

Respondent Bowers, Mark T.
Case # 97-03-0080 MD
RCM: Hampton Irwin, MD

**Medical Quality Assurance Commission
Case Assignment Transmittal**

Date: 7-10-98

TO: Legal _____, Staff Attorney
 Investigations
 Licensing Manager
 Medical Consultant
 Case Coordinator
 Compliance Officer

FROM: **Maryella Jansen, Program Manager**



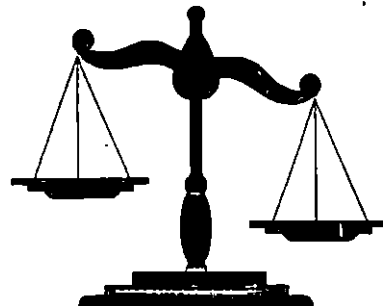
The following action was ordered by the Commission at the 7/97 meeting:

- | | |
|---|---|
| <input type="checkbox"/> Close "no cause for action" | <input type="checkbox"/> Close with letter of concern |
| <input type="checkbox"/> Close "no jurisdiction" | <input type="checkbox"/> Authorized Stipulation to Informal Disposition |
| <input type="checkbox"/> Offer non-reportable RSA | <input type="checkbox"/> Offer reportable RSA |
| <input type="checkbox"/> Summary Suspension | <input type="checkbox"/> Statement of Charges _____ |
| <input type="checkbox"/> Interim order for evaluation | <input type="checkbox"/> Expert review by _____ |
| <input type="checkbox"/> Legal review | <input type="checkbox"/> RCM Re-assignment |
| <input type="checkbox"/> Further investigation concerning _____ | |
| _____ | |
| <input type="checkbox"/> Practice review with emphasis on _____ | |
| _____ | |
| <input type="checkbox"/> Other _____ | |

Special Instructions: _____

2 - Attorney Work Product - RCW 42.56.290 - Drafts, not...

Transmittal Sheet From Legal Unit



TO: <i>Case Staffing</i>	RCM: <i>Drwia</i>	MC: <i>Hege</i>
CASE NUMBER: <i>97-11-0012 MD & 97-03-0080 MD</i>	DATE LEGAL FORWARDED: <i>11-16-98</i>	
RESPONDENT LAST NAME: <i>BOWERS</i>	FIRST: <i>Marci</i>	MIDDLE INITIAL: <i>L</i>
PRIORITY: <input type="checkbox"/> 1-HIGH <input type="checkbox"/> 2-MEDIUM <input type="checkbox"/> 3-LOW		
STAFF ATTORNEY: <i>Stickler</i>		
REASON FOR FORWARDING: <input type="checkbox"/> SEND TO REVIEWING COMMISSION MEMBER <input type="checkbox"/> FURTHER INVESTIGATION <input type="checkbox"/> TRANSFERRED TO AAG		
CASE COMPLETION: <input checked="" type="checkbox"/> CLOSED, NO CAUSE FOR ACTION <input type="checkbox"/> CLOSED, NO JURISDICTION <input type="checkbox"/> CLOSED, WITH LETTER OF CONCERN <input type="checkbox"/> STID ACCEPTED <input type="checkbox"/> RSA ACCEPTED <input type="checkbox"/> AGREED ORDER ACCEPTED <input type="checkbox"/> LICENSE APPLICATION GRANTED <input type="checkbox"/> COMMISSION ORDER ISSUED <input type="checkbox"/> DEFAULT ORDER		

Respondent: Bowers Marci T.
Case # 97-11-0012MD AND 9703-0080MD
RCM: TWIN

**Medical Quality Assurance Commission
Case Assignment Transmittal**

Date: 5/28/98

TO: Legal _____, Staff Attorney
 Investigations
 Licensing Manager
 Medical Consultant
 Case Coordinator
 Compliance Officer

FROM: **Maryella Jansen, Program Manager**



The following action was ordered by the Commission at the 5/98 meeting:

- | | |
|---|---|
| <input type="checkbox"/> Close "no cause for action" | <input type="checkbox"/> Close with letter of concern |
| <input type="checkbox"/> Close "no jurisdiction" | <input type="checkbox"/> Authorized Stipulation to Informal Disposition |
| <input type="checkbox"/> Offer non-reportable RSA | <input type="checkbox"/> Offer reportable RSA |
| <input type="checkbox"/> Summary Suspension | <input type="checkbox"/> Statement of Charges _____ |
| <input type="checkbox"/> Interim order for evaluation | <input type="checkbox"/> Expert review by _____ |
| <input type="checkbox"/> Legal review | <input type="checkbox"/> RCM Re-assignment |
| <input type="checkbox"/> Further investigation concerning _____ | |
| _____ | |
| <input type="checkbox"/> Practice review with emphasis on _____ | |
| _____ | |

Other _____
Special Instructions: _____

2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecti...

Respondent: Bowers, Mark, T.
Case #: 97-03-00 MB
RCM: TWIN

Medical Quality Assurance Commission Case Assignment Transmittal

Date: 4-16-98

- To: _____ Legal _____ Staff Attorney
_____ Investigations
_____ Licensing Manager
 Medical Consultant
_____ Case Coordinator
_____ Compliance Officer

Please place
in Bowers
files

From: Maryella Jansen, Program Manager



The following action was ordered by the Commission at the April 1998 meeting:

- | | |
|--|--|
| <input type="checkbox"/> Close "no cause for action". | <input type="checkbox"/> Close with letter of concern. |
| <input type="checkbox"/> Close "no jurisdiction". | <input type="checkbox"/> Authorized Stipulation to Informal Disposition. |
| <input type="checkbox"/> Offer non-reportable RSA | <input type="checkbox"/> Offer reportable RSA |
| <input type="checkbox"/> Summary Suspension | <input type="checkbox"/> Statement of Charges _____ |
| <input type="checkbox"/> Interim order for evaluation | <input type="checkbox"/> Expert review by _____ |
| <input type="checkbox"/> Legal review | <input type="checkbox"/> RCM Re-assignment |
| <input type="checkbox"/> Further investigation concerning _____ | |
| <input type="checkbox"/> Practice review with emphasis on _____ | |
| <input checked="" type="checkbox"/> Other <small>2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, record...</small> | _____ |

Special Instructions: _____

Respondent: Mark T Bowers
Case #: 97-03-00 MD
RCM: Hampton Irwin

Medical Quality Assurance Commission Case Assignment Transmittal

Date: 3/5/98

- To: _____ Legal _____ Staff Attorney
_____ Investigations
_____ Licensing Manager
 Medical Consultant
_____ Case Coordinator
_____ Compliance Officer

From: Maryella Jansen, Program Manager



The following action was ordered by the Commission at the March 98 meeting:

- | | |
|---|--|
| <input type="checkbox"/> Close "no cause for action". | <input type="checkbox"/> Close with letter of concern. |
| <input type="checkbox"/> Close "no jurisdiction". | <input type="checkbox"/> Authorized Stipulation to Informal Disposition. |
| <input type="checkbox"/> Offer non-reportable RSA | <input type="checkbox"/> Offer reportable RSA |
| <input type="checkbox"/> Summary Suspension | <input type="checkbox"/> Statement of Charges _____ |
| <input type="checkbox"/> Interim order for evaluation | <input type="checkbox"/> Expert review by _____ |
| <input type="checkbox"/> Legal review | <input type="checkbox"/> RCM Re-assignment |

2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent

_____ Other _____

Special Instructions: _____

WASHINGTON STATE MEDICAL QUALITY ASSURANCE COMMISSION
REQUEST FOR INVESTIGATION

TO: *Medical Investigations Unit*

FROM: *Betty Wilbur, Intake Coordinator*

PHONE #: *586-3335*

DATE: *3-11-98*

CASE#: *97-03-0080MD*

RESPONDENT: *Bowers, Mark T.*

LOCATION: *Seattle*

DATE RECEIVED: *3-11-98* DATE ASSIGNED: *3-11-98*

PRIORITY: *3* CODE: *29*

INVESTIGATOR ASSIGNED: *Bill Crowell*

BACKGROUND COMMENTS:

**DEPARTMENT OF HEALTH
HEALTH PROFESSIONS SECTION 5
INVESTIGATIONS UNIT**

CONFIDENTIAL INVESTIGATIVE REPORT

PREPARED FOR THE

MEDICAL QUALITY ASSURANCE COMMISSION

Case #97-03-0080MD

RESPONDENT: Mark T. Bowers, M.D.

