

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
JAMES JOSEPH LOGAN, M.D.,	:	<u>LS 0906051 MED</u>
RESPONDENT.	:	

[Division of Enforcement Case No. 08 MED 120]

James Joseph Logan, M.D.
1040 Division Street
Mauston, WI 53948

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

This disciplinary proceeding was commenced by the filing and service of a Complaint and Notice of Hearing on June 5, 2009. 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. James Joseph Logan, M.D., Respondent, date of birth December 2, 1952, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 24202, which was first granted October 23, 1981.

2. Respondent's last address reported to the Department of Regulation and Licensing is 1040 Division Street, Mauston, WI 53948.

3. Respondent's practice specialty listed with the Department is family practice. He completed a residency in family practice in 1981 and is board-certified in family practice.

4. On April 28, 2005, Mr. A, who was then 80 years old, was brought to the Emergency Department at Hess Memorial Hospital in Mauston, by relatives. Mr. A had complaints of weakness, intermittent right sided abdominal pain, fatigue and shortness of breath which had worsened over time. He was seen by June Lewandoski, M.D.

5. Based on Mr. A's medical history, the results of Dr. Lewandoski's examination and the results of diagnostic tests and procedures, Dr. Lewandoski assessed Mr. A with: 1) thrombocytosis, cachexia, fatigue and poor appetite and 2) chronic obstructive pulmonary disease (COPD).

6. Dr. Lewandoski advised Mr. A and his relatives that the symptoms could represent a myelodysplastic syndrome and that obtaining a sample of bone marrow would be required for a definitive diagnosis. A sample of marrow

can be obtained by aspirating the cellular component from the marrow or by removing a core biopsy of tissue fragments. Mr. A's relatives asked that the procedure be done that day because they believed that he would not return for the procedure if it was scheduled at a later date. For that reason, the decision was made to perform a bone marrow sampling while Mr. A was still at the hospital.

7. Dr. Lewandoski had performed about 5 bone marrow samplings during her residency; one or two were taken from the sternum. She had privileges at Hess Memorial Hospital to perform bone marrow samplings. Because of her inexperience, Dr. Lewandoski consulted with Respondent and asked him for supervisory assistance in performing the procedure. Respondent had hospital privileges to perform bone marrow samplings and had done 70 or more, many of which were done at the sternum.

8. For reasons of safety and ease, the posterior iliac crest of the hip is the optimal site to perform either a bone marrow aspiration or biopsy. The anterior iliac crest is an alternate site for aspiration or biopsy. Because of the risk of serious complications, the sternum should be considered for aspiration only if other sites are inaccessible or unsuitable and should never be used for biopsy. In older patients, the sternum contains more fat than marrow. Despite this, the sternum was Respondent's preferred location to perform bone marrow aspirations at the time the procedure was performed on Mr. A. It is Respondent's position that it was appropriate to perform the procedure at the sternum.

9. Dr. Lewandoski and Respondent agreed to perform the bone marrow sampling at the sternum instead of at an iliac crest. They believed that because of Mr. A's COPD, he would be uncomfortable in the position necessary to perform the aspiration at the iliac crests of the hip. Despite this reason, the procedure should have been done at an iliac crest of the hip. It is Respondent's position that it was appropriate to perform the procedure at the sternum.

10. Dr. Lewandoski and Respondent chose to use a Jamshidi type device with an 11 gauge needle 4 inches in length to perform the procedure. The Jamshidi is designed for taking marrow samples, including aspiration and biopsies, from the iliac crest. Aspiration needles designed for use at the sternum are smaller in diameter, shorter (1-1 5/8 inches) and have depth penetration stops, which the Jamshidi lacks. A depth penetration stop can be adjusted to allow for a maximum depth of needle penetration of 0.5 cm and prevents needle slippage that can result in injury to the underlying mediastinal organs. The Jamshidi type device should not have been used for this bone marrow sampling performed at the sternum.

