

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**FILE COPY**

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
 : (93 MED 433)  
ROBERT B. WINTER, M.D., :  
RESPONDENT. :

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The parties to this proceeding for the purposed of sec. 227.53, Stats., are:

Robert B. Winter, M.D.  
1648 Dodd Road  
St. Paul, MN 55118

Wisconsin Medical Examining Board  
1400 E. Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
1400 E. Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Robert B. Winter, M.D., personally, and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Robert B. Winter, M.D., 606 24th Avenue South, #602, Minneapolis, Minnesota 55454, was born on 6/21/32 and has been licensed and currently registered to practice medicine and surgery in the state of Wisconsin since 7/13/62, license #14360.
2. Dr. Winter, at all times relevant to this proceeding, was licensed to practice medicine and surgery in the state of Minnesota.

3. A formal complaint is pending before the Wisconsin Medical Examining Board. This complaint is based upon a disciplinary action taken against Dr. Winter in the state of Minnesota on 9/11/93. A copy of the pending complaint before the Wisconsin Medical Examining Board and a copy of the Stipulation And Order of the Minnesota Board of Medical Practice are attached hereto.

4. Dr. Winter is fully retired from his practice of medicine and surgery in the state of Minnesota effective 6/1/95 and will not engage in the practice of medicine or surgery after the date of his retirement.

5. Dr. Winter, in consideration of his retirement, has voluntarily tendered the surrender of his current registration to practice medicine and surgery in the state of Wisconsin and has agreed not to renew or attempt to renew his registration at any time in the future.

6. Dr. Winter is licensed to practice medicine and surgery only in the states of Minnesota and Wisconsin and is not licensed in any other states. Dr. Winter's license in Minnesota was returned to an unconditional status on 3/11/95.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this matter pursuant to sec. 448.02, Stats.

2. The Wisconsin Medical Examining Board has the authority to resolve this matter by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.

#### ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that the Wisconsin Medical Examining Board accepts the voluntary surrender of Dr. Winter's registration to practice medicine and surgery in the state of Wisconsin, effective on the date of this Final Decision and Order.

IT IS FURTHER ORDERED that Dr. Winter shall not register or attempt to register at any time in the future.

IT IS FURTHER ORDERED that Dr. Winter shall not practice or attempt to practice medicine and surgery in the state of Wisconsin when not currently registered.

IT IS FURTHER ORDERED that the pending Complaint shall be, and hereby is, dismissed with prejudice and upon its merits.

IT IS FURTHER ORDERED that pursuant to sec. 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Dr. Winter has violated the terms of the this Final Decision and Order of the Wisconsin Medical Examining Board, the Board may order that the license of Dr. Winter to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 28 day of June, 1995.

WISCONSIN MEDICAL EXAMINING BOARD

  
Walter R. Schwartz, Secretary

GCL:daw  
ATY:FLG2058

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

ROBERT B. WINTER, M.D.,  
RESPONDENT.

COMPLAINT  
(93 MED 433)

Sherrie Johnson, an investigator for the Wisconsin Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, Madison, Wisconsin, upon information and belief, complains and alleges as follows:

1. Robert B. Winter, M.D., Respondent herein, of 606 24th Avenue South, #602, Minneapolis, MN 55454, DOB 6/21/32, is licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #14360, said license having been granted on 7/13/62.

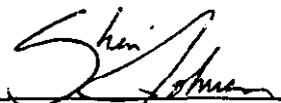
2. Respondent, at all times relevant to this Complaint, was licensed to practice medicine and surgery in the State of Minnesota.

3. On 9/11/93, the Minnesota Board of Medical Practice issued a Stipulation and Order finding that Respondent had engaged in conduct which was in violation of Minn. Stats. secs. 147.091, subd. 1(g), (k) and (t) (1992) and ordered that Respondent's license be restricted and conditioned as set forth in the Stipulation and Order dated 9/11/93, a copy of which is attached hereto and incorporated herein.

4. Respondent's conduct as herein described was unprofessional conduct contrary to sec. 448.02(3), Stats. and Wis. Admin. Code sec. MED 10.02(2)(q) in that his license to practice medicine and surgery in the State of Minnesota was limited by the Minnesota Board of Medical Practice.

