

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

BOARD OF REGISTRATION  
IN MEDICINE

ADJUDICATORY NO. 2010-001

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In the Matter of )

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Perry R. Hearn, M.D. )  
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**STATEMENT OF ALLEGATIONS**

The Board of Registration in Medicine ("the Board") has reason to believe that in Docket Nos. 05-516 and 06-371, Perry R. Hearn, M.D. ("the Respondent") engaged in conduct which places into question the physician's competence to practice medicine because of negligence on repeated occasions.

**BACKGROUND**

1. The Respondent was born on December 25, 1958. He graduated from the Emory University School of Medicine in 1983. He has been licensed to practice medicine in Massachusetts under certificate number 58279 since 1987. He is certified by the American Board of Family Medicine. The Respondent has privileges at South Shore Hospital. The Respondent is currently in private practice and also works in nursing homes.

**FACTUAL ALLEGATIONS**

**Patient A**

2. Patient A was an 88 -year-old man with a history of advanced coronary artery disease, cardiomyopathy, congestive heart failure, atrial fibrillation and high blood pressure.

3. Patient A had been under the care of a cardiologist who had last seen the patient in October 2003.

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4. The cardiologist maintained Patient A on medications including a beta-blocker, diuretic, angiotensin converting enzyme (ACE inhibitor) and anti-coagulants.

5. The Respondent was Patient A's primary care physician.

6. On June 4, 2004, the Respondent saw Patient A, who complained of a cough and chest pain. Patient A's blood pressure was 86/50.

7. The Respondent discontinued Patient A's diuretic, ACE inhibitor and beta-blocker. The Respondent told Patient A to restart the beta-blocker if his blood pressure rose to at least 110/70 and to add the ACE inhibitor if his blood pressure rose above that.

8. The Respondent never consulted with Patient A's cardiologist.

10. The Respondent saw Patient A in his office eleven times over the ensuing six week period. The Respondent did not take a reading of Patient A's weight, blood pressure or pulse at each visit

11. During that six week period, Patient A developed an increased heart rate, an eleven pound weight gain, and unstable (rapid) atrial fibrillation.

12. The Respondent last saw Patient A on July 16, 2004.

13. Patient A was hospitalized on July 17, 2004.

14. Patient A was in rapid atrial fibrillation and acute heart failure. He required five days of stabilization with intravenous beta-blockers, diuretics and ACE inhibitors.

15. Patient A died on August 3, 2004.

16. The Respondent's care of Patient A was substandard in the following ways:

- Not consulting the attending cardiologist regarding the patient's change in medical status (his blood pressure was dropping)
- The Respondent stopped three medications at one time.

- The Respondent gave the patient unrealistic instructions of how to adjust his own medications based on changes in his blood pressure.
- The Respondent failed to discuss the changes of the three cardiac medications with the patient's cardiologist.

**Patient B**

17. Patient B was a 21- year -old female admitted to the Emergency Department at Milton Hospital under Dr. Hearn's care on March 13, 2001. Patient B complained of left lower quadrant pain.

18. Patient B had some vomiting but no diarrhea or fever.

19. The Respondent prescribed an intramuscular injection of 50 mg. Demerol and 25 mg. of Vistaril within 20 minutes of Patient B's arrival.

20. The Respondent's exam noted marked discomfort and guarding on abdominal examination.

21. The Respondent did not perform a pelvic examination.

22. Routine blood work, including a CBC, amylase, pregnancy test and urinalysis were normal.

23. Patient B's pain persisted following the first narcotic injection.

24. The Respondent gave Patient B a second injection of Demerol 50 mg and 25 mg Vistaril less than three hours later.

25. Nine hours after admission to the Emergency Department, Patient B was discharged with a diagnosis of gastroenteritis/food poisoning/abdominal pain

26. The Respondent did not obtain a consult from a gynecologist or a surgeon.

27. After four days of persistent pain and vomiting, Patient B was evaluated in the Emergency Department of Children's Hospital.

26. A bimanual exam revealed tenderness over the ovary.
27. An ultrasound confirmed a swollen ovary with cystic structures.
28. Patient B was admitted for emergency surgery to treat ovarian torsion.
29. Patient B's left ovary was found to be necrotic.
30. Both the ovary and the left fallopian tube were removed.
31. As a result of this incident, Dr. Hearn no longer practices emergency medicine.
32. The Respondent's care of Patient B was substandard in the following ways:
  - The patient was medicated with narcotics within minutes of arrival and before a diagnosis was made. This is never done in the emergency room as once medicated, the physician loses the diagnostic ability to reassess pain.
  - The Respondent did not consult with surgery or gynecology.

