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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

Board Case No. MD-01-0544

WILLIAM HYDE, M.D.

Holder of License No. **10905**
For the Practice of Medicine
In the State of Arizona.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

(Letter of Reprimand)

This matter was considered by the Arizona Medical Board ("Board") at its public meeting on August 8, 2002. William Hyde, M.D., ("Respondent") appeared before the Board with legal counsel Paul Giancola for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). After due consideration of the facts and law applicable to this matter, the Board voted to issue the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
2. Respondent is the holder of License No. 10905 for the practice of medicine in the State of Arizona.
3. The Board initiated case number MD-01-0544 after receiving a complaint regarding Respondent's care and treatment of a 40 year-old female patient ("J.F.").
4. J.F. presented to Respondent on January 24, 2000 to have a lesion in her breast evaluated. The lesion had been noted on ultrasound and mammogram during the six months prior to her visit to Respondent. Respondent palpated the mass and recommended excisional biopsy. Respondent subsequently performed the biopsy and excised a portion of J.F.'s left breast, but the excised specimen did not contain the

1 suspicious lesion. Respondent indicated that he excised a palpable mass from J.F.'s left
2 breast that corresponded to the lesion identified on the ultrasound and mammography.

3 5. The pathology report revealed the specimen as consistent with benign
4 fibrocystic disease of the breast. Despite a recommendation that she return, J.F. did not
5 return to Respondent for follow-up care. Six months after the biopsy J.F. contacted
6 Respondent and asked that he reimburse her for the insurance co-payment and other
7 cost she had incurred for the biopsy because Respondent had removed the wrong area
8 of breast tissue.

9 6. The pathology report of the excised tissue indicated that the excised mass
10 was cystic tissue and not a solid lesion. Follow-up ultrasounds and mammograms of J.F.
11 confirmed the presence of a solid lesion. J.F.'s subsequent treating surgeon
12 recommended an ultrasound guided core biopsy.

13 7. The Board's Medical Consultant opined that the standard of care when a
14 physician intends to remove a lesion requires that he/she should confirm that the lesion
15 has been removed. The Medical Consultant indicated that in J.F.'s case the lesion was
16 well-defined as a 1.5 centimeter solid abnormality in the breast. The tissue that was
17 removed had a 4 millimeter cyst and was clearly not the area of concern. The Medical
18 Consultant stated that there are several available ways to identify a lesion. For instance,
19 a physician may place a wire radiographically in or near the lesion so when it is excised
20 the physician knows he/she is correct; also an x-ray of the specimen can confirm that the
21 area of concern has been removed; and finally, a physician should communicate with the
22 pathologist when cutting a specimen to confirm that a solid lesion is contained within the
23 specimen. The Medical Consultant noted that failing to take any of these steps raises the
24 risk of removing tissue other than that which was intended to be removed.

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1 8. Respondent stated that in looking at J.F.'s case and trying to figure out
2 what happened, J.F. actually had two different problems going on at the same time. In
3 Respondent's examination in his office she had a dominant mass palpable in her left
4 breast in the upper outer quadrant in the same area that was seen on x-rays.
5 Respondent stated that if J.F. did not have a palpable breast mass he would not have
6 performed an open biopsy and would have referred her to the radiology department for a
7 needle biopsy.

8 9. Respondent testified that when he did the biopsy he removed 3.7
9 centimeters of tissue that is read as significant fibrous tissue and is a solid tissue with a 4
10 millimeter cyst within. Respondent stated that he removed the dominant breast mass
11 and could not feel any further breast lesions. Respondent stated that as it turned out he
12 removed a fibrocystic dominant mass, and the area of the lesion previously seen on x-ray
13 apparently was not palpable at the time of biopsy. Respondent stated that subsequently
14 he discovered that J.F. had a mammogram seven years before that showed the nodule
15 and this was not communicated to him.

