FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST ANTONIO R. WICO, JR., M.D., RESPONDENT	: : : : :	FINAL DECISION AND ORDER 91 MED 121/92 MED 441

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Antonio R. Wico, Jr.
1834 Southfork Drive
Phoenix, AZ 85044

Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

In resolution of these proceedings, Antonio R. Wico, Jr. neither admits nor denies the allegations against him, but consents to the issuance of the following Findings of Fact, Conclusions of Law and Order. 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 Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Antonio R. Wico, Jr. (D.O.B. 06/21/42) is duly licensed in the state of Wisconsin to practice medicine and surgery (license # 18998). This license was first granted on July 29, 1974.

2. Dr. Wico's latest address on file with the Department of Regulation and Licensing is 1834 Southfork Drive, Phoenix, AZ 85044.

3. On or about April 10, 1992, The Arizona Board of Medical Examiners restricted the Arizona license of Dr. Wico to practice medicine in that state. A true and correct copy of the Arizona order is attached to this Order as Exhibit A. Exhibit A is incorporated by reference into this Final Decision and Order.

4. The action of the Arizona Board was based upon Dr. Wico's provision of care to an infant, JB, on February 18, 1991, at Saint Elizabeth's Hospital in

Appleton, Wisconsin. Dr. Wico's practice relevant to JB fell below minimally acceptable standards for the practice of anesthesiology.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter, pursuant to §448.02(3), Wis. Stats.

2. The Wisconsin Medical Examining Board is authorized to enter into the attached stipulation, pursuant to §§ 227.44(5) and 448.02(5), Wis. Stats.

3. By the conduct described above, Antonio R. Wico, Jr. is subject to disciplinary action against his license to practice medicine in the state of Wisconsin, pursuant to Wis. Stats. §§ 448.02(3), and Wis. Adm. Code §§MED 10.02(2)(h) and (q).

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. Dr. Wico shall not perform, or supervise the performance of anesthesiology on any child twenty-three (23) months or younger, except in emergency cases involving neonatal resuscitation or emergency caesarean sections; and

2. Dr. Wico may petition for removal of this restriction on Dr. Wico's license to practice medicine upon submission of proof that Dr. Wico has satisfied the terms and conditions for a return to unrestricted practice in Arizona. The Board in its discretion may require Dr. Wico to appear before the Board in conjunction with its consideration of a petition under this paragraph. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

This Order shall become effective upon the date of its signing.

MEDICAL EXAMINING BOARD

By: _____ 21 Jan 96
Clark O. Olsen, M.D. Date
Secretary
Medical Examining Board

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST ANTONIO R. WICO, JR., RESPONDENT	: : : :	STIPULATION 91 MED 121/92 MED 441

It is hereby stipulated between Antonio R. Wico, Jr., M.D., personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into in resolution of the pending disciplinary proceedings concerning Dr. Wico's licensure. This stipulation and attached order shall be presented directly to the Medical Examining Board for its consideration and adoption.

2. Dr. Wico understands that by the signing of 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; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Dr. Wico is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Dr. Wico 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 as 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 the consideration of this attempted resolution.

6. Attached to this Stipulation is the current licensure card of Antonio R. Wico, Jr. If the Board does not accept this Stipulation, the

license of Dr. Wico shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement [and, if applicable, the member of the Medical Examining Board assigned as an advisor in this investigation] may appear before the Medical Examining Board in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. The Division of Enforcement joins Dr. Wico in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Antonio R. Wico, Jr., M.D.	22 Dec 92 Date
Steven M. Glos, Attorney Division of Enforcement	1.4.93 Date

Governor
Fife Symington

Chairman
Nicholas J. Soldo, M.D.

Vice Chairman
Barry A. Friedman, M.D.

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THE ARIZONA BOARD OF MEDICAL EXAMINERS

2001 West Camelback Road, Suite 300 • Phoenix, Arizona 85015

Telephone (602) 255-3751

Executive Director
Douglas N. Cerf

Assistant Director for Licensure and Administration
Mark R. Speicher

STATE OF ARIZONA

BOARD OF MEDICAL EXAMINERS

October 22, 1992

I, DOUGLAS N. CERF, Executive Director of the Board of Medical Examiners of the State of Arizona, hereby certify that the annexed document, to-wit:

STIPULATION AND ORDER
April 10, 1992

is a true copy of the original document as it appears on the records and in the files of this Board. In the Matter of ANTONIO R. WICO, JR., M.D., Holder of License No. 20674 For the Practice of Medicine in the State of Arizona.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the seal of the Board of Medical Examiners of the State of Arizona to be affixed, the day and year first above written.