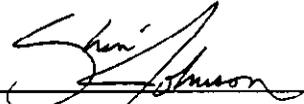
WHEREFORE, the Complainant demands that the disciplinary authority hear evidence relevant to matters alleged in the Complaint, determine and impose the discipline warranted and assess the costs of the proceeding against the Respondent.

Dated this 27 day of March, 1995.

  
\_\_\_\_\_  
Sherrie Johnson, Investigator  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

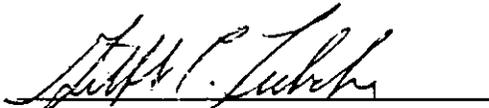
Sherrie Johnson, being first duly sworn on oath deposes and says that she is an investigator for the State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, and

that she has read the foregoing Complaint and knows the contents thereof and that the same is true to her own knowledge, except as to those matters therein stated on the information and belief and as to such matters, she believes them to be true.



Sherrie Johnson  
State of Wisconsin  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Subscribed and sworn to before me  
this 27<sup>th</sup> day of March, 1995.



Notary Public  
My Commission is permanent.

Gilbert C. Lubcke  
Attorney for Complainant  
Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

GCL:dms  
ATY-ALG781



# MINNESOTA BOARD OF MEDICAL PRACTICE

2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

## CERTIFICATION OF DISCIPLINARY ACTIONS

ORDER DATED September 11, 1993

IN THE MATTER OF: Robert B. Winter, M.D.

CITY AND STATE OF: Minneapolis, MN

I, H. Leonard Boche, Executive Director of the Minnesota Board of Medical Practice, Do hereby certify that the attached Board Order is a copy of the original official record on file in the office of the Minnesota Board of Medical Practice. As Executive Director, I am the official custodian of such documents and I have personally compared the attached copy with the original and find it to be a true and correct copy thereof.

  
\_\_\_\_\_  
H. Leonard Boche,  
Executive Director  
Minnesota Board of Medical Practice

(S E A L)

BEFORE THE MINNESOTA  
BOARD OF MEDICAL PRACTICE

In the Matter of the  
Medical License of  
Robert B. Winter, M.D.  
Date of Birth: 6-21-32  
License Number: 15,005

STIPULATION  
AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Robert B. Winter, M.D. ("Respondent"), and the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota;

FACTS

2. For the purpose of this stipulation, the Board may consider the following facts as true:

a. In 1975, patient #1's spine was curved 178 degrees and her respiratory capacity was severely restricted. Patient #1 consulted with surgeons in Chicago and Minneapolis regarding surgery to straighten her spine. In May 1976, patient #1 was placed in halo traction at Presbyterian-St. Luke's Hospital, Chicago. While in traction patient #1 experienced severe respiratory complications and the planned treatment was cancelled. In January, 1977, patient #1 had surgical treatment for kyphoscoliosis. Approximately a week after the initial surgery patient #1 developed breathing problems and gastric

distress and went into respiratory arrest when the respirator was removed. During this hospitalization Respondent was covering for her surgeon who was out of town and saw some of his patients, including patient #1.

b. On March 27, 1978, patient underwent osteotomies of L3-L4 levels, removal of previous rods, extension of fusion proximally to T1, insertion of two extra upper hooks at T1-T2 and T2-T3, insertion of three rods, with the lower hooks being the sacral hook, a hook in L5, and a hook in LA, left iliac crest autogenous bone graft plus a single femoral head, and bank bone plus decortication of her previous fusion by Respondent.

c. On March 5, 1979, patient #1 returned to Minneapolis to see Respondent for removal of her cast. Patient #1 was seven inches straighter. Following removal of the cast, patient #1 sent Respondent a pair of bookends to thank him as well as a record of Pacobell's Canon for Respondent and his wife. In patient #1's card to Respondent and his wife, she referred to the music as "my seduction music." During this trip to Minneapolis, Respondent told patient #1 that he would be in Chicago for a meeting, in May and would like to have dinner at her apartment.

d. In September 1979, when Respondent was in Chicago for meetings, he went to patient #1's home for brunch. While at patient #1's home, Respondent informed her that her abdominal scars looked infected, examined the scars, and removed two infected stitches;

e. On May 26, 1980, at the request of patient #1, she was seen without an appointment, and while in Respondent's office for the medical examination, patient #1 and Respondent engaged in consensual sexual foreplay wherein patient #1 was stimulated by Respondent to orgasm. They did not have sexual intercourse.

