

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
:
JAMES A. SHAPIRO, M.D., :
RESPONDENT. : ORDER 0001366

Division of Enforcement Case No. 09MED367

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

James A. Shapiro, M.D.
6308 8th Avenue, Suite 1020
Kenosha, WI 53143

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

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 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 A. Shapiro, M.D. ("Respondent"), date of birth April 26, 1958, is licensed to practice medicine and surgery in the state of Wisconsin pursuant to license no. 30618-20. This license was first granted on July 26, 1989.

2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 6308 8th Avenue, Suite 1020, Kenosha, Wisconsin, 53143.

3. Respondent is certified by the American Board of Orthopaedic Surgery. Currently, and at all times relevant this matter, Respondent is working as a physician for the United Hospital System-Orthopaedic Clinic in Kenosha, Wisconsin.

4. On October 11, 2004, Patient M.H. presented to Respondent with moderate bilateral knee pain, which he diagnosed as bilateral knee osteoarthritis. After considering her treatment options, the patient scheduled a right total knee arthroplasty ("TKA") with Respondent for December 7, 2004.

5. On December 7, 2004, patient M.H. presented to Kenosha Hospital and Medical Center for her scheduled TKA with Respondent and the following events occurred:

- a. At 8:18 a.m., a tourniquet was applied to the patient's right leg. At 9:35 a.m., the surgery was complete and the tourniquet was removed.
- b. At 9:40 a.m., the patient was transferred to the recovery room. At this time, the nurses noted that the patient's right foot was cool with no movement or sensation, and they were unable to palpate a right pedal pulse or obtain one with the Doppler.
- c. At 10:30 a.m., the patient's foot was still cool, despite the use of a warming blanket, and the nurses were still unable to obtain a right pedal pulse with the Doppler. While Respondent was notified of these findings at this time, no steps were taken to establish adequate blood flow to the patient's right foot.
- d. At 10:50 a.m., the nurse asked a physician in the recovery unit to attempt to obtain a pulse via Doppler and palpitation. The patient's foot was still cool and based on the inability to obtain a pulse by Doppler or palpitation, a vascular injury or complication was included in the physician's differential diagnosis.
- e. At 11:05 a.m., Respondent was informed of the inability to find a pulse in the patient's right foot. No action was taken at that time.
- f. At 11:20 a.m., the patient is transferred to a different floor per Respondent's order. The nurse was unable to palpate a pedal pulse and noted that the foot was pale.
- g. At 1:00 p.m., the nurse is still unable to obtain a pulse with the Doppler, the patient reported pain in the back of her knee, and her toes were dusky. Respondent was paged at or around this time.
- h. At 2:00 p.m., Respondent performed a neurological evaluation on the patient and noted that she had right knee pain, decreased sensation in the dorsum of the foot, no sensation to the toes in the plantar surface of the foot, and a slight decrease in motion of her toes. Respondent did not attempt to obtain a pulse in the foot and noted, "Will observe as most of this is probably due to spinal."

- i. At 4:00 p.m., the patient reported calf pain at the popliteal area and pain when raising her toes towards the ceiling; pedal pulses were palpable. This information was relayed to Respondent.
- j. At 5:00 p.m., the patient still complained of pain behind her knee.
- k. At 6:30 p.m., the patient's toes remained cool, she had a burning pain in her right foot, and a palpable pedal pulse.
- l. On December 8, 2004 at 12:09 a.m., the nurse noted that the patient was unable to wiggle her toes, her right foot was slightly dusky, and a pulse could not be obtained via Doppler or palpitation.
- m. At 8:50 a.m., Respondent evaluated the patient and noted she was having moderate to severe pain and worsening of the sensation and motion symptoms, which he believed were caused by tight dressings. He did not attempt to obtain a pedal pulse.
- n. At 4:10 p.m., Respondent evaluated the patient and noted slightly more sensation to the dorsum of the foot but, despite the slight improvement, he was concerned about the patient's sensation changes.

6. On December 9, 2004, Respondent ordered an arterial Doppler evaluation in the vascular lab, which was later changed to an arteriogram by the patient's primary care physician. The arteriogram revealed that the patient had an ischemic leg due to blockage of the popliteal artery, which resulted in compartment syndrome. The patient was taken to the operating room on an emergent basis where a clot from the popliteal artery was removed and fasciotomies were performed to relieve pressure in the patient's lower leg.

7. Respondent neither admits nor denies the allegations contained herein but agrees to the imposition of the discipline contained in this Order to resolve this investigation.

8. Respondent agrees that the conduct in failing to order a Doppler study or a vascular consult on December 8, 2004, despite the fact that the patient's neurological symptoms were worsening, the patient was unable to wiggle her toes, and a pedal pulse could not be found, constitutes a violation of Wis. Admin. Code Med 10.02(2)(h).

CONCLUSIONS OF LAW

1. 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 and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in conduct that tends to constitute a danger to the health, welfare, or safety of a patient, 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:

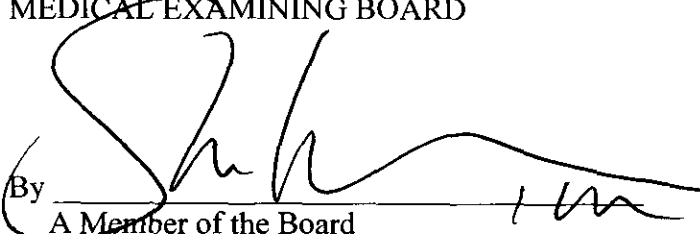
1. The attached Stipulation of the parties is accepted.
2. James A. Shapiro, M.D., is REPRIMANDED for the above conduct.
3. Within 90 days of this Order, Respondent shall pay the costs of this proceeding in the amount of seven hundred and fifty dollars (\$750.00). Payment shall be made to the Wisconsin Department of Safety and Professional Services, and mailed to:

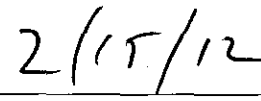
Department Monitor
Department of Safety and Professional Services
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Telephone: (608) 267-3817
Fax: (608) 266-2264

4. 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, the Respondent's license (No. 30618-20) 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.

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

MEDICAL EXAMINING BOARD

By 
A Member of the Board


Date