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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	**FINAL DECISION AND ORDER**
MICHAEL A. DEHNER, M.D., RESPONDENT.	:	ORDER 0000213

Division of Enforcement Case #09 MED 28

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

Michael A. Dehner, M.D.
715 W Milwaukee Ave
Storm Lake IA 50588

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

PROCEDURAL HISTORY

An Interim Order for Comprehensive Clinical Performance Assessment was issued by the Board on May 19, 2010. The assessment report was issued by the University of Wisconsin Physician Assessment Center on June 29, 2011, and recommended neuropsychological testing. That testing was completed, and a report issued on October 25, 2011.

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 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. Michael Andrew Dehner, M.D., Respondent, date of birth April 3, 1952, is licensed by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license #40989, which was first granted April 26, 1999, and which was immediately limited for a period of five years. Respondent's registration expired on 10/31/2011,

but may be renewed at any time before 10/31/2016 upon payment of fees. He is also licensed in Iowa. He is not certified by any Board recognized by the American Board of Medical Specialties.

2. The basis for the initial limitation of Respondent's license was an order of the Iowa Board of Medical Examiners. On April 15, 1999, in Case No. 02-98-043, the Iowa Board found that Respondent had violated rules of professional conduct in that state by: a) having disciplinary action taken by the United States Attorney on behalf of the Drug Enforcement Administration; and b) practicing below minimal standards. The Iowa Board issued a final order in which it placed Respondent's license to practice on probation for five years, limited his ability to prescribe controlled substances, required monitoring of prescriptive activities, and ordered a comprehensive prescribing course. According to the order, Respondent over-prescribed controlled substances to several patients for an extended period of time without providing appropriate evaluations and/or referrals, and without maintaining appropriate medical records. The Board granted unrestricted licensure on April 26, 2004.

3. On July 19, 2006, in 05 MED 146, the Board concluded that Respondent violated Wis. Admin. Code § MED 10.02(2)(h), when, with radiographic evidence of an incomplete mechanical small bowel instruction, Respondent ordered Dulcolax, which created the unacceptable risk of bowel perforation. The Board also determined that Respondent's care of the patient fell below the level of minimal competence when he failed to consider placing a nasogastric tube to decompress the patient's stomach. The patient died. The Board reprimanded Respondent and limited his license, requiring successful completion of an extensive gastroenterology review course. The Board granted unrestricted licensure on October 25, 2006. The Iowa Board of Medicine imposed reciprocal discipline, as a result of this order.

4. On August 20, 2008, in 07 MED 300, the Board again concluded that Respondent violated Wis. Admin. Code § MED 10.02(2)(h), when, in the course of delivering a baby, he:

a. failed to recognize the probability of placental abruption;
b. failed to immediately request a surgeon;
c. initiated Pitocin too close in time to Cytotec;
d. administered Pitocin and Cytotec in the presence of a nonreassuring fetal monitor pattern with abruption placenta as the probable cause, and without a surgeon immediately available;
e. ordered Fentanyl by IV while fetal heart monitoring indicated distress.

5. The Board limited Respondent's license to practice and required Respondent, *inter alia*, to: undergo 30 hours of continuing education pertaining to recognition of obstetrical emergencies, work with an extensive mentoring program, and refrain from delivering babies unless another physician with obstetrical privileges is present for and available to assist with the labors and deliveries. Respondent completed the continuing education, and was cooperating with the mentoring program while he continued in practice in Wisconsin. Respondent elected to move to Iowa in late 2010, to a practice which does not include obstetrics, and did not complete all of the requirements of the Order.

6. On 7/20/08, patient SP, a woman born in 1989, went to the emergency room at the Boscobel Hospital due to "terrible upper abdominal pain," and was seen by Respondent. The patient was examined by Respondent, who then diagnosed constipation and sent her home with instructions to drink a bottle of magnesium citrate. Respondent's records note: the patient is there for evaluation of pain in the upper right quadrant, pain earlier in the week in the lower right quadrant that moved to the upper quadrant, without nausea, vomiting, fever or chills. The patient's heart and lungs were clear, her abdomen was soft and bowel sounds were active. The patient had tenderness in both upper quadrants, none in the lower quadrant. "Abdominal x-ray shows a large amount of stool and gas especially in the right upper quadrant." Respondent's assessment was abdominal pain secondary to constipation. However, the radiology report states: "Distribution of air and stool in the gastrointestinal tract is unremarkable. There is no evidence of bowel obstruction or localized ileus, abnormal abdominal mass, abnormal calcification, organomegaly, or pneumoperitoneum. Negative abdomen."