DOUGLAS N. CERF
Executive Director

[S E A L]

EXHIBIT A

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF ARIZONA

In the Matter of **ANTONIO R. WICO, JR., M.D.** Holder of License No. 20674 For the Practice of Medicine In the State of Arizona.	)	**STIPULATION AND ORDER**

In confirmation of the voluntary agreement made between ANTONIO R. WICO, JR., M.D. and the BOARD OF MEDICAL EXAMINERS OF THE STATE OF ARIZONA ("Board") during the course of Informal Application Interviews of ANTONIO R. WICO, JR., M.D. on April 6 and 10, 1992,

IT IS HEREBY STIPULATED AND AGREED by and between ANTONIO R. WICO, JR., M.D., holder of License No. 20674 and the Board, pursuant to A.R.S. §32-1451(G)(5), that the accompanying Order shall be entered in the above-entitled matter and be effective as of April 10, 1992. ANTONIO R. WICO, JR., M.D. acknowledges that any violation of said Order constitutes unprofessional conduct within A.R.S. §32-1401(21)(r), and may result in disciplinary action pursuant to A.R.S. §32-1451.

DATED this 10 day of April, 1992.

ANTONIO R. WICO, JR., M.D.

#330-50-9612

Social Security Number

Approved as to form

Ruth Ann Moore

Attorney for Doctor WICO

Ruth Ann Moore

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

By _____
DOUGLAS N. CERF
Executive Director

Pursuant to the foregoing Stipulation; and in order to enhance the medical competence of ANTONIO R. WICO, JR., M.D. prior to his unconditional licensure in the State of Arizona; and in order to protect the public and ensure the physician's ability to safely engage in the practice of medicine, the Board orders the following Order:

ORDER

1. ANTONIO R. WICO, JR., M.D. shall immediately be granted License No. 20674 for the practice of medicine in the State of Arizona, however:

Doctor WICO's license to practice medicine in the State of Arizona shall be restricted in that Doctor WICO shall not perform, or supervise the performance of anesthesiology on any child twenty-three (23) months or younger, except in emergency cases involving neonatal resuscitation or emergency caesarean sections; and,

The restriction on Doctor WICO's license to practice medicine shall be terminated only upon proof provided to the Board that Doctor WICO has successfully completed a hospital based mini-residency of at least eighty hours duration in the topic of neonatal and infant anesthesiology in a health care facility that has an approved residency program in

anesthesiology and is approved prior to participation by the Board or its Executive Director; and,

Doctor WICO shall first meet with the Board at an informal interview prior to the termination of his restriction.

ENTERED this 10 day of April, 1992.

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

[S E A L]

By _____
DOUGLAS N. CERF
Executive Director

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review, the times allowed for each, and the identification of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decisi n. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is January 22, 1993.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latt agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenu

2. The banking review board or the consumer credit revie board, the commissioner of banking.

3. The credit union review board, the commissioner credit unions.

4. The savings and loan review board, the commissioner savings and loan, except if the petitioner is the commission of savings and loan, the prevailing parties before the savin and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or l certified mail or, when service is timely admitted in writin by first class mail, not later than 30 days after the institut of the proceeding, upon each party who appeared before t agency in the proceeding in which the decision sought to l reviewed was made or upon the party's attorney of record. court may not dismiss the proceeding for review sol because of a failure to serve a copy of the petition upon party or the party's attorney of record unless the petition fails to serve a person listed as a party for purposes of revie in the agency's decision under s. 227.47 or the person attorney of record.

(d) The agency (except in the case of the tax appea commission and the banking review board, the consum credit review board, the credit union review board, and t savings and loan review board) and all parties to the proceed ing before it, shall have the right to participate in t proceedings for review. The court may permit other inte ested persons to intervene. Any person petitioning the cou to intervene shall serve a copy of the petition on each par who appeared before the agency and any additional parties t the judicial review at least 5 days prior to the date set f hearing on the petition.

(2) Every person served with the petition for review provided in this section and who desires to participate in t proceedings for review thereby instituted shall serve upon t petitioner, within 20 days after service of the petition up such person, a notice of appearance clearly stating t person's position with reference to each material allegation the petition and to the affirmance, vacation or modificati of the order or decision under review. Such notice, other tha by the named respondent, shall also be served on the name respondent and the attorney general, and shall be file together with proof of required service thereof, with the cle of the reviewing court within 10 days after such servi Service of all subsequent papers or notices in such proceedi need be made only upon the petitioner and such other perso as have served and filed the notice as provided in th subsection or have been permitted to intervene in said pr ceeding, as parties thereto, by order of the reviewing cour