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APPENDIX E -- EVIDENCE/EXHIBITS

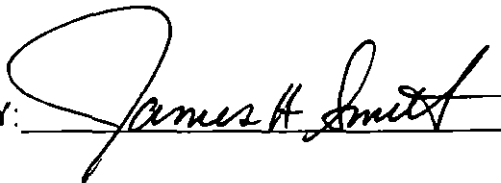
APPENDIX F -- POSSIBLE VIOLATIONS

APPENDIX G -- ACTIVITY REPORT

APPENDIX H -- SUMMARY OF PREVIOUS CASES

APPENDIX I -- REQUEST FOR INVESTIGATION

APPROVED BY:



Investigator: Bill N. Crowell

DATE: 1/21/98

APPENDIX A

RESPONDENT INFORMATION

Mark T. Bowers, M.D.
The Polyclinic
1145 Broadway
Seattle, WA 98122

Telephone No. (206) 329-1760

LICENSE NUMBER: 27147

DATE ISSUED: 03-05-1990

EXPIRATION DATE: 01-18-98

BIRTH DATE: 01-18-58

SPECIALIZATION: OB/GYN

HOSPITAL AFFILIATION: Providence Medical Center and Swedish Medical Center.

PREVIOUS REGULATORY ACTION: None

PREVIOUS COMPLAINT HISTORY: #92-12-0020MD

ATTORNEY IDENTIFICATION: None

APPENDIX B

COMPLAINANT INFORMATION

Physician Insurance Exchange
1730 Minor Avenue, Suite 1800
Seattle, WA 98101-1499
TEL: (206) 343-7300

APPENDIX C

Case # 97-03-0080MD/Mark T. Bowers, M.D.

Page 2 of 7 pages

CONTACT LIST

Physician Insurance Exchange
1730 Minor Avenue, Suite 1800
Seattle, WA 98101-1499
TEL: (206) 343-7300

APPENDIX D

GENERAL SUMMARY

This case is cross referenced with case #97-11-0012MD. The same Complainant, complaint and Respondent.

A Medical Malpractice Report was received from the Physician Insurance Exchange regarding a monetary settlement in the sum of 6 - National Practi... against the Respondent, Mark T. Bowers, M.D.

The Complainant, 3 - Identity - Whistleblower Regardi..., a 29-year-old female, presented to the Respondent with a long history of chronic pelvic pain and adhesions. On August 16, 1994, the Complainant underwent a diagnostic laparoscopy with extensive lysis of adhesions by the Respondent. During the procedure an inadvertent incision in the bladder was created, which was recognized, and the procedure was converted to a mini-laparotomy with cystotomy repair. However, the Respondent also perforated the distal ileum during the procedure, which was not recognized. Several days later, on August 18, 1994, the Complainant developed peritonitis, and underwent additional surgery for resection of the perforated ileum with a primary anastomosis.

Please refer to case #97-11-0012MD for further information regarding the complaint.

APPENDIX E

Case # 97-03-0080MD/Mark T. Bowers, M.D.

Page 3 of 7 pages

EVIDENCE

Page #

Description

ATTACHMENTS

Exhibit

Description

APPENDIX F

POSSIBLE VIOLATIONS

1.

Case # 97-03-0080MD/Mark T. Bowers, M.D.

Page 4 of 7 pages

APPENDIX G
ACTIVITY REPORT

<u>Item</u>	<u>Date</u>	<u>Action taken</u>
1.	04-01-97	Complaint received intake.
2.	11-14-97	Complaint reviewed by Chief Investigator James Smith.
3.	11-21-97	Complaint presented at case staffing.
4.	11-21-97	Case received in MIU.
5.	11-21-97	Case assigned.
6.	12-08-97	Letter of cooperation sent by certified mail to Dr. Bowers.
7.	01-08-98	Three day letter of cooperation sent by certified mail to Dr. Bowers.
8.	01-15-98	Case completed in MIU.

APPENDIX H

Case # 97-03-0080MD/Mark T. Bowers, M.D.

Page 5 of 7 pages

SUMMARY OF PREVIOUS CASES

Case #92-12-0020MD. Cross referenced with case #92-12-0019MD, Howard N. Anderson, M.D. On December 31, 1992, the Respondent performed a vaginal hysterectomy for dysfunctional uterine bleeding. No complications. After the Respondent had completed his procedure, Dr. Anderson performed a laparoscopic cholecystectomy. The patient later developed a bile leak, which necessitated a laparotomy. Respondent noted he had nothing to with the cholecystectomy, other than to observe the procedure. Closed no cause for action.

Case # 97-03-0080MD/Mark T. Bowers, M.D.

Page 6 of 7 pages

APPENDIX I

REQUEST FOR INVESTIGATION

Case # 97-03-0080MD/Mark T. Bowers, M.D.

Page 7 of 7 pages

INITIAL ASSESSMENT REVIEW

Case Number:

97-11-0012MD

Date: 11/14/97 8:07 AM

Presented by: James H. Smith, HCI VI

Respondent: Bowers, Mark T., MD

Complainant: 3 - Identity - Whistleblower Rega...

CASE SUMMARY

The Respondent: Board Certified in OB/GYN, DOB 1/18/58, licensed since 90

The Complainant: Former patient

The Complaint: Negligence laparoscopic surgery

Complaint Review: The complainant writes that she went to the respondent for treatment of an ovarian cyst. She had had a history of 14 abdominal surgeries and infertility. She was also interested in biding herself time to go through infertility treatment one more time. They agreed to a laparoscopic procedure to treat the cyst. The complainant details a long series of complications from a punctured bowel. She is particularly upset that the respondent did not tell her of the bowel puncture until much later in the course of complications.

Note that the complainant has settled a malpractice claim against the respondent. Case # 97-07-0080MD is currently open and may be this case.

