

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 :
 :
 : FINAL DECISION AND ORDER
 : FOR REMEDIAL EDUCATION
 :
 THOMAS E. KINNEY, M.D., :
 LICENSEE. : **ORDER 0007475**

Division of Legal Services and Compliance Case No. 21 MED 155

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

Thomas E. Kinney, M.D.
Brookfield, WI 53005

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. Thomas E. Kinney, M.D. (Licensee), (Year of Birth 1958) is licensed in the state of Wisconsin as to practice medicine and surgery, having license number 27691-20, first issued on July 1, 1986 and 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 Brookfield, Wisconsin 53005.

2. Licensee is Board Certified by the American Board of Plastic Surgery and practices cosmetic surgery.

3. On December 10, 2020, Licensee saw Patient A (a female born in 1970) for breast augmentation and liposuction consultation.

4. On January 19, 2021, Licensee performed bilateral submuscular augmentation mammoplasties and tumescent liposuction of abdomen and bilateral inner thighs. Between December 10, 2020, and March 4, 2021, Licensee saw Patient A for additional pre-operative and post-operative visits.

5. On April 14, 2021, Patient A filed a complaint with the Brookfield Police Department (Brookfield PD) related to Licensee's care and treatment. Patient A alleged that Licensee rubbed, caressed, and squeezed Patient A's shoulders, arms, thighs, and lower back, and rested his head in Patient A's lap. Patient A further alleged that Licensee made comments to Patient A which made her feel uncomfortable such as that she was extremely beautiful, had a nice body, and beautiful breasts. The Brookfield PD advised Patient A that the allegations did not meet the criteria for sexual assault and referred Patient A to the Department.

6. On April 15, 2021, Patient A filed a complaint with the Department alleging that Licensee had inappropriately touched and had made inappropriate comments to Patient A. The Department opened Division Case No. 21 MED 155 to investigate the allegations.

7. Licensee denies that he inappropriately touched Patient A or that he made inappropriate comments during her care and treatment. Licensee has represented to the Department that while he fully denies the allegations, he will utilize a chaperone in his practice for all female examinations and that presence of the chaperone will be documented in the patient healthcare record.

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

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board 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, Licensee shall at their own expense take and successfully complete the *Medical Ethics, Boundaries, and Professionalism* course offered by the Case Western Reserve University School of Medicine, or an equivalent course that has been pre-approved by the Board or its designee as follows:

a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. 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 completion of the education in the form of verification from the institution providing the education to the Department

Monitor at the address stated below. 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 and may not be used in any future attempt to upgrade a credential.

- c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Licensee. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

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

WISCONSIN MEDICAL EXAMINING BOARD

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

Date 21 July 2021

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF

THOMAS E. KINNEY, M.D.,
LICENSEE

STIPULATION

ORDER 0007475

Division of Legal Services and Compliance Case No. 21 MED 155

Thomas E. Kinney, M.D. (Licensee) and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

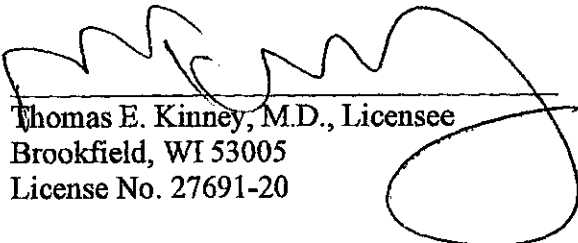
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Licensee consents to the resolution of this investigation by Stipulation.
2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the 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 Michael L. Johnson.
4. Licensee 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. 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.

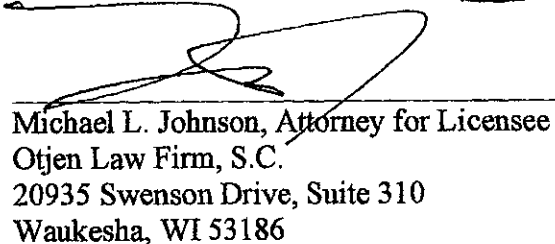
7. Licensee is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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



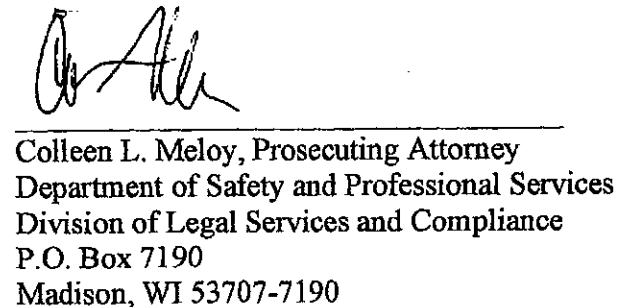
Thomas E. Kinney, M.D., Licensee
Brookfield, WI 53005
License No. 27691-20

6.7.21
Date



Michael L. Johnson, Attorney for Licensee
Otjen Law Firm, S.C.
20935 Swenson Drive, Suite 310
Waukesha, WI 53186

6/10/21
Date



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

6/11/2021
Date