

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 :
 : FINAL DECISION AND ORDER
DOROTHY A. NOVAK, M.D., : LS0806183MED
RESPONDENT. :

[Division of Enforcement Case No. 07 MED 259]

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

Dorothy A. Novak, M.D.
Marshfield Clinic-Park Falls Center
50 Sherry Avenue
P.O. Box 190
Park Falls, WI 54552

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 Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Dorothy A. Novak, M.D., Respondent, date of birth August 30, 1950, is licensed and currently registered by the Medical Examining Board to practice medicine and surgery in the state of Wisconsin, pursuant to license number 21797, which was first granted July 14, 1978.

2. Respondent's last address reported to the Department of Regulation and Licensing is Marshfield Clinic-Park Falls Center, 50 Sherry Avenue, P.O. Box 190, Park Falls, WI 54552.

3. Respondent specializes in the area of emergency medicine and on December 8, 1999, was on duty in the emergency room at Hayward Area Memorial Hospital in Hayward, Wisconsin when Mr. A (DOB 7/16/81) presented.

a. The history taken by the RN was that the patient had abdominal pain for 2 hours in the left lower quadrant of the abdomen with radiation to the groin and no flank pain; that it was a constant sharp stabbing pain and that it hurt to urinate.

b. The patient was then seen by Respondent, whose history note includes:
"c/o [left] abd. pain."

“Was at home today, got up to get glass of water - had pain in [left] groin.”

“Pain 9/10, mainly in left groin [followed by an arrow pointing to] testicle. Some discomfort in left flank.”

4. Respondent performed a brief examination and ordered IV fluids and analgesics. Then she examined his abdomen and noted that it was soft, flat, with active bowel sounds, tender to deep palpation in the left inguinal area and with no masses, rebound, guarding, hernias or adenopathy. Respondent suspected a renal stone and ordered blood tests for BUN/Creatinine and urinalysis, the results of which were within normal ranges, and an IVP (Intravenous pyelogram, a series of x-rays of the kidneys, ureters, and bladder), which was normal.

5. When Mr. A returned from radiology, he appeared to be feeling better and Respondent decided that a stone had probably passed. Respondent discharged Mr. A at 4:10 p.m., and advised him that the diagnosis of abdominal pain-probable ureteral calculus was not definite and that he should return if he experienced further pain or was not back to normal by the following day.

6. Based on Mr. A’s symptoms, Respondent should have suspected that Mr. A’s pain was caused by testicular torsion and should have performed an examination of Respondent’s scrotum and testicles. A delay in diagnosis and management of testicular torsion can result in loss of the testicle. Had Respondent performed the examination, she would likely have made the correct diagnosis of testicular torsion and could have treated the condition immediately or referred Mr. A to an urologist for treatment.

7. At 5:24 a.m. on December 10, 1999, Mr. A returned to the emergency room complaining of a painful, tender, swollen left testicle. The physician on duty suspected testicular torsion and transferred Mr. A to another hospital where an urologist could perform an ultrasound scan of the testicle. At the second hospital, it was determined that Mr. A did have testicular torsion. However, permanent damage had occurred and Mr. A’s left testicle had to be surgically removed.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3) and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by failing to diagnose Mr. A with testicular torsion, has engaged in conduct which tends to constitute a danger to the health, welfare, or safety of a patient, which is unprofessional conduct as defined by Wis. Admin. Code § MEI 10.02(2)(h) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Dorothy A. Novak, M.D., is hereby REPRIMANDED for the above conduct.
2. Respondent shall, within 60 days of the date of this Order, pay \$400.00 to the Department of Regulation and Licensing, which represents the costs of this proceeding.
3. Payment shall be sent to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Fax (608) 266-2264
Telephone (608) 267-3817
Madison, WI 53708-8935

4. In the event that Respondent fails to pay costs as ordered, Respondent’s license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Medical Examining Board

By: Gene Musser MD
A Member of the Board

6/18/2008
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
DOROTHY A. NOVAK, M.D.,	:	LS _____ MED
RESPONDENT.	:	

[Division of Enforcement Case No. 07 MED 259]

It is hereby stipulated and agreed, by and between Dorothy A. Novak, M.D., Respondent; and John R. Zwieg, attorney for the Complainant, 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. 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, she voluntarily and knowingly waives her rights, including the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her 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 been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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 the 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 Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or her attorney, if any, 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 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.

Dorothy A. Novak, M.D.
Respondent
Marshfield Clinic-Park Falls Center
50 Sherry Avenue
P.O Box 190
Park Falls, WI 54552

Date

John R. Zwieg
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708

Date