**LEGAL BASIS FOR PROPOSED RELIEF**

Pursuant to 243 CMR 1.03(5) (a) (3), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct which places into question his competence to practice medicine including but not limited to gross misconduct in the practice of medicine, practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.

Pursuant to the standards set forth in Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982) and Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§5, 61, and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01, et. seq.

**NATURE OF RELIEF SOUGHT**

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, and fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

**ORDER**

Wherefore, it is hereby **ORDERED** that the Respondent show cause why he should not be disciplined for the conduct described herein.

By the Board of  
Registration in Medicine,



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John B. Herman, M.D.  
Chairman

Dated : January 6, 2010

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2010-001

In the Matter of )

PERRY HEARN, M.D. )

CONSENT ORDER

Perry Hearn, M.D. (Respondent) and the Complaint Counsel agree that the Board of Registration in Medicine (Board) may issue this Consent Order, in lieu of convening an adjudicatory hearing, with all of the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanctions set forth below in resolution of Docket Numbers 05-516 and 06-371.

FINDINGS OF FACT

1. The Respondent was born on December 25, 1958. He graduated from the Emory University School of Medicine in 1983. He has been licensed to practice medicine in Massachusetts under certificate number 58279 since 1987. He is certified by the American Board of Family Medicine. The Respondent has privileges at South Shore Hospital. The Respondent is currently in private practice.

Patient A

2. Patient A was an 88-year-old man with a history of advanced coronary artery disease, cardiomyopathy, congestive heart failure, atrial fibrillation and high blood pressure.

3. Patient A had been under the care of a cardiologist who had last seen the patient in October 2003.

4. The cardiologist maintained Patient A on medications including a beta-blocker, diuretic, angiotensin converting enzyme (ACE inhibitor) and anti-coagulants.
5. The Respondent was Patient A's primary care physician.
6. On June 4, 2004, the Respondent saw Patient A, who complained of a cough and chest pain. Patient A's blood pressure was 86/50.
7. The Respondent discontinued Patient A's diuretic, ACE inhibitor and beta-blocker. The Respondent told Patient A to restart the beta-blocker if his blood pressure rose to at least 110/70 and to add the ACE inhibitor if his blood pressure rose above that.
8. The Respondent never spoke with Patient A's cardiologist.
9. Patient was seen in the Respondent's office eleven times over the ensuing six week period. Patient A's weight, blood pressure or pulse was not taken at every visit.
10. During that six week period, Patient A developed an increased heart rate, an eleven pound weight gain, and unstable (rapid) atrial fibrillation.
11. The Respondent last saw Patient A on July 16, 2004.
12. Patient A was hospitalized on July 17, 2004.
13. Patient A was in rapid atrial fibrillation and heart failure. He required five days of stabilization with intravenous beta-blockers, diuretics and ACE inhibitors.
14. Patient A died on August 3, 2004.
15. The Respondent's care of Patient A was substandard in the following ways:
  - The Respondent did not speak with the attending cardiologist regarding the patient's change in medical status when Patient A's blood pressure was dropping;
  - The Respondent stopped three medications at one time.

- The Respondent gave the patient unrealistic instructions of how to adjust his own medications based on changes in his blood pressure.
- The Respondent failed to discuss the changes of the three cardiac medications with the patient's cardiologist.

**Patient B**

16. Patient B was a 21-year-old female admitted to the Emergency Department at Milton Hospital under Dr. Hearn's care on March 13, 2001. Patient B complained of left lower quadrant pain.

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19. The Respondent's exam noted marked discomfort and guarding on abdominal examination.

20. The Respondent did not perform a pelvic examination.

21. Routine blood work, including a CBC, amylase, pregnancy test and urinalysis were normal.

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23. The Respondent gave Patient B a second injection of Demerol 50 mg and 25 mg Vistaril less than three hours later.

24. Nine hours after admission to the Emergency Department, the Patient B was discharged with a diagnosis of gastroenteritis/food poisoning/abdominal pain.

25. The Respondent did not obtain a consult from a gynecologist or a surgeon.

26. After four days of persistent pain and vomiting, Patient B was evaluated in the Emergency Department of Children's Hospital.