Prior Cases:

92-12-0020MD -- Closed

97-03-0080MD -- Med/Mal, open

Code: 04

Notify: Yes

Investigative Plan:

- 1) Check Case # 97-07-0080MD

WASHINGTON STATE MEDICAL QUALITY ASSURANCE COMMISSION
REQUEST FOR INVESTIGATION

TO: **Medical Investigations Unit**

FROM: **Betty Wilbur, Intake Coordinator**

PHONE #: **586-3335**

DATE: 11/21/97

CASE#: 97-03-0090MD

RESPONDENT: Bowers, MARCI T. MD

LOCATION: SEATTLE, WA

DATE RECEIVED: 11/21/97 DATE ASSIGNED: 11/21/97

PRIORITY: 3 CODE: 04

INVESTIGATOR ASSIGNED: Bill Crowell

BACKGROUND COMMENTS:

2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent

Thanks

9270

File Number: 9703-0080 MD Date: 4-1-97

Respondent Information

Name: Mark J. Bowers License:# 27147
1145 Broadway Issued: 3-5-90
address Seattle, WA 98122 Expires: 1-18-98
D.O.B: 1-18-58

Medical School Attended: Univ. of Minnesota Year of Graduation: _____
Board Certified? No YES Board? Obstetrics
Declared Specialty Area(s) _____
Department of Licensing Information: _____

Respondent's Counsel of Record:

Previous Cases & Cross-Reference Cases

Name: See attach File#: _____ Status: _____ Code: _____
Name: _____ File# _____ Status: _____ Code: _____
Name: _____ File#: _____ Status: _____ Code: _____
Name: _____ File#: _____ Status: _____ Code: _____
Cross Ref. _____ File #: _____
Cross Ref. _____ File #: _____
Cross Ref. _____ File #: _____
Cross Ref. _____ File #: _____

Is Physician on Compliance?: No
If yes, Date of next Compliance Hearing: _____

COMPLAINANT INFORMATION

Name Physicians Insurance

No Response Ack Letter Subp Letter to State
Date of Response _____ By: _____

telnet (WA-RS6000-1)

97030080

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MEDICAL BOARD
blw0303
INDIVIDUAL NAME
LAST BOWERS
FIRST MARK
MIDDLE THOMAS

ASSESSMENT SYSTEMS, INC. 03-31-97
REAL SYSTEM V2.5.9 03:47:02 PM
(JR,SR,III) REFERENCE # MD00027147
SOC SEC NUM - -

RESIDENCE INFORMATION
THE POLYCLINIC
1145 BROADWAY
SEATTLE, WA 98122

+--ADDITIONAL INFORMATION-----+

SEX M = MARRIED Y =

OTHER NAME
CORP. OFFICER =
TRUST ACCOUNT

BIRTH PLACE
DATE 01-18-1958

SCHOOL CODE
CE UNITS 0.00 REQD BY 01-18-1910

PHONE: (206) 329-1760 COUNTY: 17
() - LGL ST: WA

NOTES

+-----+
CURRENT STATUS: A D EXPIRATION DATE: 01-18-1998 FIRST ISSUE DATE: 03-05-1990
RENEWAL STATUS: Z LAST ACTIVE DATE: - - LAST RENEWAL DATE: 01-16-1997
COMPLAINTS O/C: 0/ 1 AUTHORITY:
+-----+

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telnet (WA-RS6000-1)

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		ASSESSMENT SYSTEMS, INC.				03-31-97	
		REAL SYSTEM		V2.5.9		03:47:11 PM	
CASE		COMPLAINT					
NUMBER	COMPLAINANT	DATE	INVESTIGATOR	TYPE	STATUS		
92120020	<small>3 - Identity - Whistleblower Regarding Hea...</small>	12-16-1992	REED A. GIFFORD	14	CLOSED		

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STATE OF WASHINGTON
DEPARTMENT OF HEALTH
1300 SE Quince St • P.O. Box 47866 • Olympia, WA 98504-7866

December 22, 1998

Marci L. Bowers, MD
The Polyclinic
1145 Broadway
Seattle, WA 98122-4299

SUBJECT: Marci L. Bowers, MD
Case No: 97-03-0080MD

Dear Dr. Bowers:

The Medical Quality Assurance Commission considered a medical malpractice payment report.

After careful consideration of the records and information obtained during its investigation, the Medical Quality Assurance Commission has determined to close this case no cause for action because risk is minimal and not likely to reoccur. However, this case may be reconsidered if additional information is received that warrants further investigation. The complainant will also be advised of the decision to close this case.

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact me at (360) 236-4792.

Respectfully,

COPY

Maryellä Jansen, Program Manager
Medical Quality Assurance Commission

Respondent Bowers, Marci L.
Case # 97-03-0080MD
RCM: IRWIN

**Medical Quality Assurance Commission
Case Assignment Transmittal**

Date: 11/5/98

- TO: Legal Stickler, Staff Attorney
 Investigations
 Licensing Manager
 Medical Consultant
 Case Coordinator
 Compliance Officer

FROM: **Maryella Jansen, Program Manager**

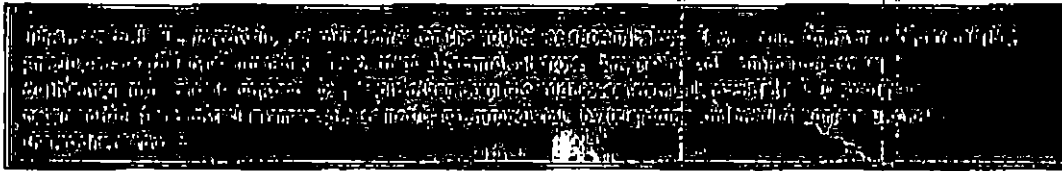


The following action was ordered by the Commission at the 11/5/98 meeting:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Close "no cause for action" | <input type="checkbox"/> Close with letter of concern |
| <input type="checkbox"/> Close "no jurisdiction" | <input type="checkbox"/> Authorized Stipulation to Informal Disposition |
| <input type="checkbox"/> Offer non-reportable RSA | <input type="checkbox"/> Offer reportable RSA |
| <input type="checkbox"/> Summary Suspension | <input type="checkbox"/> Statement of Charges _____ |
| <input type="checkbox"/> Interim order for evaluation | <input type="checkbox"/> Expert review by _____ |
| <input type="checkbox"/> Legal review | <input type="checkbox"/> RCM Re-assignment |
| <input type="checkbox"/> Defer | |
| <input type="checkbox"/> Further investigation concerning _____ | |
| <input type="checkbox"/> Practice review with emphasis on _____ | |
| <input type="checkbox"/> Other _____ | |

Special Instructions: 2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, state...

*Department of Health
Medical Quality Assurance Commission
1300 S.E. Quince
Post Office Box 47866
Olympia, Washington 98504-7866
(360) 664-2252*



Date: October 8, 1998

Please deliver the following page(s) To:

NAME: Hampton W. Irwin, M.D.

FAX NO: (509) 838-3411

TELEPHONE NO: (509) 448-0105



MARCI L. BOWERS, M.D.

Obstetrics & Gynecology

OCT 07 1998

October 2, 1998

State of Washington
Department of Health
Attention: Marcia G. Stickler
1300 SE Quince Street
PO Box 47866
Olympia, WA 98504-7866

CONFIDENTIAL

RE: MARCI L. BOWERS, M.D.
Docket Number 98-08-A-1075MD/Program Number 97-03-0080MD & 97-11-0012MD

Dear Ms. Stickler:

I wish to respectfully decline the Stipulation to Informal Disposition as proposed September 2, 1998, by the Washington State Medical Quality Assurance Commission. My reasons for doing so are as follows:

A state quality assurance commission, it seems to me, has the responsibility to expeditiously examine reports of medical incompetence, substance abuse, or conduct impropriety—in other words, a mandate to sort out “bad apples” in our profession. In this case, even the most cursory of evaluations of my practice and physician credentials should have led the Commission to the rapid conclusion that I was not a “bad apple.” As evidence, I offer my history as a graduate of the University of Minnesota Medical School, where I completed study in the top 15% of my class and served as class and student body president. I performed my residency at the University of Washington, where I was voted by my fellow residents to receive the Chief Resident Teaching Award. I have practiced obstetrics and gynecology at The Polyclinic in Seattle since 1990 and have served as quality assurance chairperson at Providence Medical Center and as OB/GYN Department Chairperson. I have never been the subject of any disciplinary reviews, suspensions, or inquiries at either Swedish or Providence Medical Center.