f. After returning to Chicago, patient #1 received a telephone call from Respondent asking her to join him on a business trip to Kansas City.

g. On July 25, 1980, Respondent flew to Kansas City to attend a knife exhibit. Patient #1, at the request of Respondent, flew to Kansas City from Chicago and met the Respondent for the weekend. They stayed at the Crown Center Hotel, Kansas City. That during the visit, they engaged in consensual sexual foreplay. They did not have sexual intercourse.

h. On May 27, 1983, patient #1 met Respondent at the Marriott Hotel in Chicago, Illinois, for dinner. While at the hotel, in Respondent's hotel room, they engaged in consensual sexual foreplay and she massaged and stimulated Respondent to orgasm. They did not have sexual intercourse.

i. In April 1984, Respondent wrote patient #1 informing her that it was time to obtain more current pulmonary functions tests and inviting her to dinner when he was in Chicago;

j. On June 14, 1984, patient #1 met Respondent at the Barclay Hotel, Chicago, Illinois, for dinner. While at the hotel, in his room, they engaged in consensual sexual foreplay, including Respondent stimulating patient #1 to orgasm. They did

not have sexual intercourse. Both parties agreed that their "relationship" was inappropriate and would be terminated.

k. On September 8, 1988, patient #1 saw Respondent at her request for a medical examination. When they met, Respondent took patient #1's hand, and kissed it. Respondent performed a physical examination of patient #1. That Respondent agreed with patient #1 that their prior "relationship" that terminated on June 14, 1984 was "inappropriate".

l. That after June 14, 1984 to date there has been no sexual contact between the Respondent and patient #1. She was at all material times a resident of Chicago, Illinois, employed and had a college degree.

#### STATUTES

3. The Board views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1 (g), (k) and (t) (1992) and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action;

#### REMEDY

4. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order conditioning and restricting Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

a. Respondent is prohibited from engaging in conduct with a patient which is sexual or may reasonably be interpreted as sexual by the patient;

b. Respondent shall continue to undergo psychotherapy or other Board approved treatment with a Board approved therapist. Such therapy or treatment shall continue until the Complaint Review Committee, upon the recommendation of the therapist, approves cessation of therapy;

c. Respondent and a designated Board member shall meet quarterly to review Respondent's progress under the terms of this Stipulation and Order. It shall be Respondent's obligation to contact the designated Board member to arrange each meeting;

d. Respondent shall pay to the Board a civil penalty of \$1,000.00.

5. Within ten days of the date of this order, Respondent shall provide the Board with a list of all hospitals at which Respondent currently has medical privileges and a list of all states in which Respondent is licensed or has applied for licensure. The information shall be sent to the Board of Medical Practice, Suite 106, 2700 University Avenue West, St. Paul, Minnesota 55114;

6. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the license of Respondent to practice medicine and surgery in the State of Minnesota shall be suspended immediately upon written notice by the Board to Respondent, such a suspension to remain in full force and effect until Respondent petitions the Board to

terminate the suspension after a hearing. Nothing contained herein shall prevent the Board from revoking or suspending Respondent's license to practice medicine and surgery in the State of Minnesota after any such hearing;

7. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto;

8. In the event Respondent should leave Minnesota to reside or practice outside the state, Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice medicine;

9. Respondent was represented by legal counsel in this matter;

10. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or

rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein;

11. Respondent hereby acknowledges, that he has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.

Dated: July 21, 1993

  
ROBERT B. WINTER, M.D.  
Respondent

Twin Cities Spine Surgeons, Ltd.  
606 24th Avenue South  
Suite 602  
Minneapolis, Minnesota 55454

  
JEROME C. BRIGGS  
Attorney for Respondent

Bassford, Heckt, Lockhart  
Truesdell & Briggs, P.A.  
3550 Multifood Tower  
Minneapolis, Minnesota 55402  
Telephone: (612) 333-3000

  
LINDA F. CLOSE  
Attorney for Board

500 Capitol Office Bldg.  
525 Park Street  
St. Paul, Minnesota 55103  
Telephone: (612) 297-2040

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and

implemented by the Board this 11 day of Sept, 1993.

MINNESOTA BOARD OF  
MEDICAL PRACTICE

BY: *Donald L. Loh*

**AFFIDAVIT OF SERVICE BY MAIL**

Re: **In the Matter of the Medical License of Robert B. Winter, M.D.**  
**License No. 15,005**

STATE OF MINNESOTA )  
COUNTY OF RAMSEY ) ss.

