

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 :
 :
 : FINAL DECISION AND ORDER
KURT J. DUNCAN, M.D., :
RESPONDENT. : **ORDER 0008176**

Division of Legal Services and Compliance Case No. 20 MED 393

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

Kurt J. Duncan, M.D.
Wyoming, MN 55092

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 Kurt J. Duncan, M.D., (Year of Birth 1982) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 73974-20, first issued on August 25, 2020, 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 Wyoming, Minnesota 55092.

2. At all times relevant to this proceeding, Respondent practiced as an orthopedic surgeon in Woodbury, Minnesota.

3. In late 2018, Respondent saw Patient A (a 63-year-old male) whose diagnosis included “L4-5 stenosis from degenerative changes in facet joints, ligamentum flavum and disc herniation.” Respondent planned to perform a “bilateral decompression L4-5” on Patient A.

4. On February 13, 2019, Respondent performed surgery on Patient A, noting the procedure performed was a “lumbar 4-5 bilateral decompression.”

5. On February 25, 2019, Respondent saw Patient A for a post-operative appointment at which time Patient A reported continued spinal stenosis symptoms. Respondent ordered an x-ray of Patient A’s lumbar spine which revealed that he had performed the surgery at the L3-4 level instead of the intended L4-5 level. Respondent disclosed the error to Patient A and offered to do another surgery at the originally intended level, but Patient A declined.

6. Since this event, Respondent has adopted a different method of marking spinal levels, based on research and consultation with his spine surgery partners, to avoid wrong-level spine surgery in the future.

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

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02 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 within the meaning of 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. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct within the meaning of 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.

4. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02.

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 \$597.00.

4. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

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://dpsmonitoring.wi.gov>.

5. In the event Respondent violates any term of this Order, Respondent's license (73974-20) or Respondent's right to renew his 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: 
A Member of the Board

9/21/2022
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KURT J. DUNCAN, M.D.,
RESPONDENT.

STIPULATION

ORDER 0008176

Division of Legal Services and Compliance Case No. 20 MED 393

Respondent Kurt J. Duncan, 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 Michelle Draewell.

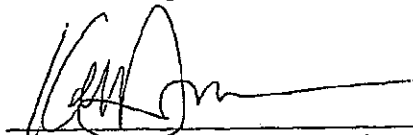
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent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

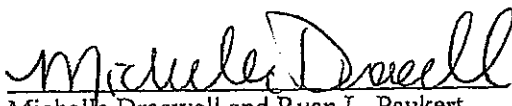
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.




Kurt J. Duncan, M.D., Respondent
Wyoming, MN 55092
License No. 73974-20

5/17/2022
Date



Michelle Draewell and Ryan L. Paukert,
Attorneys for Respondent
Quinlivan & Hughes, PA
PO Box 1008
St. Cloud, MN 56302

8/12/2022
Date



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

08/15/2022
Date