The 5 - Name - Whis... case and its allegations are noted. The case is, in fact, indelibly a part of my clinical experience. I shall never forget its many lessons. The case, its complications, its subsequent lawsuit, and now this investigation are the result of poor judgment on my part

**The
Polyclinic**

RE: MARCI L. BOWERS, M.D.

October 2, 1998

Page 2

at that time (August 1994) on one occasion. My decision to operate laparoscopically on a person with 14 prior surgeries was plain stupid. Even though she was in pain, even though she pleaded with me to do the surgery as an outpatient, even though my laparoscopic skills were (and remain) exceptional, and even though I warned the patient about the very complications which occurred and took steps to avoid complications (preoperative bowel prep), there is no denying the fact that this case was a trap, a disaster waiting to happen. I should never have operated on this patient. On the other hand, this case should not impugn my technical skills as a laparoscopist or my overall judgment as a clinician. In hundreds of laparoscopic cases before and since (the Commission was provided 1997-1998 data), I have not caused a similar injury or any complication resulting in hospital admission or adverse patient outcome. Ever. Never. So I must ask the Commission again, am I really a "bad apple"? Do I deserve reprimand of any kind? Does the Commission ever receive a complaint and offer the clinician commendation of their clinical skills? The lessons from this case have already been learned. Give conscientious physicians some credit. If the Commission honestly believes that I will appreciably benefit from remedial laparoscopic training or by completing the ten-page essay offered in the Informal Disposition, then I will gladly do so. However, few practitioners in the state of Washington from 1990-1998 have performed as many laparoscopic surgeries as have I. Thus, if I am held to complete this punitive essay, I expect that each and every OB/GYN in the state of Washington who performs laparoscopic surgery will receive a similar dictum.

Lastly, as the Commission has learned, I have undergone a gender transition, now practicing as Marci Bowers, M.D. Words can only begin to describe the pain and anguish that my family and I have been through during these past two years. On the other hand, my newfound status as a woman has made me stronger, though more cautious, sensitive, and introspective. In short, it has made me both a better physician and better human being. However, while I am less aggressive, I will not hesitate to resist when injustice strikes me as it has in this investigation. This extraordinarily slow process should have been dispensed with even after a superficial evaluation of my practice history and credentials. Good grief. Though I would agree to a limited essay, I hope that you will restore some dignity to my self-esteem and to the credibility of your committee by dropping this matter completely. It seems to me that continued insistence on punitive terms of any sort, despite irrefutable evidence of quality care, singles me out unfairly. Thus, if you choose to persist in your punitive recommendations, then I must conclude that a harassment basis underlies your conclusions and will proceed with formal legal dispensation.

Sincerely,



MARCI L. BOWERS, M.D.

99(234-10051324) r10/5/98

c: (1)

FACSIMILE COVER SHEET

*Department of Health
Medical Quality Assurance Commission
1300 S.E. Quince
Post Office Box 47866
Olympia, Washington 98504-7866
(360) 664-2252*

This Facsimile Transmittal is intended only for the addressee shown below. It may contain information that this privileged, confidential, or otherwise protected from disclosure. Any review, dissemination, or use of this transmittal or its contents by people other than the addressee is strictly prohibited. If you have received this transmittal in error, please notify us immediately by telephone and mail the original to us at the address above.

Date: *October 8, 1998*

Please deliver the following page(s) To:

NAME: *Hampton W. Irwin, M.D.*

FAX NO: *(509) 838-3411*

TELEPHONE NO: *(509) 448-0105*



FROM: *Health Professions Section #5 Legal Unit*

NAME: *Marcia G. Stickler*

FAX NO: *(360) 586-0745*

NUMBER OF PAGES: *(including this page) 3*

Comments: *RE: Marci Lee BOWERS, Nos. 97-03-0080MD and 97-11-0012MD. Apparently Dr. Bowers is turning down the STID. Please review her letter and advise me of where you want to go.*

1 - Attorney Work Product - RCW 42.56.290



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

1300 SE Quince St • P.O. Box 47866 • Olympia, WA 98504-7866

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

September 2, 1998

Marci L. Bowers, M.D.
The Polyclinic
1145 Broadway
Seattle, WA 98122

Re: In the Matter of the License to Practice Medicine of
Marci L. Bowers, M.D., Docket No. 98-08-A-1075MD/
Program No. 97-03-0080MD and 97-11-0012MD

Dear Dr. Bowers:

You have been under investigation by the Washington State Medical Quality Assurance Commission for alleged unprofessional conduct. As a resolution of the case, the Commission has moved to allow you to enter into a Stipulation to Informal Disposition rather than filing a formal Statement of Charges. Please read these documents carefully and consult your attorney if you need legal advice.

I have enclosed the original and one copy of the Stipulation to Informal Disposition which I, as the staff attorney for the Department of Health, have prepared. The terms of the Stipulation to Informal Disposition are those proposed by the Commission. Signing the Stipulation does not constitute an admission of any violation of law. Note that a Stipulation to Informal Disposition is not disciplinary action, nor is it published or sent to the National Practitioner Data Bank.


I have also enclosed a document entitled "Statement of Allegations." The legislature has required that this be served along with a Stipulation to Informal Disposition. It merely recites the allegations against you.

If you choose to enter into the Stipulation to Informal Disposition, please sign the original in the spaces indicated and return it to me. Keep the copy for your records. I will forward a conformed copy to you when the original is signed.

If you choose not to accept the Stipulation to Informal Disposition, please inform me in writing within 10 days. The matter will then be re-presented to the Commission to determine whether to issue a Statement of Charges in this case.

You are, of course, free to consult with and engage an attorney to represent you in these matters. If you have any further questions or concerns, you may contact me at the telephone number referenced below, or you may contact my paralegal, Casandra Batdorf at (360) 753-5613.

Sincerely,


Marcia G. Stickler
Staff Attorney, Dept. of Health
(360) 664-2252

MGS/ceb
Enclosure

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice as a Physician and Surgeon of)	Docket No. 98-08-A-1075MD
)	
MARCI LEE BOWERS, M.D. (a.k.a. MARK T. BOWERS, M.D.) License No. 27147)	STATEMENT OF ALLEGATIONS AND SUMMARY OF EVIDENCE
)	
Respondent.)	

The Program Manager, on designation by the Commission, makes the allegations below, which are supported by evidence contained in program case file Nos. 97-03-0080MD and 97-11-0012MD. Any patient referred to in this Statement of Allegations and Summary of Evidence is identified in an attached Confidential Schedule.

Section 1: ALLEGED FACTS

- 1.1 Mark T. Bowers, M.D., Respondent, was issued a license to practice as a physician and surgeon by the State of Washington in March, 1990.
- 1.2 The patient presented to the Respondent in July, 1994 with a long history of chronic pelvic pain and adhesions. The patient was a 29-year-old, obese woman who had undergone fourteen prior pelvic surgeries without significant reduction in her chronic pain complaints.
- 1.3 The Respondent performed laparoscopic pelvic surgery on the patient on August 16, 1994 for exploration of a possible cyst and lysis of adhesions. During the procedure, an inadvertent incision in the bladder was made, which the Respondent recognized and repaired. However, the

Respondent also perforated the patient's distal ileum during the procedure but did not recognize that the injury had occurred.