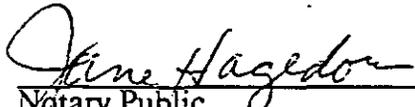
Cynthia Ransom, being first duly sworn, deposes and says:

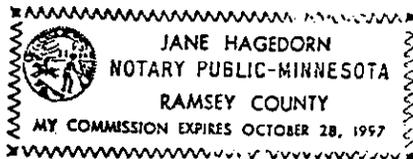
That at the City of St. Paul, County of Ramsey and State of Minnesota, on September 14, 1993, she served the attached STIPULATION AND ORDER by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Robert B. Winter, M.D.  
Twin Cities Spine Surgeons, Ltd.  
606 24th Avenue S  
Suite 602  
Minneapolis MN 55454

  
\_\_\_\_\_  
CYNTHIA O. RANSOM

Subscribed and sworn to before me  
this 14<sup>th</sup> day of September, 1993.

  
\_\_\_\_\_  
Notary Public



STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
ROBERT B. WINTER, M.D.,	:	(93 MED 433)
RESPONDENT.	:	

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It is hereby stipulated between Robert B. Winter, M.D., personally, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement as follows:

1. Robert B. Winter, M.D., 606 24th Avenue South, #602, Minneapolis, Minnesota 55454, was born on 6/21/32 and has been licensed and currently registered to practice medicine and surgery in the state of Wisconsin since 7/13/62, license #14360.
2. Dr. Winter, at all times relevant to this proceeding, was licensed to practice medicine and surgery in the state of Minnesota.
3. A formal complaint is pending before the Wisconsin Medical Examining Board. This complaint is based upon a disciplinary action taken against Dr. Winter in the state of Minnesota on 9/11/93. A copy of the pending complaint before the Wisconsin Medical Examining Board and a copy of the Stipulation And Order of the Minnesota Board of Medical Practice are attached hereto.
4. Dr. Winter is fully retiring from his practice of medicine and surgery in the state of Minnesota effective 6/1/95 and will not be engaging in the practice of medicine or surgery after the date of his retirement.
5. Dr. Winter, in consideration of his retirement, voluntarily surrenders his current registration to practice medicine and surgery in the state of Wisconsin and agrees not to renew or attempt to renew his registration at any time in the future.
6. Dr. Winter is licensed to practice medicine and surgery only in the states of Minnesota and Wisconsin and is not licensed in any other states. Dr. Winter's license in Minnesota was restored to an unconditional status on 3/11/95.
7. The pending complaint will be dismissed with prejudice and upon its merits.
8. The Wisconsin Medical Examining Board may enter the Final Decision and Order, a copy of which is attached hereto and incorporated herein.
9. The parties waive all costs of this proceeding.

10. Dr. Winter understands that by signing this Stipulation, he freely, voluntarily and knowingly waives his rights, including the right to be represented by an attorney, the right to a hearing on the allegations against him, the right to confront and cross-examine witnesses against him, the right to call witnesses on his behalf and to compel their attendance by subpoena, the right to testify on his own behalf, the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the Final Decision and Order, the right to petition for rehearing, the right to judicial review, and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

11. Dr. Winter understands that any Final Decision and Order entered in this matter will be reported in accordance with established procedures to the Federation of State Medical Examining Boards and the National Practitioners Data Bank.

12. The parties to this Stipulation and the Board Advisor, Mikki Patterson, may appear before the Wisconsin Medical Examining Board in support of this Stipulation. The appearance by any party pursuant to this paragraph shall be preceded by proper and timely notice to all parties to this proceeding.

13. If any term of this Stipulation or the incorporated Final Decision and Order is not accepted by the Wisconsin Medical Examining Board, then no term of this Stipulation or the Final Decision and Order will be binding in any manner on any party and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: 5/27/95

Robert B. Winter M.D.  
Robert B. Winter, M.D.

Dated: 6/5/95

Gilbert C. Lubcke  
Gilbert C. Lubcke, Attorney for the  
Department of Regulation and Licensing  
Division of Enforcement

GCL:daw  
ATY-FLG2057

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

**The Date of Mailing this Decision is:**

JUNE 30, 1995

### **1. REHEARING**

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### **2. JUDICIAL REVIEW.**

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)