7. The patient's mother called and spoke with Respondent on 7/21/08, as the patient was still in pain, and Dr. Dehner advised her to have the patient drink another bottle of magnesium citrate that day, and again on the 22nd.

8. On Thursday, 7/24/08, the pain recurred and the patient's mother took her to the clinic again to see Respondent. Respondent again diagnosed constipation and sent the patient home to drink more magnesium citrate. The patient records note: follow-up for constipation, "had mag citrate yest ½ bottle stayed down only liquid stool had supp and fleets still only liquid." Respondent's records also note: "An abdominal flat plate x-ray was normal." Respondent's assessment was chronic constipation.

9. The patient's pain went away until about three weeks later. On Tuesday, 8/19/08, the patient saw an APNP for continued abdominal pain. The APNP informed the patient that Respondent had documented chronic constipation. The patient told the APNP that she did not have chronic constipation, it was reoccurring upper abdominal pain, and that she couldn't stand it. The APNP sent the patient to the hospital for an enema. The enema took a couple of hours with no result. The patient and her mother were sent back to the clinic, met with another nurse and then with Respondent, who said "She has to go home and drink this magnesium citrate – she is constipated – she'll feel better when she has a bowel movement."

10. The patient's mother asked about an ultrasound to rule out a bowel obstruction or to make sure there were no other problems, and Respondent replied: "There is no problem except she can't poop." After the patient's mother expressed further dissatisfaction, Respondent said "Fine, I'll refer you to a gastroenterologist." The patient thought she would see another doctor that same day, but Respondent eventually spoke with a doctor at Gundersen Lutheran, still on 8/19/08, and the doctor scheduled an appointment in two weeks. The patient and her mother then immediately drove to the ER at Gundersen Lutheran, where an ultrasound was done which revealed multiple gallstones. The patient underwent a laparoscopic cholecystectomy with intra-operative cholangiogram on 8/20/08 and an endoscopic retrograde cholangiopancreatography with sphincterotomy and stone removal on 8/21/08.

11. Respondent stated, in a letter to the Board's investigator dated 2/20/09:

"I initially examined [SP] on July 20, 2008 at the walk in clinic at Boscobel Area Health Care. At that visit she was seen for right upper quadrant abdominal pain. She stated that she was seen earlier that week for right lower quadrant abdominal pain and the pain had changed location. She did not complain of fever, chills, nausea or vomiting. She said she was not feeling well and was having a lot of discomfort. At that time she was afebrile. her vitals were normal. An exam of her abdomen revealed it to be soft, with active bowel sounds. She had tenderness in both upper quadrants of her abdomen, no tenderness in either lower quadrant and no periumbilical tenderness. A CBC showed a slight elevation of her white count at 11,400 with no bands. X-ray showed a large amount of stool and gas, especially in the right upper quadrant. The radiologist read the x-ray and found no evidence of obstruction, ileus, no abnormal masses, calcification, organomegaly or pneumoperitoneum. It was my opinion at that time that her abdominal complaints were due to large amounts of stool and gas. I ordered magnesium citrate for a laxative and instructed her to increase fiber, fruit and fluids in her diet.

"I next saw the patient [SP] on July 24, 2008 at the Boscobel Clinic. She had taken the magnesium citrate, rectal suppositories, and fleets enema and still had not had much stool out. She stated she was having some nausea. vomiting and abdominal pain. She denied having diarrhea or fever. My physical exam revealed that she was well developed, well nourished and in no acute distress. The exam of her heart and lungs was normal. The examination of her abdomen revealed a round abdomen with normal bowel sounds and no abnormalities to palpitation. A repeat x-ray was again unremarkable except for stool and gas.

