

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
KIMBERLY J. MARLOWE, M.D.,	:	FOR REMEDIAL EDUCATION
LICENSEE.	:	ORDER0008778

Division of Legal Services and Compliance Case No. 23 MED 086

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

Kimberly J. Marlowe, M.D.
Houston, TX 77040

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. Licensee Kimberly J. Marlowe, M.D., (Year of Birth 1967) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 74589-20, first issued on January 22, 2021, with registration current through October 31, 2023. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Houston, Texas 77040.

2. At all times relevant to this proceeding, Licensee practiced diagnostic radiology.

3. On September 18, 2017, Patient A, a male born in 1972, presented to his primary care provider in Kansas complaining of intestinal problems that began four days prior. The provider ordered a CT scan of Patient A's abdomen and pelvis with contrast, which was performed that day and sent to Licensee for review and interpretation.

4. Licensee was provided a history of acute abdominal pain, nausea, and chills. She issued a report of her interpretation of the CT scan, indicating nonspecific bowel gas pattern, possibly secondary to minimal focal ileus or gastroenteritis, but no evidence of an obstruction. However, Licensee did not identify a 4.01 cm mass in Patient A's mesentery.

5. Licensee maintains (1) that the structure ultimately identified to be a mass had similar density and contrast to the surrounding non-opacified bowel loops; (2) the mass did not have typical signs that allow identification of such a mass, such as desmoplastic reaction with infiltration of the surrounding mesentery with radiating strands directed outward from the mass and tethering and angulation of surrounding bowel loops; and, (3) that the presence of such secondary findings are important in the identification of mesenteric masses such as this, and are often more readily identified than the mass itself.

6. On May 7, 2020, Patient A underwent another CT scan of his abdomen and pelvis with contrast, which was interpreted by another radiologist who identified a soft tissue mass and recommended a GI surgery consultation. Licensee maintains that most of the typical features that allow identification of such a mass were present on the May 7, 2020 CT scan, including desmoplastic reaction with infiltration of the surrounding mesentery with radiating strands and tethering and angulation of surrounding bowel loops.

7. On May 14, 2020, Patient A underwent a diagnostic laparoscopy with peritoneal biopsy, exploratory laparotomy with small bowel resection, and resection of the mesenteric mass. Multiple peritoneal deposits of metastatic disease and a matted mass of dilated small bowel were identified and later confirmed to be cancer.

8. This Final Decision and Order for Remedial Education does not constitute professional discipline and the Board has made no finding that Licensee engaged in unprofessional conduct.

9. Licensee denies any unprofessional conduct or deviation in the Standard of Care, but to resolve this matter, Licensee consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS 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, Licensee shall at her own expense take and successfully complete three (3) hours of education on the topic of the appearance of mesenteric tumors on imaging or general abdominal CT imaging as follows:

- a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. 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 completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. 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 and may not be used in any future attempt to upgrade a credential.
- c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Licensee. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

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

WISCONSIN MEDICAL EXAMINING BOARD

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

9/20/23
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF

KIMBERLY J. MARLOWE, M.D.,
LICENSEE.

:
:
:
:

STIPULATION

ORDER 0008778

Division of Legal Services and Compliance Case No. 23 MED 086

Licensee Kimberly J. Marlowe, 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 Marc Benjoya.

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.

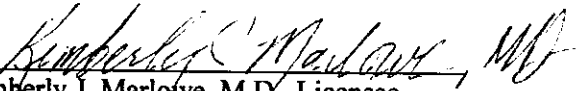
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by 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.

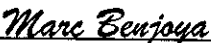
7. Licensee is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order for Remedial Education is a public record and will be published in accordance with standard Department procedure.

8. Licensee is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order for Remedial Education will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

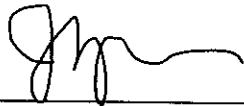
9. The Division of Legal Services and Compliance joins Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order for Remedial Education.


Kimberly J. Marlowe, M.D., Licensee
Houston, TX 77040
License No. 74589-20

8/26/23
Date


Marc Benjoya, Attorney for Licensee
Cassiday Schade, LLP
330 E. Kilbourn Ave., Suite 575
Milwaukee, WI 53202

8/28/2023
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

8/28/2023
Date