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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
CARL ZENZ, M.D.,	:	LS0605172MED
RESPONDENT.	:	

05 MED 214

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

Carl Zenz MD
2418 Root River Pkwy
West Allis, WI 53227

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

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 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. Respondent Carl Zenz (dob 2-01-1923) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license #11047, first granted on 7-18-1951. Respondent is retired from active practice, but practiced occupational medicine.

2. On the following dates, Respondent issued the following prescription orders for controlled substances to his spouse under non-emergent conditions, and without informing her own physician, and using his spouse's surname of Nelson:

4/27/04	acetaminophen with codeine #4 ½-1 q6-8h PRN #40
8/24/04	acetaminophen with codeine #4 as before x1
8/24/04	diazepam 10mg BID PRN #60
12/2/04	acetaminophen with codeine #4 ½-1 q6-8h #60 x1
12/2/04	diazepam 10mg BID #60 x1
1/7/05	acetaminophen with codeine #4 #60
1/7/05	diazepam 10mg 1 HS for spasm #30
2/23/05	acetaminophen with codeine #4 #60
3/6/05	acetaminophen with codeine #4 ½-1 q6h #60
3/6/05	diazepam 10mg BID for leg cramps
4/1/05	acetaminophen with codeine #4 ½-1 q6-8h
4/1/05	diazepam 10mg #60 x1
5/17/05	acetaminophen with codeine #4 ½-1 q6-8h PRN back pain, #60
5/17/05	diazepam 10mg BID PRN for muscle spasm control, #60

Respondent's spouse is also a retired physician, and had filled a prescription for a hydrocodone product two days previously, under the surname Zenz, which she received from her regular treating physician, a specialist in chronic pain, for persistent lower back pain.

3. The American Medical Association has issued the following ethics opinion: *E-8.19 Self-Treatment or Treatment of Immediate Family Members*.

Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered. Physicians may fail to

probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination. Similarly, patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination when the physician is an immediate family member. This discomfort is particularly the case when the patient is a minor child, and sensitive or intimate care should especially be avoided for such patients. When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If tensions develop in a physician's professional relationship with a family member, perhaps as a result of a negative medical outcome, such difficulties may be carried over into the family member's personal relationship with the physician. Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be reluctant to state their preference for another physician or decline a recommendation for fear of offending the physician. In particular, minor children will generally not feel free to refuse care from their parents. Likewise, physicians may feel obligated to provide care to immediate family members even if they feel uncomfortable providing care. It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency settings or isolated settings where there is no other qualified physician available, physicians should not hesitate to treat themselves or family members until another physician becomes available. In addition, while physicians should not serve as a primary or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems. Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members.

These statements are universally accepted by medical ethicists, and not controversial in the profession. It is clear that Respondent's treatment of his spouse was unethical, under the circumstances, in that it involved treatment of a long-term problem with controlled substances, outside his specialty, and unbeknownst to her regular physician.

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5),.

B. The conduct described in ¶2, above, violated Wis. Adm. Code § Med 10.02(2)(h). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Carl Zenz, M.D., is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of Respondent is LIMITED as provided in Wis. Stat. § 448.02(3)(e), and as follows: Respondent shall not prescribe any prescription drug or prescription device for himself, his spouse, or any of his siblings; or his or her or their descendants; or members of any of their households (including but not limited to spouses), except in a *bona fide* emergency.

IT IS FURTHER ORDERED, that respondent shall pay the COSTS of investigating and prosecuting this matter of \$300 within 30 days of this Order.

IT IS FURTHER ORDERED, that pursuant to §227.51(3) and §448.02(4), Wis. Stats., violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit any payment of the Costs as set forth above, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

Dated this May 17, 2006.

WISCONSIN MEDICAL EXAMINING BOARD

by: Bhupinder Saini MD
a member of the Board