

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :
 :
DAVID L. RAINIERO, M.D., : FINAL DECISION AND ORDER
 : FOR REMEDIAL EDUCATION
LICENSEE. :
 :

ORDER 0006812

Division of Legal Services and Compliance Case No. 19 MED 030

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

David L. Rainiero, M.D.
Janesville, WI 53545-0774

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, Conclusion of Law and Order.

FINDINGS OF FACT

1. Licensee David L. Rainiero, M.D. (DOB xx/xx/1966), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 59979-20, first issued on December 14, 2012, with registration current through October 31, 2021. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Janesville, Wisconsin 53545-0774.

2. On August 26, 2018, Patient A, a male born in 1955, presented to a hospital emergency department with abdominal pain and a reported history of diverticulitis with abscess and partial colectomy.

3. Licensee was consulted and diagnosed Patient A with cholecystitis, admitted him, and obtained informed consent from Patient A for emergent laparoscopic cholecystectomy with cholangiogram, which Licensee performed in the afternoon of August 26, 2018.

4. During the procedure, Licensee inadvertently and unknowingly perforated Patient A's colon, which is a known complication Licensee addressed during the informed consent discussion with Patient A.

5. Patient A was kept overnight for observation and on August 27, 2018, laboratory work showed a significant increase in Patient A's liver function tests. Licensee consulted gastroenterology who examined and treated Patient A with bile duct release later in the day.

6. Patient A was kept overnight for observation and was discharged home on August 28, 2018.

7. On August 29, 2018, Patient A returned to the hospital emergency department with complaints of epigastric pain and nausea overnight. Imaging studies suggested a colonic perforation believed to have occurred during the August 26, 2018 procedure performed by Licensee.

8. On August 29, 2018, Licensee repaired Patient A's colon perforation rather than doing a colon resection and ostomy. Patient A remained hospitalized until September 5, 2018, when he was discharged home.

9. On September 10, 2018, Patient A was at home when he bent over and felt a "burst" of fluid erupt from his surgical wound.

10. Licensee's August 29, 2018 perforation repair failed and resulted in additional and ongoing care for Patient A, including ostomy and colon resection, performed by other providers.

11. This Final Decision and Order for Remedial Education does not constitute professional discipline and the Board has made no finding that Licensee engaged in unprofessional conduct.

12. Licensee denies any unprofessional conduct, but to resolve this matter he consents to entry of the following Conclusion of Law and Order.

CONCLUSION 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).

ORDER

1. The attached Stipulation is accepted.

2. Within six (6) months of the date of this Order, David L. Rainiero, M.D. shall at Licensee's own expense take and successfully complete six (6) hours of education on the topic of management of complications after bowel surgery as follows:

- a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee and may be taken by the Licensee online. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the course(s) from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
- b. Licensee shall submit proof of successful course completion in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
- c. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.

3. Requests for course approval and proof of successful course completion shall be sent by Licensee 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

You may also submit this information online via DSPS' Monitoring Case Management System, here: <https://dspsmonitoring.wi.gov>.

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

WISCONSIN MEDICAL EXAMINING BOARD

by: *Anthony Westlake, M.D.*
A Member of the Board

5/20/2020
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF

DAVID L. RAINIERO, M.D.,
LICENSEE.

:
:
:
:

STIPULATION

ORDER 0006812

Division of Legal Services and Compliance Case No. 19 MED 030

Licensee David L. Rainiero, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

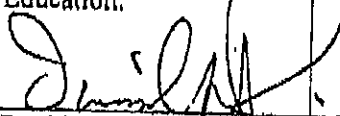
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Licensee consents to the resolution of this investigation by Stipulation.
2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the following rights:
 - the right to a hearing on the allegations against Licensee, 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 Licensee;
 - the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
 - the right to testify on Licensee'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 Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Licensee is represented by Attorney Amy F. Scholl.
4. Licensee agrees to the adoption of the attached Final Decision and Order for Remedial Education by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order for Remedial Education without further notice, pleading, appearance or consent of the parties. Licensee 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 Licensee or Licensee'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 for Remedial Education.

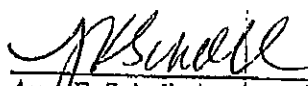
7. Licensee is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order for Remedial Education is a public record and will be published in accordance with standard Department procedure.

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



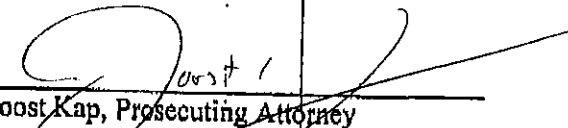
David L. Rainiero, M.D., Licensee
Janesville, WI 53545-0774
License no. 59979-20

2/5/20
Date



Amy F. Scholl, Attorney for Licensee
Coynce, Schultz, Becker & Bauer, S.C.
150 East Gilman Street, Suite 1000
Madison, WI 53703

2/6/2020
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

2/6/20
Date