

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
:
:
AVERY D. ALEXANDER, M.D., :
RESPONDENT. : ORDER 0001042

Division of Enforcement Case No. 09 MED 383

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

Avery D. Alexander, M.D.
250 N. Metro Drive
Appleton, WI 54913-8571

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 in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Avery D. Alexander, M.D., Respondent, date of birth February 6, 1959, 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 30180-20, which was first granted May 24, 1989.

2. Respondent's last address reported to the Department of Regulation and Licensing is 250 N. Metro Drive, Appleton, WI 54913-8571.

3. At the time of the events set forth below, Respondent's practice specialty was Ophthalmology.

4. At the time of the events set forth below, Respondent practiced at the Alexander Eye Institute in Appleton, Wisconsin.

5. On August 17, 2005, Patient JC presented to the Respondent for an eye consultation. Patient JC wished to eliminate glasses and contacts. The plaintiff had been diagnosed with glaucoma in 1991. His intraocular pressures had been stable on Cosopt Zalatan drops. There was a history of some damage to the optic nerve and retinas in both eyes which resulted in some decreased visual fields in both eyes.

6. After a second consultation on September 12, 2005, Patient JC elected to undergo bilateral refractive lensectomies with limbal relaxing incisions on separate dates after the Respondent discussed the risks and benefits of the procedure with the patient, including the possibility that the procedure and post-operative steroid medication could result in inflammation and increased intraoperative pressures. Respondent recorded numeric values for Patient JC's intraocular pressures which were normal that day.

7. On September 22, 2005, Patient JC underwent surgery on the left eye. Patient JC was discharged to be seen in follow up the next day. Upon examination the next day, Respondent decided not to take a specific intraocular pressure reading in order to avoid further irritation of the eye. Patient JC was having some difficulty from having only one eye corrected. Surgery for the right eye was scheduled to proceed on September 29, 2005.

8. The right eye surgery was delayed until October 6, 2005 because of a tragic death of one of Dr. Alexander's staff's family members. Patient JC was discharged to be seen in follow up the next day. Upon examination the next day, Respondent again decided not to take a specific intraocular pressure reading in order to avoid further irritation of the eye. Patient JC was doing well, did not need to use his reading glasses, but had some expected "halos".

9. Following both surgeries, Respondent prescribed steroid medication. Patient JC was seen in follow-up on October 7, 2005. He was again seen on November 9, 2005, at which time it was noted his vision was 20/30 in the right eye and 20/20 in the left eye. Prior to surgery, the patient's vision had been about 20/40 without glasses. He still had some complaints of halosing and glare, which was an expected residual from the procedures, but his close-up vision was good. His medications were to be tapered slowly. As a courtesy to minimize Patient JC's travel requirements from Illinois, Respondent scheduled less frequent postoperative visits. Patient JC did have access to an ophthalmologist in Illinois.

10. Respondent performed a tactile examination of Patient JC's intraocular pressure as part of the eye exams on October 7, 2005 and November 9, 2005, but did not take a specific intraocular pressure reading.

11. Patient JC contacted Alexander Eye Institute on November 21, 2005 with additional symptoms. While he was offered an earlier appointment, Patient JC did not return until November 30, 2005, at which time he had additional symptoms. Respondent recorded numeric values for the intraocular pressures in each eye. Medication changes were made. When the patient returned the following day, intraocular pressures had decreased. He was maintained on a low dose steroid to address inflammation until his return visit. Despite the reduction in the steroid dosage, the patient's intraocular pressures once again rose in each eye and were 52 in each eye on December 12, 2005. At that time, Respondent referred the patient to a glaucoma specialist.

12. After taking specific numeric readings of intraocular pressure on September 12, 2005, Respondent took only tactile pressures until the patient reported symptoms on November 30, 2005. Respondent admits that specific numeric readings should have been taken during visits on October 7, 2005 and November 9, 2005 in order to comply with the standard of care.

13. Respondent's conduct as herein described tended to constitute a danger to the health, welfare and safety of Patient JC.

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's conduct as set forth in paragraph 12 of the Findings of Fact is a violation of Wis. Stat. § 448.02(3) and Wis. Admin. Code § MED 10.02(2)(h).

ORDER

IT IS ORDERED that the Stipulation of the parties is hereby accepted.

IT IS FURTHER ORDERED that Avery D. Alexander, M.D. is hereby REPRIMANDED by the Medical Examining Board, as set forth in paragraph 12 of the Findings of Fact, and paragraph 2 of the Conclusions of Law.

IT IS FURTHER ORDERED that the license of Avery D. Alexander, M.D. to practice medicine and surgery in the State of Wisconsin shall be LIMITED with the following restrictions:

1. Avery D. Alexander will complete four (4) hours of education in the appropriate post-surgical care of patients with glaucoma. The course(s) shall be completed by December 31, 2012.

- a. Respondent shall be responsible for obtaining the course(s) required under this Order, for providing adequate course descriptions to the Department Monitor listed below, and for obtaining pre-approval of the course(s) from the Wisconsin Medical Examining Board or its designee prior to commencement of the program(s).
- b. The Board may reject, in whole or in part, any educational opportunity which is nominated by Respondent when, in the Board's judgment, the syllabus or description of the course or other educational opportunity is insufficient to fulfill the purpose for which Respondent nominated it. This may be by reason of the educational opportunity's scope, content, method of instruction, or degree of participation required of students. The Board shall not unreasonably deny an educational opportunity suggested by Respondent.
- c. The course(s) attended for compliance with this requirement may not be used in satisfaction of the statutory continuing education requirements for licensure.
- d. All costs of the educational programs shall be the responsibility of Respondent.

IT IS FURTHER ORDERED that:

2. Respondent shall within 90 days of this Order pay costs of this proceeding in the amount of ONE THOUSAND TWENTY-FIVE (\$1,025.00) DOLLARS. Payment shall be made 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 (608) 267-3817
Fax (608) 266-2264

3. Violation of any 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 payment of the costs as ordered, or fails to comply with the ordered continuing education as set forth above, the Respondent's license (No. 30180-20) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

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

MEDICAL EXAMINING BOARD

By: Skailap MD MBA 8/17/11
A Member of the Board Date