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27. A bimanual exam revealed tenderness over the ovary.
  28. An ultrasound confirmed a swollen ovary with cystic structures.
  29. Patient B was admitted for emergency surgery to treat ovarian torsion.
  30. Patient B's left ovary was found to be necrotic.
  31. Both the ovary and the left fallopian tube were removed.
  32. The Respondent's care of Patient B was substandard in the following ways:
    - The patient was medicated with narcotics within minutes of arrival and before a diagnosis was made, potentially hampering diagnostic ability to reassess pain.
    - The Respondent failed to consult surgery or gynecology.

#### CONCLUSIONS OF LAW

The Respondent has violated G.L. c. 112, § 5(c) and 243 CMR 1.03(5) (a) (3), in that he placed into question his competence to practice medicine by practicing with negligence on repeated occasions.

Pursuant to the standards set forth in Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982) and Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct that undermines the public confidence in the integrity of the medical profession.

#### SANCTION AND ORDER

The Respondent is hereby reprimanded. The Respondent is required to perform the following:

1. **The Respondent must complete (40) CME credits in addition to those required for the renewal of Respondent's license**
  - i. **The Respondent must complete 20 of the 40 CME's by attending conferences or interaction-based education in the areas of managing patients with compromised cardiac function and other chronic illnesses; mental health; substance use and abuse; and pediatric growth and development.**
  - ii. **All of the 40 CME's must be completed and documentation verifying completion thereof must be submitted to the Board by December 31, 2010.**
  
2. **The Respondent must comply with the recommendations of the report dated September 16, 2009 of Affiliated Monitors, Inc., including the following:**
  - i. **Systems Management: The Respondent should review patient files and computer record prior to entering the patient room. The Respondent should enter documentation of patient encounters after the patient encounter.**
  - ii. **Communication: The Respondent should increase his confidence in discussing mental health, substance use, and abuse with his patients.**
  - iii. **Medication Regimen Review: Patient medications should be reviewed and updated on a regular basis. Patients should be encouraged to bring in their own list of medications.**
  - iv. **Pediatric Growth and Development: The Respondent should complete a CME to update his knowledge of pediatric development guidelines. The**

Respondent should use screening questionnaires to identify potential developmental delays in pediatric patients.

- v. **Follow-up Management for Patient's with Chronic Illnesses.** Patients with chronic illnesses, such as diabetes or hypertension, could be encouraged to use home monitoring logs to record blood sugar or blood pressure.
- vi. **Documentation and Recordkeeping:** The Respondent should update medication lists at every visit. Problem lists should be updated regularly.
- vii. **Patient Education:** The Respondent should engage in discussions with patients. Pediatric patients should have developmental guidelines identified. Patients with chronic conditions of diabetes and hypertension should be encouraged to keep logs at home and bring those into the office.
- viii. **Health Maintenance:** The Respondent should discuss and document discussions regarding diet, exercise, and body mass index with his patients.
- ix. **Resource and Referral:** The Respondent may seek ways to more easily identify local specialists in order to make referrals more easily.
- x. **Continuing Medical Education:** The Respondent should broaden his CME attendance to include conference and interaction based education.

3. The Respondent must undergo an audit of his practice that focuses on his implementation of the recommendations made by Affiliated Monitors, Inc. as identified in subparagraphs 2(i) through 2(x) above; and a report of the results of the audit, which must be submitted to the Board by June 1, 2010.


EXECUTION OF THIS CONSENT ORDER

The parties agree that the approval of this Consent Order is left to the discretion of the Board. The signature of the Respondent, his attorney, and Complaint Counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the stipulations contained herein shall be null and void; thereafter neither of the parties nor anyone else may rely on these stipulations in this proceeding. As to any matter that this Consent Order leaves to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.


The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order, with all exhibits and attachments within ten (10) days, by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing boards of all states in which he has any kind of license to practice medicine; the Drug Enforcement Administration Drug Diversion Group, and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which he becomes associated in the year following the date of the imposition of this reprimand. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.


The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

  
Perry R. Hearn, M.D.

11/17/09  
Date


  
Rebecca Dalpe, Esquire

4/17/09  
Date

  
Gloria Brooks, Esquire  
Complaint Counsel

12/10/09  
Date

So ordered by the Board of Registration in Medicine this 6th day of January 2010.

  
Peter G. Paige, M.D.  
Chair