

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ERIK T. BRANSTETTER, D.O.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004819

Division of Legal Services and Compliance Case No. 15 MED 316

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

Erik T. Branstetter, D.O.
Aspirus Medford Hospital and Clinics
143 South Gibson Street
Medford, WI 54451

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Erik T. Branstetter, D.O., (dob March 6, 1969), is licensed in the State of Wisconsin to practice medicine and surgery, having license number 44580-21, first issued on June 10, 2002, with registration current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is Aspirus Medford Hospital and Clinics, 143 South Gibson Street, Medford, Wisconsin 54451.

2. Respondent is board certified in General Surgery by the American Osteopathic Board of Surgery.

3. On August 28, 2013, Patient A, a female born in 1970, presented to Respondent upon referral from her primary care physician for complaints of excessive menstrual bleeding.

4. Respondent recommended laparoscopic hysterectomy with bilateral salpingectomy and Patient A signed a consent form for the surgery. Removal of Patient A's ovaries was not included as part of the consent.

4. October 7, 2013, Respondent performed surgery on Patient A and inadvertently removed her ovaries.

5. Respondent's operative note does not indicate Patient A's ovaries were removed during surgery.

6. On October 9, 2013, the surgical pathology report confirmed that Respondent removed Patient A's ovaries:

...The left ovary weighs 14.4 grams and measures 4.2 x 2.8 x 2.5 cm... The right ovary weighs 9.6 grams and measures 3.4 x 2.8 x 2.6 cm.

7. Respondent saw Patient A for a postoperative visit on October 14, 2013. Respondent's charting states he reviewed the surgical pathology findings with Patient A, but does not reference removal of her ovaries, as confirmed by the surgical pathology report.

8. Respondent saw Patient A for a postoperative visit on November 11, 2013. According to Respondent, it was at this visit that Respondent first realized he had removed Patient A's ovaries, and he discussed it with her. However, Respondent's medical charting does not reference the discussion with Patient A.

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 pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Erik T. Branstetter, D.O., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(b) by departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

3. By the conduct described in the Findings of Fact, Respondent Erik T. Branstetter, D.O., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(e) by failing to establish and maintain timely patient health care records, including records of prescription orders, under s. Med 21.03, or as otherwise required by law.

4. As a result of the above conduct, Erik T. Branstetter, D.O., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Erik T. Branstetter, D.O., is REPRIMANDED.
3. Within 90 days from the date of this Order, Erik T. Branstetter, D.O., shall pay COSTS of this matter in the amount of \$826.62.
4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

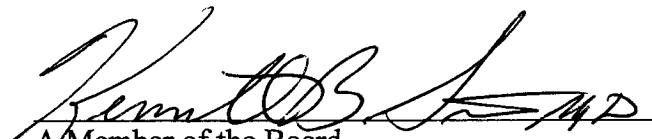
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

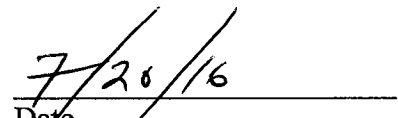
5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's license (44580-21) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ERIK T. BRANSTETTER, D.O.,
RESPONDENT.

:
:
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:
:

STIPULATION

0004819

Division of Legal Services and Compliance Case No. 15 MED 316

Respondent Erik T. Branstetter, D.O., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Gina Meierbachtol.

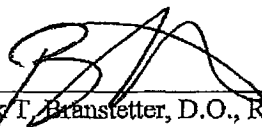
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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 then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the 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.

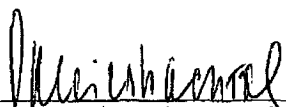
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

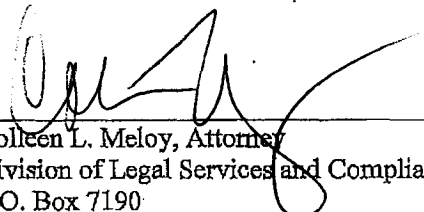
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Erik T. Branstetter, D.O., Respondent
Aspirus Medford Hospital & Clinics
143 South Gibson Street
Medford, WI 54451
License no. 44580-21

6/28/14
Date


Gina Meierbachtol, Attorney for Respondent
Cornelle Law Group
615 S. Monroe Avenue
Green Bay, WI 54301

6/28/14
Date


Colleen L. Meloy, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

6/28/14
Date