

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
RUPESH P. PATEL, M.D., :
RESPONDENT. :

ORDER 0007383

Division of Legal Services and Compliance Case No. 20 MED 249

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

Rupesh P. Patel, M.D.
Lake Forest, IL 60045

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, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Respondent Rupesh P. Patel, M.D., (Year of Birth 1975) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 49392-20, first issued on June 14, 2006, with registration current through October 31, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Lake Forest, Illinois 60045.

2. At all times relevant to this proceeding, Respondent practiced as a radiologist at a medical facility in Brookfield, Wisconsin.

3. On May 23, 2017, Patient A, a 75-year-old male, presented to the emergency department with neck pain following a fall down the stairs. Head and cervical spine CT scans were

ordered and the images were entered into the computer system as separate studies, with separate order numbers and accession numbers.

4. The computer system populated both studies onto the work list of a senior radiology resident who was on site. When the resident opened the two separate studies, the computer system opened Patient A's electronic medical record (EMR) on his monitor and he viewed each study. The resident interpreted the head and cervical spine CT scans and dictated his reports into the Powerscribe application. The resident chose to combine or link the two studies. The resident did not identify any fractures of the cervical spine in his preliminary report. The resident then clicked "approve" and the combined preliminary report was entered into the patient's EMR.

5. Respondent was one of the attending radiologists located at a viewing center offsite where images and residents' preliminary reports are reviewed from multiple facilities. The resident could assign his preliminary reports to any of the attending radiologists, and depending on the circumstances, could assign different studies of the same patient to different attending radiologists. The resident electronically assigned Patient A's combined study to Respondent, but it appeared on Respondent's assignment list only as a head study.

6. As an attending radiologist, Respondent was responsible for reading the resident's report, reviewing the imaging to confirm all pertinent abnormalities had been detected, and ensuring the report adequately conveyed the pertinent findings.

7. Respondent clicked on the head study on his assignment list and the program opened the resident's preliminary report in a small window that required scrolling to see the entire report. The program also opened any other studies or images the program determined the radiologist might want to view while reviewing the assigned report. Respondent maintains the additional studies were opened as thumbnails and may not have been visible on his monitor without moving the viewing area.

8. Respondent viewed the head study and read the portion of the resident's preliminary report that related to the head study, agreed with the resident's impressions, and signed it. Respondent maintains that because there was no indication there was a combined cervical spine study he was assigned to review, he did not scroll beyond the head study, did not see the cervical spine study, and did not review the cervical spine CT scan or preliminary report.

9. Respondent maintains he thought he was approving only the resident's preliminary report of the head study. However, because the resident had combined the head and cervical spine studies into one report, the computer program applied his approval to both studies.

10. Both the final cervical spine CT report and head CT report in Patient A's EMR indicate that the "CT cervical spine w/o contrast and the CT head w/o contrast" are included, and the resident's impressions on both reports refer to findings related to the cervical spine. Both reports indicate Respondent "reviewed the images and agree with the Resident interpretation."

11. On May 27, 2017, Patient A returned to the ER with continuing neck pain. An MRI was performed and interpreted by another radiologist. The MRI found an abnormal edema involving the lateral mass and superior articular facet of C4. The MRI report indicated "in

retrospect on CT of 5/24/2017 fractures are identified involving the lateral mass of C4 with extension to the foramen transversarium involving the superior articular process of C4.”

12. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Med 10.03(2)(b) by departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

3. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. Within 90 days from the date of this Order, Respondent shall pay the COSTS of this matter in the amount of \$749.00.

4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov/>.

5. In the event Respondent violates any term of this Order, Respondent’s license (no. 49392-20), or Respondent’s right to renew his registration and license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Stephan A. Wacker, MD
A Member of the Board

19 May 2021
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RUPESH P. PATEL, M.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0007388

Division of Legal Services and Compliance Case No. 20 MED 249

Respondent Rupesh P. Patel, 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. Respondent consents to the resolution of this investigation by Stipulation.

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

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

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorneys Michael Johnson and John R. Zweig.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached. 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.

5. 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 Respondent or Respondent'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.

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

7. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Rupesh P. Patel, M.D., Respondent
Lake Forest, IL 60045
License No. 49392-20

4/28/21

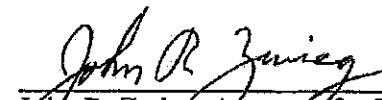
Date



Michael L. Johnson, Attorney for Respondent
Otjen Law Firm, S.C.
20935 Swenson Drive, Suite 310
Waukesha, WI 53186

4/27/21

Date



John R. Zwieg, Attorney for Licensee
2714 Oakridge Ave.
Madison, WI 53704-5618

Date



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

5/7/2021

Date