

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 :
ERIC G. EBERTS, M.D., : FINAL DECISION AND ORDER
RESPONDENT. :
ORDER 0007856

Division of Legal Services and Compliance Case No. 21 MED 302

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

Eric G. Eberts, M.D.
Appleton, WI 54912

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 Eric G. Eberts, M.D. (Year of Birth 1965), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 41754-20, first issued on November 5, 1999, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Appleton, Wisconsin 54912.

2. On March 19, 2014, the Board issued an administrative warning to Respondent for inadvertently leaving a 10.5 cm length of plastic in a patient during a colporrhaphy.

3. At all times relevant to this proceeding, Respondent practiced obstetrics and gynecology at a women's clinic in Appleton, Wisconsin (Clinic).

4. On February 8, 2017, Respondent performed a laparoscopic hysterectomy on Patient A, a female born in 1987, who had been diagnosed with endometriosis and pelvic pain. Respondent's documentation of the procedure indicates he performed a right salpingo-oophorectomy and a left salpingectomy with no complications. Per the operative plan to which Patient A consented, her left ovary was to remain in-situ.

5. On February 9, 2017, the pathology report indicated that "bilateral ovaries with cystic follicles" were present in the specimen removed during surgery. The pathologist reviewed the specimen twice to confirm the result.

6. On February 16, 2017, Respondent saw Patient A after she presented to the emergency department. Respondent charted "Pathology is benign from her surgery 2 days ago and her primary complaint upon arrival to the floor this morning is nausea...CT scan is fairly unremarkable. It does not visualize either ovary."

7. On February 27, 2017, Patient A underwent a diagnostic laparoscopy with another provider, which confirmed that both ovaries were surgically absent.

8. Respondent admits he erroneously removed Patient A's left ovary and states he has since implemented a second verbal time-out before beginning the critical portions of any surgery he performs.

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)(d) by performing or attempting to perform any surgical or invasive procedure on the wrong patient, or at the wrong anatomical site, or performing the wrong procedure on any patient.

3. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3) and Wis. Admin. Code Ch. Med 10.

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$360.00.

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

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

5. In the event Respondent violates any term of this Order, Respondent's license and registration (number 41754-20), or Respondent's right to renew his license and registration, 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: Charmie Chin
A Member of the Board

16 February 2022
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ERIC G. EBERTS, M.D.,
RESPONDENT.

:
:
:
:
:
:

STIPULATION

ORDER 0007856

Division of Legal Services and Compliance Case No. 21 MED 302

Respondent Eric G. Eberts, 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 Michael L. Johnson.

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, 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.



Eric G. Eberts, M.D., Respondent
Appleton, WI 54912
License No. 41754-20

02/02/2022

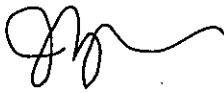
Date



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

2/3/22

Date



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

2/4/2022

Date