

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

JAMES H. TURNER, III, M.D.,
RESPONDENT.

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FINAL DECISION AND ORDER

0004977

Division of Legal Services and Compliance Case No. 16 MED 023

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

James H. Turner, III, M.D.
Virtual Radiologic
11995 Singletree Lane, Suite 500
Eden Prairie, MN 55344

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 James H. Turner, III, M.D. (DOB February 14, 1961), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 61743-20, first issued on January 7, 2014, with registration current through October 31, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 11995 Singletree Lane, Suite 500, Eden Prairie, Minnesota 55344.

2. Respondent is board certified in diagnostic radiology, and practices teleradiology.

3. In February 2009, in Massachusetts, Patient A presented to his primary care physician with complaints of prolonged chest pain. The provider ordered a CT scan of Patient A's chest, which was interpreted by another radiologist on March 5, 2009, as showing interstitial disease.

4. Patient A was referred for a high resolution CT scan of his chest, which was remotely interpreted by Respondent on March 19, 2009, as showing interstitial lung disease. Respondent was also provided with the March 5 CT scan.

5. Patient A returned to his physician in August 2009 with complaints of an apparent mass in his chest. He was examined by a nurse, who charted her observation of "a large mass in the middle of [Patient A's] chest." Another CT scan was remotely interpreted by Respondent Ann A. Tran, M.D.¹ on August 24, 2009.

6. In January 2010, Patient A presented to his physician with ongoing concerns about the growing mass on his chest, and was diagnosed with a solitary plasmacytoma of the sternum. After undergoing radiation treatment, Patient A died on April 25, 2010.

7. In the course of investigating this matter, the March 5 and March 19, 2009 CT studies were reviewed by a board certified radiologist, who indicated that in both studies a destructive mass was clearly visible. Respondent should have made these findings on March 19, 2009, and recommended biopsy to diagnose or exclude the presence of cancer.

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 James H. Turner, III, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(h) (Nov. 2002) by engaging in conduct which tends to constitute a danger to the health, welfare, or safety of a patient.

3. As a result of the above conduct, James H. Turner, III, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent James H. Turner, III, M.D., is REPRIMANDED.

¹ Dr. Tran is a co-respondent in this matter; the radiologist who interpreted the March 5, 2009 CT study is not licensed in Wisconsin.

3. The medicine and surgery license issued to James H. Turner, III, M.D. (license number 47923-20) is LIMITED as follows:

a. Within nine (9) months of the date of this Order, Respondent shall successfully complete six (6) credits on the topic of CT interpretation in an emergency setting.

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

c. The Board or its designee may reject any course and may accept a course for less than the number of hours for which Respondent seeks approval.

d. Within thirty (30) days of completion of each educational component, Respondent shall file an affidavit with the Department Monitor stating under oath that he has attended, in its entirety, the course(s) approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organizations.

e. Respondent is responsible for all costs associated with compliance with this educational requirement.

f. None of the education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.

4. Within ninety (90) days from the date of this Order, James H. Turner, III, M.D., shall pay COSTS of this matter in the amount of \$600.00.

5. 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

6. 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 or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (61743-20) 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

by: 
A Member of the Board

Date 10/16/16
(TW)

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES H. TURNER, III, M.D.,
RESPONDENT.

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STIPULATION

0004977

Division of Legal Services and Compliance Case No. 16 MED 023

Respondent James H. Turner, III, M.D., 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 James Friedman.

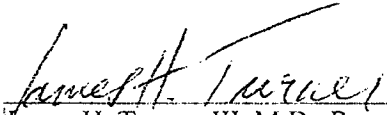
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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.

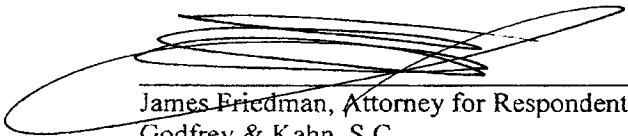
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's 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.

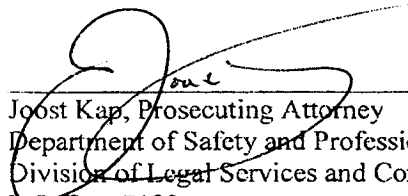
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


James H. Turner, III, M.D., Respondent
11995 Singletree Lane, Suite 500
Eden Prairie, MN 55344
License no. 61743-20

Sept 26, 2016
Date


James Friedman, Attorney for Respondent
Godfrey & Kahn, S.C.
One East Main St. #500
P. O. Box 2719
Madison, WI 53701-2719

9/26/16
Date


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

9/27/16
Date