient after he placed the telephone call to the surgeon at 20:40 to request his attendance to perform an emergency c-section delivery.

14. Dr. Dehner ordered that Fentanyl be administered IV over a contraction at 20:00. Fentanyl is a narcotic which when administered to the mother may have a depressant effect on the fetus which could further exacerbate fetal distress.

15. The surgeon arrived at the hospital at approximately 21:30 as the patient was being transported to the surgery suite for the emergency c-section delivery. The surgeon commenced the emergency c-section delivery at 21:45. The surgeon noted approximately 2000 ccs of free blood in the uterus and that the placenta was essentially free with only a small portion remaining attached to the uterus at the time of delivery. The baby was stillborn with Apgars of 0 and 0 and was pronounced expired at 22:52 after vigorous attempts at resuscitation.

16. Dr. Dehner's conduct fell below the minimum standards of competence in the profession in the following respects:

- a. Dr. Dehner failed to recognize at approximately 18:30 on 6/7/04 that abruptio placenta was the most probable diagnosis to explain the symptoms of the mother and the fetus.
- b. Dr. Dehner failed at approximately 18:30 on 6/7/04 to request immediate surgical backup to perform emergency c-section intervention if necessitated by the progression of the symptoms of the mother and the fetus.
- c. Dr. Dehner initiated Pitocin too close in time to when the Cytotec was administered.
- d. Dr. Dehner administered Cytotec and Pitocin in the presence of a nonreassuring fetal monitor pattern with abruptio placenta being the most probable diagnosis and in the absence of immediately available surgical backup to perform emergency c-section intervention.
- e. Dr. Dehner ordered that Fentanyl be administered IV at 20:00 while the fetus was demonstrating a nonreassuring fetal heart monitor pattern and fetal distress.

17. Dr. Dehner's conduct as described in paragraph 16 created the following unacceptable risks for the mother and the fetus:

- a. An abruptio placenta may progress rapidly to a severe abruption and, in the absence of immediate surgical intervention, have potentially catastrophic consequences to both the mother and the fetus.
- b. The presence of fetal distress may progress rapidly and, in the absence of immediate surgical intervention, may have potentially catastrophic consequences for the fetus.
- c. Administering Pitocin too close in time to when the Cytotec was administered may result in excessive uterine

contractions.

d. The administration of Cytotec and Pitocin to the mother in the presence of abruptio placenta and when the fetus is experiencing fetal distress may produce contractions which will further reduce blood flow in the placenta thereby exacerbating the fetal distress.

e. The administration of Fentanyl to the mother in the presence of a nonreassuring fetal heart monitor pattern and in the presence of fetal distress may exacerbate the fetal distress.

18. A minimally competent physician managing this obstetrical case would have:

a. Recognized by approximately 18:30 on 6/7/04 that abruptio placenta was the most probable diagnosis to explain the symptoms of the mother and the fetus.

b. At approximately 18:30 on 6/7/04, requested immediate surgical backup to perform an emergency c-section delivery if the symptoms of the mother or the fetus progressed to the point where immediate surgical intervention was necessary.

c. If the Cytotec and the Pitocin were indicated to assist the labor and delivery, allowed a minimum of 2 hours between the administration of the Cytotec and the initiation of the Pitocin.

d. Not administered either the Cytotec or the Pitocin given the presence of a nonreassuring fetal monitor pattern with abruptio placenta being the most probable diagnosis and in the absence of immediately available surgical backup to perform emergency c-section intervention.

e. Not administered Fentanyl in the presence of the nonreassuring fetal monitor pattern and the fetal distress.

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 3 through 18 above constitutes a violation of Wis. Stat. § 448.02(3) and Wisconsin 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, welfare and safety of the patients.

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. 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 1 year of the date of this Final Decision and Order take and satisfactorily complete a minimum of 30 credit hours of continuing education in obstetrics with emphasis on the recognition and management of obstetrical emergencies. The continuing education courses 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 each course taken in whole or in part in satisfaction of this requirement in its entirety.
 - b. Michael A. Dehner, M.D. will within 45 days of completion of the required continuing education courses provide evidence satisfactory to the Wisconsin Medical Examining Board that he has attended each of the approved courses 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 each of the approved courses in its entirety.
 - c. Michael A. Dehner, M.D. will pay all costs of attending the approved courses and of verifying attendance at the courses.
 - d. Michael A. Dehner, M.D. will 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. Michael A. Dehner, M.D. will participate in a mentoring program in obstetrics provided by a board certified obstetrician approved by the Wisconsin Medical Examining Board. Michael A. Dehner, M.D. will be mentored by the designated obstetrician for 40 hours and will complete the mentoring program within 8 weeks of the effective date of this Final Decision and Order. The mentoring program will consist of 40 hours of observing the mentoring obstetrician in his/her practice of obstetrics. While observing the mentoring obstetrician in his/her practice of obstetrics, Dr. Dehner will converse with the mentoring obstetrician to gain a better understanding of the mentoring physician's rationale for his/her actions and his/her methods of analysis of the obstetrical issues which may arise.
 - f. Michael A. Dehner, M.D. will pay the full costs of the mentoring program including any professional fees assessed by the mentoring obstetrician for his/her professional services in serving as the mentor. The mentoring obstetrician will submit his/her statement for professional fees directly to Dr. Dehner. All fees assessed by the mentoring obstetrician will be paid to the mentoring obstetrician within 30 days of the date of each statement for professional fees prepared by the mentoring obstetrician.
 - g. Upon completion of the 40 hours of the mentoring program, the mentoring obstetrician will certify in writing to the Wisconsin Medical Examining Board satisfactory completion of the mentoring program.
 - h. Michael A. Dehner, M.D. will permit his practice of obstetrics to be monitored by an obstetrician reasonably approved by the Wisconsin Medical Examining Board. The monitor program will be accomplished by record reviews of clinic and hospital obstetrical records of selected obstetrical patients under Michael A. Dehner's care. The record reviews will be conducted quarterly for a total of a minimum of 4 quarterly record reviews over a period of 1 year commencing with the date on which the mentoring obstetrician has certified completion of the mentoring program as required by paragraph 1.g. of this Order and the Wisconsin Medical Examining Board has received certification of completion of the continuing education program as required by paragraph 1.b. of this Order. The first quarterly review of records by the monitoring obstetrician will occur approximately 3 months after the requirements of