16 10. The Medical Consultant was asked to opine on Respondent's explanation.
17 The Medical Consultant stated that the incision was made to excise the solid lesion
18 because it had expanded in size radiographically from 1.2 to 1.5 centimeters. The key
19 reason to operate was to get that lesion because it had increased in size between two
20 mammographic examinations. The Medical Consultant also stated that he believed the
21 mammogram taken seven years prior to the procedure was not pertinent because the
22 decision to go after the lesion was made independent of that mammogram.

23 11. Respondent stated that the importance of the mammogram that was taken
24 seven years prior to the procedure was that if the lesion had not changed significantly in
25 the seven years it would make him think it was a stable, benign lesion and there would be

1 no reason to biopsy the lesion. Respondent stated that this does not change the fact
2 that J.F. had a palpable lump in her breast that he still would have biopsied and he would
3 not have been concerned about the lesion seen on the x-rays.

4 12. Respondent was queried as why he did not address the lesion at the time of
5 biopsy. Respondent stated that he would have if J.F. did not have a palpable breast
6 mass. The lesion was read as a "bi rads 4 biopsy" on the second set of mammograms
7 and a biopsy was recommended by the radiologist because, according to the radiologist,
8 the lesion had increased in size by .3 centimeters. Respondent stated that when he
9 examined J.F., because a mammogram is not complete unless a breast exam is done,
10 J.F. had a palpable breast mass in the same area that in retrospect turned out to be a
11 different mass than the lesion seen on the x-rays.

12 13. Respondent was asked if he was able to tell from his examination of the
13 mammogram that there were two things going on with J.F. Respondent stated that he
14 was not and that he thought he was feeling the lesion that he was supposed to biopsy.
15 Respondent was asked if he discussed with the pathologist the tissue Respondent had
16 removed. Respondent stated that at that time it was not his standard practice to speak to
17 the pathologist and that when he did the biopsy the tissue looked like a fibroadenoma
18 and he believed he removed the lesion that he had set out to remove.

19 14. Respondent was asked whether it would be expected that a general
20 surgeon performing a biopsy would confirm that he/she had identified the solid lesion
21 using needle localization or any other appropriate technique to know at the time of
22 surgery that he/she had removed what he/she had intended to remove. Respondent
23 stated that he felt a mass in the same area on examination and he felt that it was the
24 lesion in question. Respondent stated that with a palpable mass he does not feel it is
25 necessary to use needle localization.

1 **ORDER**

2 Based upon the foregoing Findings of Fact and Conclusions of Law,

3 IT IS HEREBY ORDERED that Respondent is issued a Letter of Reprimand for
4 failure to excise the intended solid breast lesion at the time of biopsy.

5 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

6 Respondent is hereby notified that he has the right to petition for a rehearing or
7 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or
8 review must be filed with the Board's Executive Director within thirty (30) days after
9 service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient
10 reasons for granting a rehearing or review. Service of this order is effective five (5) days
11 after date of mailing. If a motion for rehearing or review is not filed, the Board's Order
12 becomes effective thirty-five (35) days after it is mailed to Respondent.

13 Respondent is further notified that the filing of a motion for rehearing or review is
14 required to preserve any rights of appeal to the Superior Court.

15 DATED this 3rd day of October, 2002.



THE ARIZONA MEDICAL BOARD

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By *Barry Cassidy*
BARRY A. CASSIDY, Ph.D., PA-C
Executive Director

ORIGINAL of the foregoing filed this
3rd day of October, 2002 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

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Executed copy of the foregoing
mailed by U.S. Certified Mail this
3~~rd~~ day of OCTOBER, 2002, to:

Paul Giancola
Snell & Wilmer, LLP
400 E. Van Buren
Phoenix, AZ 85004-0001

Executed copy of the foregoing
mailed by U.S. Mail this
3~~rd~~ day of OCTOBER, 2002, to:

William Hyde, M.D.
3604 N Wells Fargo Ave Ste L
Scottsdale AZ 85251-5629

Copy of the foregoing hand-delivered this
3~~rd~~ day of OCTOBER, 2002, to:

Christine Cassetta
Assistant Attorney General
Sandra Waitt, Management Analyst
Lynda Mottram, Senior Compliance Officer
Investigations (Investigation File)
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