1.4 After discharge to home, the patient began feeling worse and experiencing increasing abdominal pain. Although the patient communicated with the Respondent about her condition, the Respondent did not have the patient return to the clinic nor go to an emergency room. Several days later, the patient was diagnosed with peritonitis and underwent additional surgery for resection of the ileum with primary anastomosis on August 18, 1994.

Section 2: SUMMARY OF EVIDENCE

- 2.1 Respondent's medical record of the Patient.
- 2.2 Letter of Complaint from the Patient, received by the Department of Health on November 3, 1997.
- 2.3 Respondent's statement dated January 9, 1998.

Section 3: ALLEGED VIOLATIONS

3.1 The facts alleged in paragraphs 1.1 through 1.4 above, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180 (4) which provides in part:

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any licensee or applicant under the jurisdiction of this chapter:

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. . . .;

Section 4: NOTICE TO RESPONDENT

4.1 The Commission has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition, pursuant to RCW 18.130.172(2). A proposed Stipulation to Informal Disposition is attached, which contains the disposition the Commission believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation to Informal Disposition is appropriate to address the conduct alleged in this Statement of Allegations and Summary of Evidence, Respondent should sign and date the Stipulation to Informal Disposition and return it within 20 days to Casandra Batdorf, Dept. of Health, 1300 SE Quince St., Olympia, WA 98504-7866.

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation to Informal Disposition are appropriate to address the conduct alleged in the Statement of Allegations and Summary of Evidence, Respondent should contact Marcia G. Stickler, Staff Attorney, Department of Health Staff Attorney, Department of Health, Medical Quality Assurance Commission, 1300 SE Quince, Olympia, WA 98504-7866 at (360) 664-2252 within 10 days.

4.4 If Respondent does not respond within 10 days, the Commission will assume Respondent has declined to resolve the allegations by means of a Stipulation to Informal Disposition.

4.5 In the event Respondent declines to resolve the allegations by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(2), the Commission may proceed to formal

disciplinary action against Respondent by filing a statement of charges, pursuant to RCW 18.130.172(3).

4.6 The cover letter enclosed with this Statement of Allegations and Summary of Evidence was mailed to the name and address currently on file for Respondent's license. Pursuant to WAC 246-01-100, Respondent must notify, in writing, the Commission if Respondent's name and/or address changes.

DATED this 1st day of September, 1998.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

Maryella E. Jansen

Maryella E. Jansen
Program Manager

Marcia G. Stickler
Marcia G. Stickler, WSBA # 20712
Department of Health Staff Attorney

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.17.310(1)(d)

The Patient 4 - Investigative Records Compiled by a...

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:

97-11-0012MD and 97-03-0080MD

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice as a Physician and Surgeon of)	
)	Docket No. 98-08-A-1075MD
)	
MARCI LEE BOWERS, M.D., (a.k.a. MARK T. BOWERS, M.D.) License No. 27147)	STIPULATION TO INFORMAL DISPOSITION
)	
Respondent.)	

Section 1: STIPULATION

The parties to the above-entitled matter stipulate as follows:

1.1 Marci L. Bowers, M.D., Respondent, is informed and understands that the Program Manager, on designation by the Commission, has made the following allegations:

1.1.1 Mark T. Bowers, M.D., Respondent, was issued a license to practice as a physician and surgeon by the State of Washington in March, 1990.

1.1.2 The patient presented to the Respondent in July, 1994 with a long history of chronic pelvic pain and adhesions. The patient was a 29-year-old, obese woman who had undergone fourteen prior pelvic surgeries without relief.

1.1.3 The Respondent performed laparoscopic pelvic surgery on the patient on August 16, 1994 for exploration of a possible cyst and for lysis of adhesions. During the procedure, an inadvertent incision in the bladder was made, which the Respondent recognized and repaired. However, the Respondent also perforated the patient's distal ileum during the procedure but did not recognize that the injury had occurred.

1.1.4 After discharge to home, the patient began feeling worse and experiencing abdominal pain and complained to the Respondent. The Respondent did not have the patient return to the clinic nor go to the emergency room. Several days later, the patient developed peritonitis and underwent additional surgery for resection of the ileum with primary anastomosis.

1.2 Respondent is informed and understands that the Commission has alleged that the conduct described above, if proven, would constitute violation of RCW 18.130.180 (4).

1.3 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(1).

1.4 Respondent agrees to be bound by the terms and conditions of the Stipulation to Informal Disposition.

1.5 This Stipulation to Informal Disposition is of no force and effect and is not binding on the parties unless and until this Stipulation to Informal Disposition is accepted by the Commission.

1.6 Respondent does not admit any of the allegations in the Statement of Allegations and Summary of Evidence or in paragraph 1.1 above. This Stipulation to Informal Disposition shall not be construed as a finding of unprofessional conduct or inability to practice.

1.7 This Stipulation to Informal Disposition is not formal disciplinary action, is not intended and should not be construed as an action which "revokes or suspends (or otherwise restricts) a physician's license or censures or reprimands, or places on probation" as those words are used in Sec. 422 of the Health Care Quality Improvement Act of 1986, 42 USC 11132 and is therefore not subject to any reporting requirements to the National Practitioner Data Bank, or under RCW 18.130.110 or any interstate/national reporting requirement.

1.8 This Stipulation to Informal Disposition is releasable to the public upon request pursuant to the Public Records Act, chapter 42.17 RCW. The Statement of Allegations and Summary of Evidence and the Stipulation to Informal Disposition shall remain part of Respondent's file and cannot be expunged.

1.9 The Commission agrees to forego further disciplinary proceedings concerning the allegations contained in section 1.1 above.

1.10 Respondent agrees to successfully complete the terms and conditions of this Informal Disposition.

1.11 Respondent is advised and understands that a violation of the provisions of section 2 of this Stipulation to Informal Disposition, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

Section 2: INFORMAL DISPOSITION

Pursuant to RCW 18.130.172 (2) and based upon the foregoing stipulation, the parties agree to the following Informal Disposition. The Respondent's license to practice medicine is subject to the following terms and conditions for a period of TWO YEARS. After two years and upon successful completion of the requirements in this section, the Respondent may submit a written request for release from the terms of this Informal Disposition.

2.1 The Respondent shall review a representative portion of the medical literature from the year 1996 to the present, in the areas of prevention and management of serious laparoscopic injuries, bowel and bladder perforation, and trochar injuries. The literature review shall also address the patient selection and screening process for surgical candidates. Any questions

concerning the specific focus of such review by the Respondent shall be directed to the Commission's designee. Thereafter, the Respondent shall submit a written report to the Commission summarizing the literature review and demonstrating the Respondent's understanding of appropriate application of the principles learned to her practice of medicine. The report shall be typewritten, double spaced, and shall be no shorter than ten pages in length. The written report shall be submitted to the Commission's designee for approval no later than six months after the effective date of this Informal Disposition.

