

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 :
ANN E. RUSCHER, M.D. : FINAL DECISION AND ORDER
RESPONDENT. :

ORDER 0007331

Division of Legal Services and Compliance Case No. 19 MED 079

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

Ann E. Ruscher, M.D.
Madison, WI 53717

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. Ann E. Ruscher, M.D. (Respondent), (Year of Birth 1965) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 34665-20, first issued on July 20, 1993 and with registration current through October 21, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Madison, Wisconsin 53717.

2. On April 1, 2016, a six-week-old male patient underwent surgical release of a tethered cord and resection of a dermal sinus tract under general anesthesia.

3. Respondent was the attending anesthesiologist during the surgical procedure and supervised anesthesiologist resident (Resident A). Resident A was a senior anesthesiology

resident who was three months from completing his residency and had completed his second, third, and senior year pediatric anesthesia rotations. However, Resident A had not participated in a surgery involving an infant of this small size nor a tethered cord release previously.

4. Respondent conducted the preoperative anesthetic evaluation and developed the anesthesia plan. During the preoperative anesthetic evaluation, staff were unable to obtain a blood pressure reading because the infant was crying and fussy. As a result, Respondent relied on a normal blood pressure reading taken several days earlier.

5. Respondent administered general anesthesia agents and was in charge of anesthesia selection and dosing during induction and surgical incision. During the procedure, Respondent administered Sevoflurane, an inhaled anesthetic, and intravenous propofol. Respondent was present in the operating room from approximately 2:15 to 3:08 p.m. During that time, only two blood pressure readings were obtained. At 2:37 p.m., a blood pressure of 150/100 was recorded. At 2:41 p.m., Respondent opted to administer a relatively high dose of propofol (20 mg) to facilitate intubation in light of the elevated blood pressure and the fact that a muscle relaxant was not utilized.

6. After intubation at 2:45 p.m., the infant was repositioned into a prone position for the procedure. During repositioning, the blood pressure cuff must be disconnected and there was an extended time without a recorded blood pressure reading. While Respondent concedes it is suboptimal to have so much time elapsed without a blood pressure reading, this is not uncommon when repositioning such a small infant. At 2:58 p.m., the infant's blood pressure reading was 96/60, which Respondent interpreted as normal. At approximately 3:08 p.m., Respondent left the operating room and Resident A continued the anesthetic care of the patient. While Respondent was gone from the operating room, Respondent attended to another patient and completed paperwork. Respondent remained within a two-minute walk of the operating room in case her assistance was needed. She was also available to Resident A by cellular phone.

7. After Respondent left the operating room, Resident A obtained a blood pressure reading of 90/65 at 3:15 p.m. At 3:18 p.m., Resident A obtained a critically low blood pressure reading of 30/10 and called Respondent. Resident A states he told Respondent that the low reading was 30/10 and questioned whether the blood pressure cuff was accurate, but Respondent denies that Resident A told her the specific reading. Respondent informed Resident A to assume the reading was accurate and directed him to give an IV bolus to increase the pressure, which Resident A did.

8. Resident A had been trained to call Respondent again if there were additional problems, including continued low blood pressure readings. Resident A never contacted Respondent again during the procedure, despite continued low or unobtainable blood pressure readings. Respondent returned to the operating room near the end of the procedure and Resident A did not report to Respondent that he had experienced any difficulties with the infant's care. Following the procedure, the infant appeared to be having seizures. Diagnostics were performed and the record of the infant's blood pressures during the procedure was reviewed. It was determined that the infant had suffered brain damage which was attributed to hypoxia from a prolonged period of low blood pressure during the surgery.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 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. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$850.00.

4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>

5. In the event Respondent violates any term of this Order, Respondent's license (34665-20), or Respondent's right to renew her license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Shelton A. Wasserman, MD
A Member of the Board

21 April 2021
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANN E. RUSCHER, M.D.,
RESPONDENT.

STIPULATION

ORDER 0007331

Division of Legal Services and Compliance Case No. 19 MED 079

Ann E. Ruscher, M.D. (Respondent) 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 Attorneys David Relles and John Zwiig.


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.

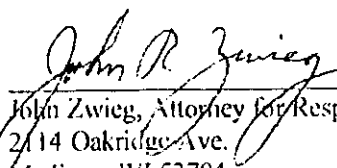
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Ann E. Ruscher, M.D., Respondent
Madison, WI 53717
License No. 34665-20

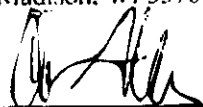
3 - 27 - 2021
Date


David Relles, Attorney for Respondent
Reuter Whitish & Evans, SC
44 East Mifflin St., Ste 306
Madison, WI 53703

March 25, 2021
Date


John Zwieg, Attorney for Respondent
2114 Oakridge Ave.
Madison, WI 53704

March 25, 2021
Date


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

3/29/2021
Date