

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :
 :
 : FINAL DECISION AND ORDER
 : FOR REMEDIAL EDUCATION
MICHEAL J. MELBY, M.D., :
LICENSEE. : **ORDER 0006674**

Division of Legal Services and Compliance Case No. 18 MED 199

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

Michael J. Melby, M.D.
New Richmond, WI 54017

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708- 8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (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, Conclusion of Law and Order.

FINDINGS OF FACT

1. Licensee Michael J. Melby, M.D. (DOB xx-xx-1970), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 43329-20, first issued on May 23, 2001, with registration current through October 31, 2021. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in New Richmond, Wisconsin 54017.

2. Licensee is a surgeon and on February 23, 2015, he performed a sigmoid resection with anastomosis on Patient A, a male born in 1947. The procedure was unremarkable and Patient A was discharged home six days later.

3. On March 3, 2015, Patient A presented to an emergency department where he was evaluated by the attending physician, who noted abdominal pain, distension and tenderness. Laboratory work-up reflected elevated lactates.

4. Licensee was contacted and came to the emergency department to examine Patient A. Licensee concluded Patient A had acute renal failure due to dehydration and recommended IV fluids. The following morning, Licensee again saw Patient A, ordered an abdominal ultrasound, and then left the hospital to see patients at another facility.

5. Patient A was admitted to the intensive care unit but his renal function worsened despite fluid hydration and he began experiencing respiratory problems. On March 4, 2015, Patient A was transferred to a higher-level care facility, where he was diagnosed with, *inter alia*, septic shock, acute abdomen and peritonitis.

6. Patient A was immediately taken to surgery and the post-operative diagnosis was “anastomotic leak at prior colonic anastomosis with multiple intraperitoneal abscesses.” The operative charting reflects “a large amount of purulent fluid . . . numerous interloop abscesses and a large pelvic abscess” and that the anastomosis “had become nearly totally dehiscid with only a very small attachment.”

7. Licensee should have considered a potential anastomotic leak on March 4, 2015, and should have worked up Patient A until a leak could be confirmed or definitively ruled out.

8. In resolution of this matter, Licensee consents to the entry of the following Conclusion of Law and Order.

CONCLUSION OF LAW

1. The Wisconsin Medical Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

ORDER

1. The attached Stipulation is accepted.
2. Within six (6) months of the date of this Order, Michael J. Melby, M.D. shall at Licensee’s own expense take and successfully complete six (6) hours of education on the topic of management of complications after bowel surgery as follows:
 - a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee and may be taken by the Licensee online. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the course(s) from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
 - b. Licensee shall submit proof of successful course completion in the form of verification from the institution providing the education to the Department Monitor at the address stated below.

- c. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.

3. Requests for course approval and proof of successful course completion shall be sent by Licensee to the Department Monitor at the address below:

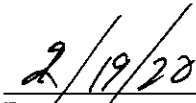
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

You may also submit this information online via DSPS' Monitoring Case Management System, here: <https://dspsmonitoring.wi.gov/>

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

WISCONSIN MEDICAL EXAMINING BOARD

by: 
A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	
	:	STIPULATION
MICHAEL J. MELBY, M.D.,	:	
LICENSEE.	:	ORDER 0006674

Division of Legal Services and Compliance Case No. 18 MED 199

Licensee Michael J. Melby, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Licensee consents to the resolution of this investigation by Stipulation.

2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee's own behalf;
- 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 Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Licensee is represented by Attorney Bryon Ascherman.

4. Licensee agrees to the adoption of the attached Final Decision and Order for Remedial Education by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order for Remedial Education without further notice, pleading, appearance or consent of the parties. Licensee 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 then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the 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 the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Licensee or Licensee's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order for Remedial Education.

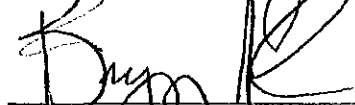
7. Licensee is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order for Remedial Education is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order for Remedial Education.



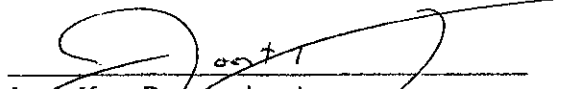
Michael J. Melby, M.D., Licensee
New Richmond, WI 54077
License no. 43329-20

1/22/2020
Date



Bryon Ascherman, Attorney for Licensee
Burke & Thomas, PLLP
3900 Northwoods Dr., Ste. 200
Arden Hills, MN 55112

1/27/2020
Date



Joost Kap, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

1/29/20
Date