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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

ROBERT ALLEN, M.D.

Holder of License No. **15874**
For the Practice of Medicine
In the State of Arizona.

Board Case No. MD-01-0189

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

(Letter of Reprimand and Probation)

This matter was considered by the Arizona Medical Board ("Board") at its public meeting on August 8, 2002. Robert Allen, M.D., ("Respondent") appeared before the Board with legal counsel Michael Wolver 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. 15874 for the practice of medicine in the State of Arizona.
3. The Board initiated case number MD-01-0189 after receiving a complaint regarding Respondent's care and treatment of a 71 year-old male Patient ("P.K.").
4. In April 2000 P.K. was treated by Respondent and a Physician Assistant (under Respondent's supervision) for pain in his right ankle, leg and foot. P.K.'s pain persisted. Neither Respondent nor the Physician Assistant referred P.K. to an orthopedic specialist. In December 2000 P.K. self-referred to a spine specialist. The specialist recommended surgery to correct an unidentified degenerative spinal condition.

1 5. Respondent testified at the formal interview that he first saw P.K. in May
2 2000 for complaints of pain that extended posteriorly down his right leg from his back to
3 his foot. Respondent testified that P.K. had no swelling, no previous history of back
4 problems and no trauma. Respondent testified that he diagnosed low back pain and
5 sciatica and treated P.K. with a non-steroidal anti-inflammatory and ice therapy and
6 requested P.K. to return in about 10 days.

7 6. Respondent testified that P.K. canceled the follow-up appointment and was
8 not seen again until September 18, 2000. Respondent testified that at the September 18
9 visit P.K. complained of a week and one-half history of back pain with pain radiating into
10 his right leg. Respondent diagnosed P.K. with low back pain, sciatica, osteoarthritis and
11 degenerative disk disease. Respondent treated P.K. with an analgesic, Ultram, and
12 Relafen, an anti-inflammatory. Respondent testified that x-rays were taken on the 18th of
13 P.K.'s lumbosacral spine and pelvis. Respondent testified that he went over the x-rays
14 with P.K. and pointed out a problem with the L5/S1 disk space. Respondent referred
15 P.K. to a chiropractor practicing in Respondent's office. P.K. was instructed to return for
16 follow-up in two weeks.

17 7. Respondent noted that it is his policy to do hands-on examinations of
18 patients and that he knows he could have documented the examination better.
19 Respondent testified that he had retained a practice management consultant who had
20 helped him develop several forms to improve documentation in the history, present
21 illness, review of systems and physical examination. Respondent testified that it is his
22 practice, if a patient complains of back pain, to do a straight leg raising examination in
23 both the sitting and supine position. Respondent testified that he also assesses muscular
24 strength.

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1 8. Respondent testified that at the September 18, 2000 visit he asked P.K.
2 about bowel or bladder problems because he was looking for cauda equina syndrome,
3 but did not document his query. Respondent noted that he looked for cauda equina
4 syndrome because, if present, it would make P.K.'s case an urgent surgical case.
5 Respondent testified that the routine he followed included asking P.K. about sensory
6 loss, motor loss, and evaluating a straight leg raise. Respondent testified that he
7 checked P.K.'s peripheral pulses, but did not document that he had done so.
8 Respondent was asked to address where in his history and physical from the September
9 18, 2000 visit is there evidence of his having performed a neurological examination,
10 including reflexes, sensation, strength and muscle tone. Respondent stated that the
11 notes indicate that there was a marked spasm in the lumbosacral spine and that the other
12 parts of the examination were normal and not documented.

13 9. Respondent was queried regarding the treating chiropractor's September
14 29 noted diagnosis of a right foot drop. Respondent was asked if he was still responsible
15 for P.K.'s care at the time this diagnosis was made and noted. Respondent stated that
16 he was responsible for P.K.'s care and he had not found the foot drop. Respondent was
17 asked what he would have done if the chiropractor had immediately communicated that
18 P.K. had a right foot drop? Respondent testified that he would have had P.K. return to
19 the office, evaluated him and would have referred him to a specialist. The September 29
20 note also indicated that P.K.'s pain was the same, that there was no change in using pain
21 pills and that P.K. had no back pain, but had developed right leg pain.

22 10. Respondent was then queried about an October 2, 2000 note in P.K.'s chart
23 that indicated P.K. complained of right hip pain that radiated down his leg, that his leg
24 had gotten cold, there was some burning in his ankle and pain when walking.
25 Respondent stated that the Physician Assistant had made that entry. Respondent was

1 asked if the Physician Assistant would report an abnormal finding to him. Respondent
2 stated that the Physician Assistant would if there was a problem the physician assistant
3 was concerned about. Respondent was asked if the finding of a cold foot bothered him
4 and what his action was at that point. Respondent stated that the cold foot would bother
5 him and that P.K. had subsequently undergone an ultrasound of the circulatory system,
6 the results of which were normal. The Physician Assistant then diagnosed restless leg
7 syndrome. Respondent testified that P.K. was placed on Neurotin and two weeks later
8 went to see the specialist.

9 11. Respondent was queried as to what a straight leg raise indicates.
10 Respondent testified that a straight leg raise evaluates the L5/S1 nerve root.
11 Respondent admitted that a patient could have something terribly wrong, including
12 infection, cancer, a fracture, or severe lumbar stenosis in their lower back that would go
13 undetected by a straight leg raise.

14 12. The standard of care required Respondent to perform a baseline
15 neurological examination to provide a basis for following what was happening to P.K. and
16 to fully document all examinations he performed on P.K.

17 13. Respondent did not meet the standard of care because he did not perform
18 a baseline neurological examination and did not fully document all examinations he
19 performed on P.K.

20 14. There was potential harm to P.K. because Respondent's failure to meet the
21 standard of care could have allowed a serious neurological condition to go undiagnosed.

22 CONCLUSIONS OF LAW

23 1. The Arizona Medical Board possesses jurisdiction over the subject matter
24 hereof and over Respondent.

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RIGHT TO PETITION FOR REHEARING OR REVIEW

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

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

DATED this 3rd day of October, 2002.



ARIZONA MEDICAL BOARD

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

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

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

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1 Executed copy of the foregoing
mailed by U.S. Certified Mail this
2 ~~3rd~~ day of OCTOBER, 2002, to:

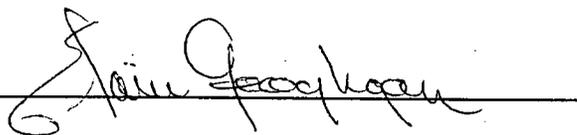
3 Michael Wolver
4 Olson Jantsch & Bakker PA
7243 N. 16th St.
5 Phoenix, AZ 85020-7250

6 Executed copy of the foregoing
mailed by U.S. Mail this
7 ~~3rd~~ day of OCTOBER, 2002, to:

8 Robert Allen, M.D.
1425 S Greenfield Rd Ste 101
9 Mesa AZ 85206-5505

10 Copy of the foregoing hand-delivered this
11 ~~3rd~~ day of OCTOBER, 2002, to:

12 Christine Cassetta
Assistant Attorney General
13 Sandra Waitt, Management Analyst
Lynda Mottram, Senior Compliance Officer
14 Investigations (Investigation File)
Arizona Medical Board
15 9545 East Doubletree Ranch Road
16 Scottsdale, Arizona 85258

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