"My last encounter with the patient [SP] was on August 19, 2008. 1 was asked by [Nurse Practitioner] to review an abdominal x-ray taken that day. The x-ray was unchanged. The record shows that [Nurse Practitioner] sent the patient to outpatient services at Boscobel Area Health Care for an enema and she recommended fluids, exercise and fiber in her diet. Later that same day, after little results from the outpatient enema, the patient returned to the clinic stating she had very little relief. I was asked to see her for possible referral to a specialist. I spoke with a gastroenterologist at Gunderson clinic and a referral appointment was made at that time.

"I believe my interpretation of the clinical data and her clinical presentation was appropriate. I do not believe my actions deserve to be characterized in the manner in which [SP] has related them. I do not recall using any words or tone of voice that could be offensive."

12. The Board finds that it should have been obvious at each of the three patient encounters that constipation was not the problem, given that the x-ray did not show any constipation, and the degree of acute pain is quite atypical for constipation. A minimally competent physician would have considered other possibilities, and have obtained additional blood work and an ultrasound or CT.

13. On June 29, 2011, the University of Wisconsin School of Medicine and Public Health, Physician Assessment Program, submitted an assessment report to the Board, finding that Respondent demonstrated a number of deficiencies as a physician. With regard to data

acquisition, the data that Respondent acquired and documented was overall lacking, superficial and inexact. Almost all of Respondent's charts lacked sufficient information to describe the timing of onset of symptoms, the quality of symptoms, palliative and provocative factors or pertinent past medical history that if directly affects the management of the presenting problems. Overall, the data collected tended to lack detail, was fairly narrow in focus, and there was very little evidence of a hypothesis testing or verbalization of differential diagnosis with regard to formulating an ongoing treatment plan patient management concerns existed in almost 3/4 of Respondent's charts examined. It was felt that Respondent's medical knowledge was superficial and demonstrated lack of detail. Respondent's notes lacked sufficient detail in regard to the onset in timing of symptoms, quality or factors that improve or worsen the symptoms. Most of the charts which were reviewed lacked the information that would be needed to ensure a smooth and safe handoff of care to another provider. There was a lack of hypothesis testing and differential diagnosis. Almost all of the charts reviewed had some type of documentation concern.

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

B. The conduct described above, violated Wis. Adm. Code § Med 10.02(2)(h). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of Michael A. Dehner, M.D., Respondent, is LIMITED as provided in Wis. Stat. § 448.02(3)(e), and is restricted, in that no later than December 31, 2012, Respondent shall demonstrate successful completion of the following:

1) A course in medical recordkeeping of no less than 17.5 category 1 credits, which Respondent shall attend in person, and which shall have been preapproved by the Board or its designee. The course entitled: "Intensive Course in Medical Record Keeping with Individual Preceptorships" offered by Case Western Reserve University School of Medicine, is approved. Respondent shall engage in the three and six month post reviews, in order to satisfactorily complete this requirement. Any other course offered for approval shall be the substantial equivalent of this course
2) A comprehensive review in family medicine (a week-long, board review course, given by the American Academy of Family Physicians, or approved by AAFP), or equivalent as preapproved by the Board or its designee.

IS FURTHER ORDERED, that the license to practice medicine and surgery of Respondent is LIMITED as provided in Wis. Stat. § 448.02(3)(e), and is restricted, as follows: Respondent shall submit to a follow up review of 5 charts twice in the year (at 6 and 12 months) following the completion, including the post-review, of the above continuing education. The Board or its designee shall select charts for review, and the review shall be conducted by a physician certified by the American Board of Family Practice, approved by the Board. It is a violation of this order for any of the charts to be unsatisfactory in any substantive respect, or to reveal any negligence in treatment or unprofessional conduct. Respondent shall pay the reasonable professional fee of the reviewing physician, as determined by the Board.

IT IS FURTHER ORDERED, that all previous orders of the Board shall remain in full force and effect.

IT IS FURTHER ORDERED, that Respondent shall pay the COSTS of investigating and prosecuting this matter of $1,650, within 60 days of this Order.

IT IS FURTHER ORDERED, that pursuant to Wis. Stats. §§ 227.51(3) and 448.02(4), 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, including the right to reregister the 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, or the right to reregister the license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with this Order in all respects.

Dated this ~~February 15~~, 2012.

WISCONSIN MEDICAL EXAMINING BOARD

by: _____

a member of the Board

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