2.2 The Respondent shall pay the amount of ONE THOUSAND DOLLARS (\$1,000) to reimburse the Commission for the costs of investigating and processing this complaint within one hundred twenty (120) days of the effective date of this Informal Disposition. Such amount shall be payable to the Treasurer, State of Washington and submitted to the Compliance Officer, Department of Health, P.O. Box 1099, Olympia, Washington 98504-1099.

2.3 The Respondent shall see to it that all care delivered to her patients falls within acceptable standards of medical practice. The Respondent shall obey all federal, state, and local laws and all administrative rules governing the practice of medicine in Washington.

I, Marci Lee Bowers, M.D., Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance.

///

If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.

Marci Lee Bowers, M.D.
Respondent

Date

Section 3: ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED this ____ day of _____, 199__.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

Panel Chair

Presented by:

Marcia G. Stickler, WSBA # 20712
Department of Health Staff Attorney

Date

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:

97-03-0080MD and 97-11-0012MD

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

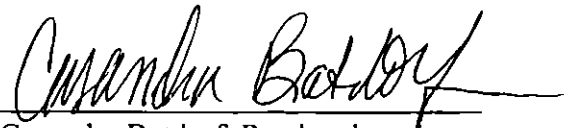
In the Matter of the License to)	
Practice as a Physician and Surgeon of)	Docket No. 98-08-A-1075MD
)	
MARCI T. BOWERS, M.D. (a.k.a.)	DECLARATION OF SERVICE
MARK T. BOWERS, M.D.))	
License No. 27147)	
Respondent.)	
<hr/>		

I declare under penalty of perjury under the laws of the state of Washington that the following is true and correct:

On September 2, 1998, I served a true and correct copy of the Statement of Allegations and Summary of Evidence, and Stipulation to Informal Disposition, signed by or for Maryella E. Jansen, Program Manager, on September 1, 1998, by placing same in the U.S. mail by 4:30 p.m, postage prepaid, on the following parties to this case:

Marci T. Bowers, M.D.
The Polyclinic
1145 Broadway
Seattle, WA 98122

DATED: September 2, 1998, Olympia, Washington.


Casandra Batdorf, Paralegal

original filed with:

**Adjudicative Clerk Office
2413 Pacific Avenue
PO Box 7879
Olympia WA 98504-7879**

DECLARATION OF SERVICE
**For Agency Use Only*

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

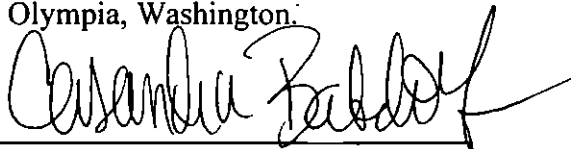
In the Matter of the License to)
Practice as a Physician and Surgeon of) **Docket No. 98-08-A-1075MD**
)
MARCI L. BOWERS, M.D. (a.k.a.) DECLARATION OF SERVICE
MARK T. BOWERS, M.D.)
License No. 27147)
Respondent.)
_____)

I declare under penalty of perjury under the laws of the state of Washington that the following is true and correct:

On September 2, 1998, I served a true and correct copy of the Statement of Allegations and Summary of Evidence, and Stipulation to Informal Disposition, signed by or for Maryella E. Jansen, Program Manager, on September 1, 1998, by placing same in the U.S. mail by 4:30 p.m, postage prepaid, on the following parties to this case:

Marci L. Bowers, M.D.
The Polyclinic
1145 Broadway
Seattle, WA 98122

DATED: September 2, 1998, Olympia, Washington.



Casandra Batdorf, Paralegal

original filed with:

**Adjudicative Clerk Office
2413 Pacific Avenue
PO Box 7879
Olympia WA 98504-7879**

DECLARATION OF SERVICE
**For Agency Use Only*

ORIGINAL

Fax to Marcia Stickler

FAX # 360 586-0745

Re

2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opini...

Dear Marcia:

2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's ag

Hampton

TTI MEDICAL QA COMMISSION

FILE MODE	OPTION	ADDRESS (GROUP)	RESULT	PAGE
292 MEMORY TX		8-422713-5098383411	OK	P. 12/12

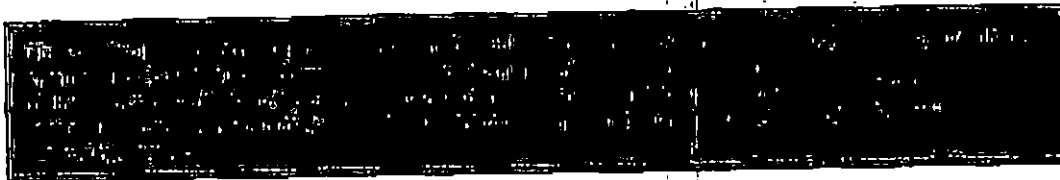
REASON FOR ERROR

E-1) HANG UP OR LINE FAIL
E-3) NO ANSWER

E-2) BUSY
E-4) NO FACSIMILE CONNECTION

FACSIMILE COVER SHEET

*Department of Health
 Medical Quality Assurance Commission
 1300 S.E. Quince
 Post Office Box 47866
 Olympia, Washington 98504-7866
 (360) 664-2252*



Date: August 21, 1998

Please deliver the following page(s) To:

NAME: Hampton W. Irwin, M.D.

FAX NO: (509) 838-3411

TELEPHONE NO: (509) 448-0105



BOWERS MARCI SA: MGS

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MARCI L. BOWERS, M.D.
THE POLYCLINIC
1145 BROADWAY
SEATTLE, WA 98122

4a. Article Number

P-360-008-056

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified
- Insured
- COD

7. Date of Delivery

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X 

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION
1300 SE QUINCE STREET
PO BOX 47866
OLYMPIA WA 98504-7866

ACSIMILE COVER SHEET

*Department of Health
Medical Quality Assurance Commission
1300 S.E. Quince
Post Office Box 47866
Olympia, Washington 98504-7866
(360) 664-2252*

This Facsimile Transmittal is intended only for the addressee shown below. It may contain information that this privileged, confidential, or otherwise protected from disclosure. Any review, dissemination, or use of this transmittal or its contents by people other than the addressee is strictly prohibited. If you have received this transmittal in error, please notify us immediately by telephone and mail the original to us at the address above.

Date: August 21, 1998

Please deliver the following page(s) To:

NAME: Hampton W. Irwin, M.D.

FAX NO: (509) 838-3411

TELEPHONE NO: (509) 448-0105

FROM: Health Professions Section #5 Legal Unit

NAME: Marcia G. Stickler

FAX NO: (360) 586-0745

NUMBER OF PAGES: (including this page) 12

Comments: RE: Marci Lee BOWERS, Nos. 97-03-0080MD and 97-11-0012MD. Please review the draft SOA and STID attached. Feel free to either mark up the draft and re-fax it to me, or to call me. Thanks so much.

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice as a Physician and Surgeon of)
MARCIE LEE BOWERS, M.D.) **Docket No. **adjudicative clerk**
License No. 27147) number **
Respondent.) **STATEMENT OF ALLEGATIONS**
) **AND SUMMARY OF EVIDENCE**
)
)

The Program Manager, on designation by the Commission, makes the allegations below, which are supported by evidence contained in program case file Nos. 97-03-0080MD and 97-11-0012MD. Any patient referred to in this Statement of Allegations and Summary of Evidence is identified in an attached Confidential Schedule.

