

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
:
ENRIQUE W. LUY, M.D., :
RESPONDENT. : **ORDER 0001281**

Division of Enforcement Case No. 09MED364

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

Enrique W. Luy, M.D.
6165 Preston Lane
New Berlin, WI 53151-8787

Division of Enforcement
Department of Safety and Professional Services
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Medical Examining Board
Department of Safety and Professional Services
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. Enrique W. Luy, M.D. (Respondent), date of birth July 27, 1941, is licensed by the Wisconsin Medical Examining Board and currently registered to practice medicine and surgery in the state of Wisconsin pursuant to license number 20305-20. Respondent's license was first granted on August 21, 1976.

2. Respondent's last address reported to the Department of Safety and Professional Services is 6165 Preston Lane, New Berlin, WI 53151.

3. At all times relevant to this matter, Respondent was employed by the Wisconsin Department of Corrections (DOC), and working for them as a physician at Lake Correctional Institution (Fox Lake).

4. At all times relevant to this matter, Patient M.R. (patient) was in the custody of the DOC and located at Fox Lake.

5. On June 20, 2006, a nurse at Fox Lake addressed the patient's complaint of a breakout of rashes on his arm. The nurse described the rash as a dark, slightly raised lesion measuring 2.54cm x 3.81cm on his left forearm. Respondent prescribed topical triamcinolone (TMC) 0.1%, to be applied on the rash two to three (2-3) times per day as needed

6. On July 11, 2006, the patient again presented to Respondent, concerned with the dark, irregular, and slightly elevated skin lesion. The lesion continued to be very itchy and bothersome despite the TMC, and the patient found the antifungal 2% miconazole cream, prescribed for his athlete's foot, worked best.

7. On August 8, 2006, the patient presented to a nurse practitioner at the University of Wisconsin Hepatology Clinic in Madison, Wisconsin complaining of side effects resulting from the Hepatitis C (HCV) treatment he was receiving. During this appointment, the nurse practitioner described a 4cm circumferential pruritic lesion on the patient's left anterior forearm. The patient explained that the lesion was present prior to the first HCV treatment on April 21, 2006, and that antifungal creams had not been effective. The nurse practitioner noted that the cause of the lesion was unknown, and that she believed a dermatology evaluation would "bring some assurance."

8. Respondent agreed that a dermatology consult should be considered but, per DOC policy, the recommendation is at the discretion of the DOC physician. Respondent felt strongly that he could expedite the diagnosis so that the proper therapy could be directed appropriately and promptly, as it was not unusual for dermatology appointments to schedule out three to six (3-6) months.

9. On August 16, 2006, Respondent discussed the potential risks of an excisional biopsy with the patient. With the patient's consent, a wide elliptical excision of the 4cm circumferential lesion with irregular border was performed.

10. On August 29, 2006, Respondent reviewed the histopathology report of the patient's skin lesion. The specimen was a 5.1cm x 3.0cm skin segment, excised to a greatest depth of 0.6cm. A 3.3cm x 2.6cm irregular, gray/brown lesion was centrally located on the epidermis. The pathologist concluded that the tissue was benign and diagnosed psoriasiform lichenoid dermatitis.

11. Respondent's conduct fell below the minimum standards of competency for the medical profession when he failed to refer the patient to a dermatologist; failed to use a more

appropriate biopsy method such as a “punch” or “shave” biopsy; and performed a skin biopsy in which the size was greater than necessary for a diagnosis.

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 any practice or conduct that tends to constitute a danger to the health, welfare, or safety of the patient or public, has committed 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).

ORDER

IT IS HEREBY ORDERED that:

1. The attached Stipulation of the parties is accepted.
2. Enrique W. Luy, M.D. is REPRIMANDED for the above conduct.
3. The license of Enrique W. Luy, M.D. to practice medicine and surgery in the state of Wisconsin is LIMITED, with the following restrictions:
 - a. Within nine (9) months from the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent’s satisfactory completion of “Skin Problems and Diseases”, a four (4) day session offered by the American Academy of Family Physicians from July 18-21, 2012 in Chicago, Illinois.
 - b. If Respondent is unable to complete the course described in subparagraph “a” because of illness or other circumstance found to be acceptable by the Board or its designee, Respondent shall, prior to the required completion date, petition for a reasonable extension of time within which to take and complete the course or its equivalent.
 - c. Upon Respondent providing proof sufficient to the Board, or its designee, that he has completed the education, the Board or its designee shall issue an Order removing this limitation of Respondent’s license.
 - d. Respondent is responsible for paying the full cost of attending this course. Respondent shall not apply any of the hours of education completed to satisfy the terms of this Order toward the biennial training required under Wis. Stat. § 448.13.

IT IS FURTHER ORDERED that:

4. Respondent shall, within 90 days from the date of this Order, pay to the Department of Safety and Professional Services the costs of this proceeding in the amount of ONE THOUSAND dollars (\$1,000.00) pursuant to Wis. Stat. § 440.22(2).

5. All payments, requests and evidence of completion of the education required by this Order shall be mailed, faxed or delivered to:

Department Monitor
Department of Safety and Professional Services
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

6. 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 payment of the costs as ordered or fails to comply with the ordered continuing education as set forth above, the Respondent's license (20305-20) 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.

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

MEDICAL EXAMINING BOARD

By: Sheila M. MBA
A Member of the Board

12/14/11
Date