11. Mr. A was moved to a procedure room in the day hospital area and placed under intravenous conscious sedation. Dr. Lewandoski performed the bone marrow sampling procedure with Respondent assisting. While inserting the Jamshidi's needle into Mr. A's chest, Dr. Lewandoski perforated the sternum and pericardium and punctured the anterior aspect of the proximal descending aorta causing a cardiac tamponade which resulted in Mr. A's death. Dr. Lewandoski's operative note which was dictated following the procedure indicates:

The plateau of the manubrium of the sternum was located by palpation and skin was prepped with sterile Betadine solution x3. Skin and the subcutaneous tissues down to the periosteum were anesthetized with 1% Lidocaine solution. A Jamshidi bone marrow biopsy needle was employed. As the apparatus punctured the skin, the patient winced, so at 1412, additional medication of Versed 1 mg IV was given followed at 1413 by another 50 mcg of Fentanyl IV. At 1415, patient's vital signs were: Blood pressure 144/63, pulse 50, O2 saturation 98 on 4 liters of O2 by nasal cannula. At that point he had no further pain response. With the obturator locked into place, the biopsy needle was cautiously advanced through the soft tissue to the periosteum. Then the cortex of the bone was pierced, using a clockwise/counterclockwise rotation while applying downward pressure. The needle was then advanced another centimeter to the located well within the expected area of marrow. The obturator was removed. A syringe was attached to the end of the biopsy needle with attempt to aspirate marrow. No material could be aspirated, so the obturator was replaced and the needle advanced about 5 mm further. A palpable "give" was felt, presumed to be entry into the marrow cavity. Vital signs remained stable and cardiac monitor showed sinus rhythm. Aspiration of marrow was still unsuccessful so the Jamshidi device was removed and examined for any occluding material. The obturator was then replaced and the device re-inserted into the same cavity. This time when the obturator was removed, there was one spurt of dark-colored blood. The Jamshidi device was immediately removed and pressure applied to the site. There was no further bleeding and no indication of any cardiac irritation seen on the monitor. Following this, there was a decrease in blood pressure and heart rate. At 1420, the blood pressure was 74/38, pulse 44, respirations 18. Oxygen had been turned up to 10 liters with pulse oximetry showing 100% saturation. Due to the hypotension and bradycardia, a code blue was called at 1425 to bring additional personnel to the room

to assist.

12. Respondent's conduct in providing care to Mr. A fell below the standard of care for a physician and exposed Mr. A to unreasonable risks of harm in that:

- a. The bone marrow sampling should not have been performed at the sternum.
- b. The Jamshidi type device should not have been used for the procedure.
- c. The procedure he supervised was performed incorrectly.

13. The Board and the Department received two previous complaints regarding Respondent's practice, which were investigated and closed with determinations that Respondent had done nothing wrong.

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 engaging in the conduct as set out above, 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 § MED 10.02(2)(h) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

3. Respondent, by engaging in the conduct described above, has committed negligence in treating a patient and is subject to discipline pursuant to Wis. Stat. § 448.02(3)(c).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of James Joseph Logan, M.D., to practice medicine and surgery in the state of Wisconsin is limited as follows:

1. Respondent shall not perform or supervise bone marrow aspirations or biopsies.
2. This limitation on Respondent's license shall be removed upon Respondent providing proof sufficient to the Board that Respondent has obtained the training and experience necessary to perform and supervise bone marrow aspirations and biopsies with reasonable skill and safety to patients.
3. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$940.00 pursuant to Wis. Stat. § 440.22(2).
4. Payment shall be mailed or delivered to:

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

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

Wisconsin Medical Examining Board

By: Gene Musser MD
A Member of the Board

7/15/09
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
JAMES JOSEPH LOGAN, M.D.,	:	<u>LS 0906051 MED</u>
RESPONDENT.	:	

[Division of Enforcement Case No. 08 MED 120]

It is hereby stipulated and agreed, by and between James Joseph Logan, M.D., Respondent; Lori Gendelman of Otjen, Van Ert & Weir, S.C., attorneys for 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 disciplinary proceeding against Respondent's licensure by the Division of Enforcement (DOE file 08 MED 120). Respondent consents to the resolution of this matter by stipulation and without a hearing.
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 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 administrative law judge 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 Board ever assigned as a case 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 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.

James Joseph Logan, M.D.
Respondent
1040 Division Street
Mauston, WI 53948

Date

Lori Gendelman
Otjen, Van Ert & Weir, S.C.
Attorneys for Respondent
700 N. Water Street, Suite 800
Milwaukee, WI 53202

Date

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

Date