Section 1: ALLEGED FACTS

- 1.1 Marci Lee Bowers, M.D., Respondent, was issued a license to practice as a physician and surgeon by the State of Washington in March, 1990.
- 1.2 The patient presented to the Respondent in July, 1994 with a long history of chronic pelvic pain and adhesions. The patient was a 29-year-old, obese woman who had undergone fourteen prior pelvic surgeries without significant reduction in her chronic pain complaints.
- 1.3 The Respondent performed laparoscopic pelvic surgery on the patient on August 16, 1994 for exploration of a possible cyst and lysis of adhesions. During the procedure, an inadvertent incision in the bladder was made, which the Respondent recognized and repaired. However, the

Respondent also perforated the patient's distal ileum during the procedure but did not recognize that she had done so.

1.4 After discharge to home, the patient began feeling worse and experiencing increasing abdominal pain. Although the patient communicated with the Respondent about her condition, the Respondent did not have the patient return to the clinic nor go to an emergency room. Several days later, the patient was diagnosed with peritonitis and underwent additional surgery for resection of the ileum with primary anastomosis on August 18, 1994.

Section 2: SUMMARY OF EVIDENCE

- 2.1 Respondent's medical record of the Patient
- 2.2 Letter of Complaint from the Patient, received by the Department of Health on November 3, 1997.
- 2.3 Respondent's statement dated January 9, 1998.

Section 3: ALLEGED VIOLATIONS

3.1 *The facts alleged in paragraphs 1.1 through 1.4 above, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180 (4) which provides in part:*

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any licensee or applicant under the jurisdiction of this chapter:

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. . . .;

Section 4: NOTICE TO RESPONDENT

4.1 The Commission has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition, pursuant to RCW 18.130.172(2). A proposed Stipulation to Informal Disposition is attached, which contains the disposition the Commission believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation to Informal Disposition is appropriate to address the conduct alleged in this Statement of Allegations and Summary of Evidence, Respondent should sign and date the Stipulation to Informal Disposition and return it within 20 days to Casandra Batdorf, Dept. of Health, 1300 SE Quince St., Olympia, WA 98504-7866.

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation to Informal Disposition are appropriate to address the conduct alleged in the Statement of Allegations and Summary of Evidence, Respondent should contact Marcia G. Stickler, Staff Attorney, Department of Health Staff Attorney, Department of Health, Medical Quality Assurance Commission, 1300 SE Quince, Olympia, WA 98504-7866 at (360) 664-2252 within 10 days.

4.4 If Respondent does not respond within 10 days, the Commission will assume Respondent has declined to resolve the allegations by means of a Stipulation to Informal Disposition.

4.5 In the event Respondent declines to resolve the allegations by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(2), the Commission may proceed to formal disciplinary action against Respondent by filing a statement of charges, pursuant to RCW 18.130.172(3).

4.6 The cover letter enclosed with this Statement of Allegations and Summary of Evidence was mailed to the name and address currently on file for Respondent's license. Pursuant to WAC 246-01-100, Respondent must notify, in writing, the Commission if Respondent's name and/or address changes.

DATED this ____ day of _____, 199__.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

Program Manager

**

Marcia G. Stickler, WSBA # 20712
Department of Health Staff Attorney

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.17.310(1)(d)

The Patient 4 - Investigative Records Compiled b...

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:

97-11-0012MD and 97-03-0080MD

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice as a Physician and Surgeon of)
) **Docket No.**
)
MARCI LEE BOWERS, M.D.,) **STIPULATION TO INFORMAL**
License No.27147) **DISPOSITION**
)
Respondent.)
_____)

Section 1: STIPULATION

The parties to the above-entitled matter stipulate as follows:

1.1 Marci Lee Bowers, M.D., Respondent, is informed and understands that the Program Manager, on designation by the Commission, has made the following allegations:

1.1.1 Marci Lee Bowers, M.D., Respondent, was issued a license to practice as a physician and surgeon by the State of Washington in March, 1990.

1.1.2 The patient presented to the Respondent in July, 1994 with a long history of chronic pelvic pain and adhesions. The patient was a 29-year-old, obese woman who had undergone fourteen prior pelvic surgeries without relief.

1.1.3 The Respondent performed laparoscopic pelvic surgery on the patient on August 16, 1994 for exploration of a possible cyst and for lysis of adhesions. During the procedure, an inadvertant incision in the bladder was made, which the Respondent recognized and repaired. However, the Respondent also perforated the patient's distal ileum during the procedure but did not recognize that she had done so.

1.1.4 After discharge to home, the patient began feeling worse and experiencing abdominal pain and complained to the Respondent. The Respondent did not have the patient return to the clinic nor go to the emergency room. Several days later, the patient developed peritonitis and underwent additional surgery for resection of the ileum with primary anastomosis.

1.2 Respondent is informed and understands that the Commission has alleged that the conduct described above, if proven, would constitute violation of RCW 18.130.180 (4).

1.3 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(1).

1.4 Respondent agrees to be bound by the terms and conditions of the Stipulation to Informal Disposition.

1.5 This Stipulation to Informal Disposition is of no force and effect and is not binding on the parties unless and until this Stipulation to Informal Disposition is accepted by the Commission.

1.6 Respondent does not admit any of the allegations in the Statement of Allegations and Summary of Evidence or in paragraph 1.1 above. This Stipulation to Informal Disposition shall not be construed as a finding of unprofessional conduct or inability to practice.

1.7 This Stipulation to Informal Disposition is not formal disciplinary action, is not intended and should not be construed as an action which "revokes or suspends (or otherwise restricts) a physician's license or censures or reprimands, or places on probation" as those words are used in Sec. 422 of the Health Care Quality Improvement Act of 1986, 42 USC 11132 and is therefore not subject to any reporting requirements to the National Practitioner Data Bank, or under RCW 18.130.110 or any interstate/national reporting requirement.

1.8 This Stipulation to Informal Disposition is releasable to the public upon request pursuant to the Public Records Act, chapter 42.17 RCW. The Statement of Allegations and Summary of Evidence and the Stipulation to Informal Disposition shall remain part of Respondent's file and cannot be expunged.

1.9 The Commission agrees to forego further disciplinary proceedings concerning the allegations contained in section 1.1 above.

1.10 Respondent agrees to successfully complete the terms and conditions of this Informal Disposition.

1.11 Respondent is advised and understands that a violation of the provisions of section 2 of this Stipulation to Informal Disposition, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

Section 2: INFORMAL DISPOSITION

Pursuant to RCW 18.130.172 (2) and based upon the foregoing stipulation, the parties agree to the following Informal Disposition. The Respondent's license to practice medicine is subject to the following terms and conditions for a period of TWO YEARS. After two years and upon successful completion of the requirements in this section, the Respondent may submit a written request for release from the terms of this Informal Disposition.

2.1 The Respondent shall review a representative percentage of the medical literature from the year 1996 to the present, in the areas of prevention and management of serious laparoscopic injuries, bowel and bladder perforation, and trochar injuries. The literature review shall also address the patient selection and screening process for surgical candidates. Any questions concerning the specific focus of such review by the Respondent shall be directed to the

Commission's designee. Thereafter, the Respondent shall submit a written report to the Commission summarizing the literature review and demonstrating the Respondent's understanding of appropriate application of the principles learned to her practice of medicine. The report shall be typewritten, double spaced, and shall be no shorter than ten pages in length. The written report shall be submitted to the Commission's designee for approval no later than six months after the effective date of this Informal Disposition.

