

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
BENJAMIN M. KOTINSLEY, M.D., :
RESPONDENT. :

ORDER 0008503

Division of Legal Services and Compliance Case No. 22 MED 367

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

Benjamin M. Kotinsley, M.D.
Houston, TX 77040

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-f8366

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 Benjamin M. Kotinsley, M.D., (Year of Birth 1978) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 75530-20, first issued on June 23, 2021, and 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 Houston, Texas 77040.

2. At all times relevant to this proceeding, Respondent practiced as an independent teleradiologist.

3. On January 8, 2018, Respondent interpreted the chest x-ray of Patient A, a 78-year-old female, admitted to a New York hospital with a diagnosis of acute respiratory distress

secondary to COPD and pneumonia. Respondent was asked to confirm placement of a central line.

4. Respondent's impression was:

- a. Left internal jugular line tip is at the cavoatrial junction. No pneumothorax.
- b. Enteric tube courses below the diaphragm and its tip is in the gastric body but the side port hole is at the gastroesophageal junction.

5. The image received by Respondent was a very malpositioned image. Respondent failed to qualify in his report that the image he received was a single, frontal chest view from a portable x-ray machine in which the right lung was not visualized and that the position of the central line could not be adequately determined.

6. Patient A suffered a stroke and died on January 24, 2018, at another facility.

7. In light of this case, Respondent has changed his practice to include in his report greater detail of any potential uncertainty and to communicate any uncertainty with the ordering provider.

8. Respondent denies that his involvement in the medical care of Patient A on or about January 8, 2018, deviated from the standard of care or violated any duties and requirements of his credentials to practice medicine under the laws of Wisconsin. Respondent further denies that his involvement in Patient A's care was a causative factor in the patient's death.

9. 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(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 in 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. Respondent's license and registration to practice medicine and surgery in the state of Wisconsin (license no. 75530-20) is LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at their own expense, successfully complete three (3) hours of education on the topic of chest x-ray position and appearance of central lines on chest x-rays, offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.
- b. Respondent 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 also may not be used in future attempts to upgrade a credential in Wisconsin.
- c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
- d. This limitation shall be removed from Respondent's license and registration after satisfying the Board or its designee that Respondent has successfully completed all the ordered education.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$782.00.

5. 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>.

6. In the event Respondent violates any term of this Order, Respondent's license and registration (no. 75530-20), 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

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

4/19/2023
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

BENJAMIN M. KOTINSLEY, M.D.,
RESPONDENT.

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:
:

STIPULATION
ORDER 0008508

Division of Legal Services and Compliance Case No. 22 MED 367

Respondent Benjamin M. Kotinsley, 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 John Reid.

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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

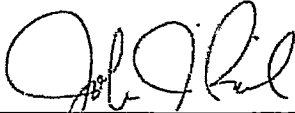
9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Benjamin M. Kotinsley, M.D., Respondent
Houston, TX 77040
License No. 75530-20

April 7, 2023

Date



John Reid, Attorney for Respondent
Cassiday Schade LLP
330 E. Kilbourn Ave., Ste. 575
Milwaukee, WI 53202

April 7, 2023

Date



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

4/7/23

Date