paragraphs 1.g. and 1.b. have been satisfied. Michael A. Dehner will maintain a complete list of all obstetrical patients under his care at any time during the 100 days prior to the date of each records review conducted by the monitoring obstetrician. The list will include a summary of pertinent obstetrical information for each obstetrical case including but not limited to the current stage of the pregnancy, risk factors and complications present during the pregnancy, complications or adverse factors arising during the course of the labor and delivery, the route of delivery and the outcome of the pregnancy for both the mother and the baby. Michael A. Dehner, M.D. will supply this list to the monitoring obstetrician at least 10 days prior to the date on which the monitoring obstetrician indicates that he will commence his review of the patient records. The monitoring obstetrician will select from this list a minimum of 4 obstetrical cases to review and Michael A. Dehner, M.D. will make available to the monitoring obstetrician the complete obstetrical medical record for each obstetrical patient selected for review. The obstetrical cases selected for review will include cases where labor and delivery have occurred and, when available, cases involving complications of pregnancy or of labor and delivery. Michael A. Dehner, M.D. will discuss the obstetrical cases selected for review with the monitoring obstetrician as the monitoring obstetrician will determine. The monitoring obstetrician will file reports with the Wisconsin Medical Examining Board following each records review summarizing the results of his review and critiquing the care and treatment decisions made by Michael A. Dehner, M.D.

i. If for any reason a minimum total number of 16 obstetrical cases have not been reviewed by the monitoring obstetrician over the 1 year period of the monitoring program, the monitoring program will continue until the required minimum total number of 16 obstetrical cases has been reviewed. If in any quarter insufficient obstetrical cases are available to permit selection of 4 cases for review, the deficiency in the number cases reviewed for the quarter may be compensated for by the selection of additional cases for review in subsequent quarters.

j. Michael A. Dehner, M.D. will pay the full costs of the monitoring program including any professional fees assessed by the monitoring obstetrician for his/her professional services in serving as the monitor. The monitoring obstetrician will submit his/her statement for professional fees directly to Dr. Dehner. All fees assessed by the monitoring obstetrician will be paid to the monitoring obstetrician within 30 days of the date of each statement for professional fees prepared by the monitoring obstetrician.

k. Michael A. Dehner, M.D. will be permitted to continue to perform all aspects of his obstetrical practice while he is satisfying the continuing education program as specified in paragraph 1.a. through 1.b. above and while he is satisfying the terms of his mentoring program as set forth in paragraphs 1.e. through 1.g. above provided that another physician with obstetrical privileges at the clinic and at the hospital at which Michael A. Dehner, M.D. provides obstetrical services is present and assists Michael A. Dehner, M.D. with all labors and deliveries of Michael A. Dehner's patients. Michael A. Dehner, M.D. will keep on file with the Wisconsin Medical Examining Board a current list of all physicians who will be serving in this capacity during the pendency of this limited license. After Michael A. Dehner, M.D. has completed the continuing education program and the mentoring program and the Wisconsin Medical Examining Board has received the certifications of completion of these programs as specified in paragraphs 1.b. and 1.g., Michael A. Dehner, M.D. will be permitted to perform all aspects of his obstetrical practice without the requirement that another physician with obstetrical privileges be present for and assist with the labors and deliveries.

l. Michael A. Dehner, M.D. will not provide obstetrical coverage for any other physician's obstetrical patients during the pendency of this limited license.

2. All requests for approval of courses, certifications of attendance, affidavits and other documents required to be filed with the Wisconsin Medical Examining Board under the terms of this limited license 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 no. (608) 266-2264

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

IT IS FURTHER ORDERED that:

4. Michael A. Dehner, M.D. will, within 120 days from the date of this Order, pay costs of this proceeding in the amount of \$12,548.31. 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 no.(608) 267-3817
Fax no. (608) 266-2264

5. 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 Wisconsin Medical Examining 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 timely pay costs as ordered or fails to comply with the ordered continuing education, mentoring program or monitoring program or fails to comply with the requirements of paragraph 1.k., 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.

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

Wisconsin Medical Examining Board

By: Gene Musser MD
A Member of the Board

8/20/08
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

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

Division of Enforcement Case # 07MED300

It is hereby stipulated between Michael A. Dehner, M.D., and by his attorney, James R. Gutglass; 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 investigation of Respondent's licensure by the Division of Enforcement, case # 07MED300. Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

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 this 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. The Respondent understands that the attorney or other agent for the Division of Enforcement or the case advisor, in responding to questions asked by the Board, may be required to provide information to the Board which may be construed by the Board as not weighing in favor of accepting this proposed Stipulation and Final Decision and Order. The Respondent shall not contend that any responses made by the attorney or other agent for the Division of Enforcement or by the case advisor in response to questions posed by the Board constitute a failure by the attorney or other agent for the Division of Enforcement or by the case advisor to speak in support of this agreement. Additionally, any such case 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

James R. Gutglass
Attorney for Michael A. Dehner, M.D.
Gutglass, Erickson, Bonville, & Larson, S.C.
735 North Water Street, Suite 1400
Milwaukee, WI 53202

Date

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

Date