2.2 The Respondent shall pay the amount of ONE THOUSAND DOLLARS (\$1,000) to reimburse the Commission for the costs of investigating and processing this complaint within one hundred twenty (120) days of the effective date of this Informal Disposition. Such amount shall be payable to the Treasurer, State of Washington and submitted to the Compliance Officer, Department of Health, P.O. Box 1099, Olympia, Washington 98504-1099.

2.3 The Respondent shall see to it that all care delivered to her patients falls within acceptable standards of medical practice. The Respondent shall obey all federal, state, and local laws and all administrative rules governing the practice of medicine in Washington.

I, Marci Lee Bowers, M.D., Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.

Marci Lee Bowers, M.D.
Respondent

Date

Section 3: ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED this ____ day of _____, 199__.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

Panel Chair

Presented by:

Marcia G. Stickler, WSBA # 20712
Department of Health Staff Attorney

Date

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:

97-03-0080MD and 97-11-0012MD

CASE REVIEW WORKSHEET FOR STIDS

Respondent name Bowers, Mark T No. 97-03-0080MD
Licensed in other state(s) 97-11-0012 MD

2 - Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's ag

Respondent: BOWERS, Mark T.
Case # 97-03-0080MD
RCM: JRW

**Medical Quality Assurance Commission
Case Assignment Transmittal**

Date: 8/13/98

TO: Legal Sticker, Staff Attorney

 Investigations

 Licensing Manager

 Medical Consultant

 Case Coordinator

 Compliance Officer

FROM: **Maryella Jansen, Program Manager**



Respondent: Bowers, Marci
Case #: 97-03-0080 MD
IRP Presenter: Crowell

MEDICAL QUALITY ASSURANCE COMMISSION
Initial Review Panel
Case Assignment Transmittal

Date: 1/23/98

- To: _____ Legal _____, Staff Attorney
_____ Investigations
_____ Licensing Manager
_____ Medical Consultant
_____ Case Coordinator
_____ Compliance Officer

The following action was ordered by the Initial Review Panel at the 1/23/98 meeting:

- | | |
|---|---|
| _____ Close "no cause for action" | _____ Close with letter of concern |
| _____ Close "no jurisdiction" | _____ Close no jurisdiction. To local Medical Society |
| _____ Administrative closure | _____ Expert Review by _____ |
| <input checked="" type="checkbox"/> To RCM <u>Irwin</u> | _____ Legal Review |
| _____ Close "below threshold" | |

_____ Further investigation concerning _____

_____ Practice review with emphasis on _____

_____ Other _____

Special Instructions: _____

5/4/98

Please see case #

97-11-0012 MD

THS

CASE PRESENTATION

Case Number:
97-03-0080MD

Date: January 23, 1997
Presented by: Bill N. Crowell, PA-C

Respondent: Mark T. Bowers, M.D.

Complainant: Physicians Insurance Exchange

CASE SUMMARY

This case is cross referenced with case #97-11-0012MD. It concerns the same Complainant, complaint, and Respondent. Date of occurrence was August 16, 1994.

The Respondent: Is a 40-year-old Board certified OB/GYN practitioner, who has been licensed in the State of Washington since March 1990.

The Complainant: Medical Malpractice Payment Report. Settlement for 6 - National Pra...

The Complaint: See case #97-11-0012MD.

Prior Cases: Case #92-12-0020MD. Cross referenced with case #92-12-0019MD, H A, M.D. On December 31, 1992, the Respondent performed a vaginal hysterectomy for dysfunctional uterine bleeding. No complications. After the Respondent had completed his procedure, Dr. Anderson performed a laparoscopic cholecystectomy. The patient later developed a bile leak, which necessitated a laparotomy. Respondent noted he had nothing to with the cholecystectomy, other than to observe the procedure. Closed no cause for action.

5 - Name - Whistleblo... vs. BOWERS

RECORDS OF DANIEL O'NEILL, M.D.

5 - Name - Whistleblo... **v. BOWERS**

RECORDS OF THE POLYCLINIC

PHYSICIANS INSURANCE

MAR - 6 1995

CLAIMS DEPARTMENT

5 - Name - Whistleblow... vs. BOWERS

RECORDS OF BARBARA B. HARRELL, M.D.

PHYSICIANS INSURANCE

JUN 12 1995

CLAIMS DEPARTMENT

5 - Name - Whistleblo... vs. BOWERS

RECORDS OF ST. LUKE MEDICAL CENTER

PHYSICIANS INSURANCE

JUN 30 1995

CLAIMS DEPARTMENT

Redaction Summary (23 redactions)

6 Privilege / Exemption reasons used:

1 -- "Attorney Work Product - RCW 42.56.290" (1 instance)

2 -- "Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation." (10 instances)

3 -- "Identity - Whistleblower Regarding Health Care Provider - RCW 43.70.075(1), RCW 42.56.070(1)" (3 instances)

4 -- "Investigative Records Compiled by agency investigative and law enforcement unit; and non-disclosure is essential to effective law enforcement or for a person's privacy. - RCW 42.56.240(1)" (2 instances)

5 -- "Name - Whistleblower Regarding Health Care Provider or Health Care Facility - RCW 43.70.075(1), RCW 42.56.070(1)" (5 instances)

6 -- "National Practitioner Data Bank (NPDB) report received directly or indirectly from the NPDB -42 USC §1396r-2; 42 USC §1320a-7e; 45 CFR §60.20(a), RCW 42.56.070(1)" (2 instances)

Redacted pages:

Page 1, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 3, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 4, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 5, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 9, Identity - Whistleblower Regarding Health Care Provider - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance

Page 9, National Practitioner Data Bank (NPDB) report received directly or indirectly from the NPDB -42 USC §1396r-2; 42 USC §1320a-7e; 45 CFR §60.20(a), RCW 42.56.070(1), 1 instance

Page 14, Identity - Whistleblower Regarding Health Care Provider - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance

Page 15, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 18, Identity - Whistleblower Regarding Health Care Provider - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance

Page 20, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 23, Name - Whistleblower Regarding Health Care Provider or Health Care Facility - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance

Page 25, Attorney Work Product - RCW 42.56.290, 1 instance

Page 32, Investigative Records Compiled by agency investigative and law enforcement unit; and non-disclosure is essential to effective law enforcement or for a person's privacy. - RCW 42.56.240(1), 1 instance

Page 41, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 2 instances

Page 50, Investigative Records Compiled by agency investigative and law enforcement unit; and non-disclosure is essential to effective law enforcement or for a person's privacy. - RCW 42.56.240(1), 1 instance

Page 57, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 58, Attorney Work Product - RCW 42.56.290 - Drafts, notes, memoranda, statements, records or research reflecting the opinions or mental impressions of an attorney or attorney's agent that reveal factual or investigative information prepared, collected, or assembled in litigation or in anticipation of litigation., 1 instance

Page 61, National Practitioner Data Bank (NPDB) report received directly or indirectly from the NPDB -42 USC §1396r-2; 42 USC §1320a-7e; 45 CFR §60.20(a), RCW 42.56.070(1), 1 instance

Page 62, Name - Whistleblower Regarding Health Care Provider or Health Care Facility - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance

Page 66, Name - Whistleblower Regarding Health Care Provider or Health Care Facility - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance

Page 164, Name - Whistleblower Regarding Health Care Provider or Health Care Facility - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance

Page 178, Name - Whistleblower Regarding Health Care Provider or Health Care Facility - RCW 43.70.075(1), RCW 42.56.070(1), 1 instance