

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
WALTER I. MELNYCZENKO, M.D., : LS # 0904171MED  
RESPONDENT. :

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[Division of Enforcement Case # 06 MED 083]

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

Walter I. Melnyczenko, M.D.  
2603 W. Rawson Avenue # 105  
Oak Creek, WI 53154

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

Wisconsin Medical Examining Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
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. 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. Walter I. Melnyczenko, M.D., Respondent herein, whose date of birth is August 20, 1944, is duly licensed to practice medicine and surgery in the State of Wisconsin under license number 28732, which was granted on June 19, 1987.
2. Respondent's last known address filed with the Department of Regulation and Licensing is 2603 W. Rawson Avenue # 105, Oak Creek, Wisconsin 53154.
3. Respondent's practice specialty listed with the Department is obstetrics and gynecology.
4. During the events of this matter, Respondent practiced medicine and surgery at South Shore Women's Clinic in Oak Creek and at St. Francis Hospital in Milwaukee, Wisconsin.
5. On April 22, 2003, Patient DP (DOB September 21, 1959) presented for her annual physical examination with her gynecologist. Patient DP had a strong family history of early onset ovarian cancer and early onset breast cancer as well as a personal history of two pregnancies delivered by cesarean section, endometriosis, pelvic pain, anemia and abnormal bleeding.

6. To address these medical concerns and because the patient intended no further pregnancies, Patient DP's gynecologist recommended a hysterectomy.

7. On May 15, 2003, Patient DP met with her gynecologist who recommended that Respondent perform the hysterectomy.

8. Respondent discussed a bilateral salpingo-oophorectomy procedure with Patient DP, indicating that the ovaries and fallopian tubes would be removed laparoscopically, if possible, or by laparotomy if the laparoscopic procedure failed, and that the uterus would remain. Patient DP signed a consent form for this procedure. It is Respondent's position that Patient DP requested that Respondent only remove her ovaries.

9. Respondent's operative report reflects that on May 22, 2003, Respondent performed a bilateral salpingo-oophorectomy procedure on Patient DP with cauterization of endometriosis and aspiration of the cul-de-sac. Patient DP recovered without problems and was sent home.

10. Tissue sent to pathology by Respondent was labeled as endometrial curettings, left tube and ovary and right tube and ovary.

11. The subsequent pathology report noted the presence of two ovaries, each with a staple line but no fallopian tubes.

12. In June and July of 2003, Patient DP experienced episodes of vaginal bleeding which she attributed to menstrual cycles and reported to Respondent and her gynecologist. Respondent advised the patient to come into the office for examination but the patient did not make an appointment to do so.

13. Respondent made no recommendation for genetic counseling or a workup for the patient's possible anemia to Patient DP at any time during his care and treatment of the patient.

14. On August 19, 2003, Patient DP presented at the office of Vanessa Barnabei M.D. at the Medical College of Wisconsin. Dr. Barnabei reviewed the patient's medical records, performed a pelvic examination and scheduled the patient for blood work and a pelvic ultrasound.

15. The ultrasound was performed on August 28, 2003, and revealed that the patient's ovaries and fallopian tubes were intact. Dr. Barnabei noted on the report that the blood tests revealed positive ovarian function.

16. On December 18, 2003, Dr. Barnabei performed a total abdominal hysterectomy and bilateral salpingo-oophorectomy on Patient DP. Intraoperative findings included a normal-sized anteverted uterus, normal tubes and partial ovaries bilaterally. Surgical pathology revealed a uterus, cervix, left and right fallopian tubes and left and right ovaries. Both ovaries contained cysts.

### CONCLUSIONS OF LAW

1. 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 and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct of failing to remove the fallopian tubes and completely remove the ovaries during performance of a salpingo-oophorectomy procedure is a violation of Wis. Admin. Code § MED 10.02(2)(h).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Walter I. Melnychenko, M.D. is REPRIMANDED.

2. Respondent's medical license is LIMITED in the following respects:

a) No later than six months from the effective date of this Order, Respondent shall provide DVD or videotape of five laparoscopic gynecological procedures performed by Respondent. The observed laparoscopic procedures may involve any gynecological procedure with the exception of those performed for diagnostic purposes or in the performance of tubal ligation. Two of the observed procedures shall be of salpingo-oophorectomies. Each of the DVD or videotaped procedures shall be certified by the recorder, the anesthesiologist who assisted in the procedure, or the Respondent's Chief of

Staff as an accurate recording of the procedure. The DVD or videotape of the procedures shall be sent to the Department Monitor at the address identified below. The recordings will be reviewed by the case advisor, or a physician designee who regularly performs the recorded procedure, to determine compliance with the minimal standards in the profession. The designated individual will provide a written report to the Board regarding his/her observations when all five of the procedures have been reviewed and will provide a copy of the report to the Respondent. If the report finds all procedures to have been properly performed, this requirement of the limited license will be deemed satisfactory completed. In the event the report identifies problems with the procedures, the Board may take whatever additional measures it deems necessary as permitted by law.

b) Within 180 days from the date of this Order, Respondent shall successfully complete at least 8 hours of advanced courses in gynecological surgical procedures and their complications.

c) Respondent shall be responsible for obtaining the courses required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the courses from the Wisconsin Medical Examining Board, or its designee, prior to commencement of the programs.

d) Within thirty (30) days following completion of any of the courses identified in paragraph 2(a), above, Respondent shall file with the Department Monitor certifications from the sponsoring organization(s) verify his attendance at and successful completion of the required courses.

e) Respondent is responsible for all costs of the educational programs. Respondent shall 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.

3. Upon successful completion of the monitoring period, the educational programs, and payment of the costs set forth below, Respondent's license to practice medicine and surgery shall be restored to unlimited status.

IT IS FURTHER ORDERED that:

4. Respondent shall, within ninety (90) days from the date of this Order, pay COSTS of this proceeding in the amount of One Thousand five hundred dollars (\$1,500.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

5. In the event Respondent fails to successfully complete the required educational courses by the Order's deadline, or fails to timely pay costs, as ordered, the Respondent's license (# 28732) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has paid them in full, including any accrued interest.

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

Wisconsin Medical Examining Board

By: Gene Musser MD  
A Member of the Board

11/18/09  
Date