

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
) FINDINGS OF FACT, CONCLUSIONS
Joseph Gregory Jemsek, M.D.) OF LAW, AND ORDER
) OF DISCIPLINE
Respondent.)
)

This matter was heard by the North Carolina Medical Board (hereafter Board) on June 21 and 22, and July 20, 2006. Marcus Jimison and Katherine L. Carpenter represented the Board, and James A. Wilson represented Respondent, Joseph Gregory Jemsek, M.D. (hereafter Dr. Jemsek).

Based upon the evidence presented and the arguments of counsel, the Board enters the following:

FINDINGS OF FACT

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes.

2. Dr. Jemsek is a physician licensed by the Board on or about June 15, 1979, to practice medicine and surgery, license number 23386.

3. During the times relevant herein, Dr. Jemsek practiced medicine in Charlotte, North Carolina.

4. Patients A through J presented to Dr. Jemsek with non-specific symptoms such as fatigue, achiness, and decreased concentration. For each of these patients Dr. Jemsek made a diagnosis of Lyme disease, a bacterial infection usually transmitted by a tick bite.

5. For Patients A through J, Dr. Jemsek diagnosed each with Lyme Disease in a manner that departed from acceptable and prevailing standards of medical practice, including making a diagnosis with scant or no supporting historical, physical, serological or other laboratory evidence supporting a diagnosis of Lyme disease.

6. Furthermore, for each of these patients, Dr. Jemsek administered a treatment that departed from acceptable and prevailing standards of practice, including prescribing a course of oral and/or intravenous antibiotics to be administered to the patients for several months, or in some cases, years, even though there is an absence of any research or clinical evidence of efficacy for such treatments. In regard to the administration of intravenous antibiotics, Dr. Jemsek inserted indwelling venous access, for which there exists an increased risk of infection. Patients did, in fact, suffer infections from their indwelling catheters, some infections becoming life-threatening.

6. Dr. Jemsek failed to adequately educate and inform his patients, including Patients A through J, that his method of diagnosing Lyme disease is not based on objective historical, physical, serological or other laboratory evidence and is a departure from recognized standards of diagnosing Lyme disease. Furthermore, Dr. Jemsek failed to adequately educate and inform his patients, including Patient A through J, that his method of treating Lyme Disease (long term administration of oral and/or intravenous antibiotics) is a departure from recognized standards of treating Lyme disease.

7. Dr. Jemsek testified that he is alone in how he diagnoses and treats Lyme Disease among physicians in North Carolina. Also, Dr. Jemsek's own expert witnesses, Dr. Brian Fallon and Dr. Steve Phillips, both offered testimony that supported the Board's contentions in this matter as to issues involving informed consent and the prolonged use of oral and/or intravenous antibiotics for months and years on end for Lyme Disease.

Based upon the foregoing Findings of Fact, the Board enters the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over Dr. Jemsek and the subject matter.

2. Dr. Jemsek's diagnosis and treatment of Patients A through J constitute unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether a patient is injured thereby, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit his license to practice medicine and surgery issued by the Board or deny any application he might make in the future.

3. By not properly explaining his methods of diagnosing and treating Lyme disease to Patients A through J, Dr. Jemsek breached his patients' informed consent, and therefore engaged in unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether a patient is injured thereby, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit his license to practice medicine and surgery issued by the Board or deny any application he might make in the future.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board hereby enters the following:

ORDER

1. The North Carolina medical license of Dr. Jemsek be and hereby is SUSPENDED for TWELVE (12) MONTHS from the date of this ORDER; such suspension is hereby immediately STAYED upon the following terms and conditions:

a. Dr. Jemsek shall develop an informed consent form approved by the North Carolina Board President.

b. If a patient's diagnosis is not supported by current Center for Disease Control ("CDC") criteria, then the patient must have a consultation or second opinion by a North Carolina licensed infectious disease physician approved by the Board President before treatment.

c. Any treatment of Lyme Disease either by oral or intravenous antibiotics for greater than two months total time must be included in a formal research protocol with institutional review board ("IRB") supervision approved by the Board President.


d. Any complications of treatment must be addressed by immediately.

2. The Findings of Fact and Conclusions of Law contained herein are intended solely for the purpose of resolving the case at hand, judicial review of this Board decision on appeal, or in

connection with other matters before the Board involving
Respondent.

This the 21st day of August, 2006.

NORTH CAROLINA MEDICAL BOARD

By:  _____
Robert C. Moffatt, M.D.
President