

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
WILLIAM A. NIELSEN, M.D., : 93 MED 021 AND 93 MED 054
RESPONDENT. :

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

William A. Nielsen, M.D.
5781 South Hacker Drive
West Bend, WI 53095

Wisconsin 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

FILE COPY

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. William A. Nielsen, M.D., Respondent, (DOB: 5/31/21) is currently licensed and registered to practice medicine and surgery in the state of Wisconsin, pursuant to license #9662, which was first granted on June 27, 1946.
2. The Respondent's last address registered with the Department of Regulation and Licensing is 5781 South Hacker Drive, West Bend, WI 53095.
3. At the time of the following events, Respondent was engaged in the general practice of medicine. Respondent is currently retired from practice.
4. On 12/8/92, Patient I went to Respondent's clinic and sought medical treatment for a sore throat. Respondent examined Patient I's nose and throat and palpated her neck area, he listened to her heart and lungs and diagnosed acute pharyngitis with lymphadenitis.

5. While Patient I's blouse was off so that Respondent could listen to her heart and lungs, Respondent unfastened Patient I's bra and told her he was checking for lumps. Then, while Patient I was in a sitting position and Respondent was behind Patient I, he reached around and palpated first her right breast and then her left breast. Respondent never had Patient I raise her arms while he palpated her breasts and never had Patient I lie down during the examination of her breasts. Respondent noted in Patient I's medical record "no masses palpated in her breast."

6. Other than the examination of 12/8/92, Respondent had never treated, examined, or seen Patient I as a patient.

7. On January 4, 1993, Patient II went to Respondent's clinic complaining of an ear infection. Patient II was unable to see her usual doctor at that clinic and saw Respondent, who had never treated or examined her before.

8. Respondent examined Patient II's ears and throat and diagnosed "right otitis media."

9. After examining Patient II's nose and throat, Respondent stood behind Patient II, lifted her shirt, reached from behind under her arms and cupped each of her breasts with one of his hands. The Respondent did not tell Patient II that he was going to examine her breasts and no such examination was necessary as part of the examination and treatment of her ear infection. Respondent made no note in Patient II's medical records regarding an examination of the breasts.

CONCLUSIONS OF LAW

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

2. The Wisconsin Medical Examining Board has authority to enter into this stipulated resolution of this matter pursuant to sec. 227.44(5), Wis. Stats.

3. That Respondent having palpated the breasts of Patient I and Patient II, in the circumstances described in the above Findings of Fact, has engaged in unprofessional conduct as defined by sec. 448.02(3), Wis. Stats., and Wis. Adm. Code sec. MED 10.02(2)(h).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of William A. Nielsen, M.D. to practice medicine and surgery in the state of Wisconsin is hereby LIMITED, effective immediately, as follows:

1. That within 90 days of the date of this Order, Respondent shall participate in a remedial evaluation and training program offered by Thomas C. Meyer, M.D., Director of Continuing Medical Education at the University of Wisconsin-Madison Medical School. A copy of the proposed assessment program and the objectives of the training are attached as Exhibit 1.

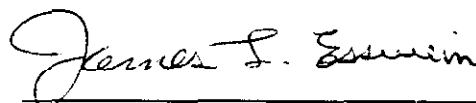
2. That in the event that the University of Wisconsin Medical School Continuing Medical Education Program cannot perform and complete this assessment and training program within 90 days and the delay has not been caused by the Respondent or his representative, the time may be extended by the Medical Examining Board, for a reasonable period of time, at the request of the Director of the program.

3. That on any occasion that Respondent examines or treats female patients, for any purpose, there shall be a female health care provider or other female employee of the clinic, hospital or entity, physically present in the room at all times during the examination and treatment of the patient by Respondent.

4. That prior to examining the breasts of any female patient, Respondent shall advise the patient of the reason for that examination procedure and receive affirmative consent from the patient that Respondent may perform the examination. The patient's informed consent for the examination shall be noted in the medical record.

5. Respondent shall provide a copy of this order to any entity that employs Respondent as a physician and it shall be Respondent's obligation to see that a representative of each such entity files reports with the Medical Examining Board every 90 days, beginning 90 days from the date of this Order or 90 days from the beginning of the employment, whichever comes first. Such reports shall indicate how the limitations imposed by this Order are being carried out at that place of employment and whether there have been any complaints about Respondent's practice.

Dated in Madison, Wisconsin this 19th day of October, 1994.



Clark O. Olsen, M.D.
Secretary Medical Examining Board

JRZ:lmf
ATY-BLG938

WAN, MD

Dr. WAN is a 72 year old family physician practicing in a community of approximately 25,000. The MEB has concerns that he performs inadequate physical examinations, which include, at times, unusual techniques to elicit abnormal physical signs. The Board has no other concerns about him.

Objectives of Assessment

Assess Dr. WAN's ability to derive and document an appropriate data base.

Proposed Assessment

Objective Structured Clinical Examination (OSCE) comprising at least 2 "patients" designed to assess Dr. WAN's ability to obtain and document an appropriate data base.

7581k

Ex 1

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
WILLIAM A. NIELSEN, M.D.,	:	93 MED 021 and 93 MED 054
RESPONDENT.	:	

It is hereby stipulated and agreed, by and between, William A. Nielsen, M.D., Respondent; Wm. Pharis Horton, as attorney for Respondent; and, John R. Zwieg, as attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of two pending investigations of Respondent by the Department of Regulation and Licensing, Division of Enforcement on behalf of the Wisconsin Medical Examining Board (files 93 MED 021 and 93 MED 054).

2. Respondent 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. Respondent is aware of his right to legal representation, and has obtained such representation, prior to signing this stipulation.

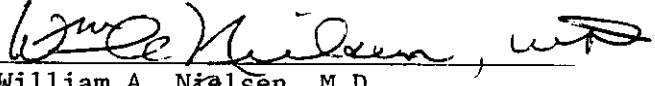
4. Respondent neither admits nor denies the allegations in this matter, but for personal reasons agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further 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. The parties to this stipulation agree that the Respondent, his attorney, and the attorney for the Division of Enforcement may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

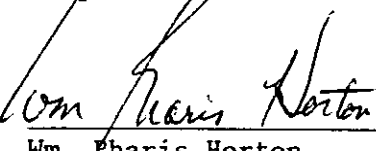
7. The parties to this stipulation agree that the member of the Board appointed as the investigative advisor in this matter may appear before the Board in open or closed session for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

Dated this 24 day of August, 1994.



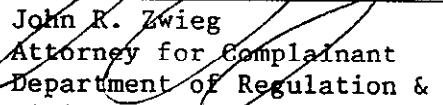
William A. Nielsen, M.D.
Respondent

Dated this 25 day of August, 1994.



Wm. Pharis Horton
Attorney for Respondent

Dated this 10th day of October, 1994.



John R. Zwieg
Attorney for Complainant
Department of Regulation & Licensing
Division of Enforcement

ATY2-4109

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.

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:

OCTOBER 24, 1994.

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.)