

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF : FINAL DECISION & ORDER
: FOR REMEDIAL EDUCATION
JOSEPH D. ZIRNESKIE, M.D., :
: CaseLS0604196MED

Division of Enforcement Case # 03 MED 567

The parties to this proceeding for purposes of Wis. Stat. § 227.53 are:

Joseph D. Zirneskie, M.D.
4896 Borchers Beach Road
Waunakee, WI 53597

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

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

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board (“Board”). The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Joseph D. Zirneskie, M.D., (DOB 06/17/1957) is duly licensed as physician in the state of Wisconsin (license #20-27874). This license was first granted on July 1, 1986.
2. Dr. Zirneskie’s most recent address on file with the Wisconsin Medical Examining Board is 4896 Borchers Beach Road, Waunakee, WI 53597.
3. At all times relevant to this action, Dr. Zirneskie was working as physician in the emergency department of Memorial Hospital of Iowa County.
4. On or about March 25, 2000 at 3:30 p.m., patient A.R. arrived at the Memorial Hospital emergency room after being involved in a roll-over motor vehicle accident.

5. A.R. was up and walking at the scene of the accident but complained of back pain. She was transported to Memorial Hospital emergency room on a backboard with a cervical collar.
6. A.R.'s vital signs were normal, and a baseline neurological examination showed that she was able to move all extremities and had no tingling or numbness at the time of the evaluation.
7. At 4:00 p.m. plain film x-rays were taken of A.R.'s thoracic and lumbar spine. Respondent read the films and determined that A.R. had suffered a compression fracture of her spine involving T12 and T11.
8. After reading the x-ray Respondent prepared the patient for discharge, stating that her fracture was stable and would not cause injury to the spinal cord or nerves.
9. As a nurse was helping A.R. get up to go home, A.R. experienced severe pain that caused her to cry out. Because of her extreme pain, Respondent decided to admit her to the hospital for pain control.
10. Respondent did not re-institute the use of the backboard or any other spine stabilization measures. He wrote in his admission orders that A.R. could be up with assistance and recommended a physical therapy consultation the next morning. Respondent claims that these admitting orders were dictated by the admitting physician. The admitting physician denies that he even saw the patient until the next day.
11. The next morning it was noted that A.R. had not emptied her bladder since her admission. A nurse got her up to the commode, but after 20 minutes she was unable to void. The admitting physician believed the urinary retention was due to the pain medication and ordered a Foley catheter.
12. The same day, it was noted that A.R. had tingling numbness in her buttocks and bilaterally in her feet.
13. The next day, A.R. was incontinent of bowel, with no sensory knowledge that it had occurred.
14. At this point the admitting physician ordered a CT scan and immobilized the patient. He transferred her to UW Hospital for a neurological/neurosurgical evaluation.
15. A.R. was immediately taken to surgery at UW Hospital for removal of the T12 vertebra and fusion of the T11-L1 section.
16. A.R. suffered nerve damage due to the incident which may have been prevented or minimized had she been immobilized and if a CT scan had been ordered sooner to determine whether the spinal cord had been compromised.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stat. § 448.02.
2. The Wisconsin Medical Examining Board has authority to resolve this proceeding by stipulation without an evidentiary hearing pursuant to Wis. Stat. § 227.44 (5).

ORDER

IT IS ORDERED:

1. Joseph D. Zirneskie, M.D., will, within six (6) months of the date of this Final Decision And Order, take and complete eighteen (18) hours of Category 1 continuing education course in neurological emergencies. Each course attended in satisfaction of this Order must be preapproved by the Medical Examining Board or its designee. Dr. Zirneskie will be responsible for locating courses satisfactory to the Medical Examining Board and for obtaining the required approval of the

courses from the Medical Examining Board or its designee. Dr. Zirneskie will within 60 days of completion of this educational requirement file an affidavit with the Medical Examining Board stating under oath that he has attended in its entirety each of the courses approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organizations. This affidavit and the supporting documentation of attendance will be filed with:

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

All certifications, affidavits or other documents required to be filed with the Medical Examining Board will be deemed filed upon receipt by the Department Monitor.

2. Dr. Zirneskie will be responsible for paying the full cost of attendance at these courses. Dr. Zirneskie will not apply any of the continuing education credits earned in satisfaction of this Order toward satisfaction of his Wis. Stat. § 448.13, biennial training requirements.

IT IS FURTHER ORDERED that:

3. Dr. Zirneskie shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of seven hundred fifty dollars (\$750.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

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

4. In the event Dr. Zirneskie fails to timely pay costs as ordered or fails to comply with the ordered continuing education, Dr. Zirneskie's license (#20-27874) SHALL BE SUSPENDED, without further notice or hearing, until Dr. Zirneskie has complied with the terms of this Order. The Board or its designee will remove the suspension, if provided with sufficient information that Dr. Zirneskie is in compliance with the Order and that it is inappropriate for the suspension to remain in effect. The Board in its discretion may impose additional conditions and limitations for a violation of any of the terms of this Order.

5. Dr. Zirneskie is responsible for compliance with all of the terms and conditions of this Final Decision and Order.

6. This Order is effective on the date of its signing.

MEDICAL EXAMINING BOARD

By: Bhupinder Saini
A Member of the Board

4/19/06
Date

IN THE MATTER OF THE LICENSE OF :
 :
 : STIPULATION
JOSEPH D. ZIRNESKIE, M.D. :
 :
 : Case # _____ :

Division of Enforcement Case # 03 MED 567

It is hereby stipulated between Joseph D. Zirneskie, M.D., personally, and Jeanette Lytle, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of an informal complaint against Joseph D. Zirneskie, M.D. received by the Division of Enforcement (case #03 MED 567). Joseph D. Zirneskie, M.D. consents to the resolution of this investigation by stipulation and without issuance of a formal complaint.

2. Joseph D. Zirneskie, M.D. understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence, the right to confront and cross-examine the witnesses against him, the right to call witnesses on his behalf and to compel their attendance by subpoena, the right to testify himself, 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, 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, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Joseph D. Zirneskie, M.D. has obtained advice of legal counsel prior to signing this Stipulation.

4. Joseph D. Zirneskie, M.D. agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Joseph D. Zirneskie, M.D. or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation.

7. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Joseph Zirneskie, M.D.
4896 Borchers Beach Road

_____ Date

Arthur Kurtz
Attorney for Joseph Zimeskie, M.D
Axley Brynelson, LLP
2 E. Mifflin Street #200
P.O. Box 1767
Madison, WI 53701-1767

Date

Jeanette Lytle, Attorney
Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

Date