

IN THE MATTER OF THE COMPLAINT) (BEFORE THE
) (
ROBERT G. WILKERSON, M.D.,) (TEXAS STATE BOARD
) (
RESPONDENT) (OF MEDICAL EXAMINERS

SECOND AMENDED COMPLAINT

TO THE HONORABLE TEXAS STATE BOARD OF MEDICAL EXAMINERS:

COMES NOW, the Texas State Board of Medical Examiners (the "Board"), by and through its Hearings Division, making this Second Amended Complaint against Robert G. Wilkerson, M.D. (the "Respondent"), concerning his violation of the Medical Practice Act (the "Act"), Article 4495b of the Revised Civil Statutes of the State of Texas. This relief is necessary to protect the health of the citizens of the State of Texas as mandated by Section 1.02 of the Act, and in support thereof would show the following:

I

The Respondent was previously issued a Texas medical license, number D-4359, by the Texas State Board of Medical Examiners, which was in full force and effect at all times relevant to this proceeding. All jurisdictional events required prior to the filing of this Complaint have been satisfied.

II

The Texas State Board of Medical Examiners is informed and believes, and upon such information and belief, charges and alleges that:

Count I

During an examination of K.J.B. on November 4, 1987, Respondent insisted on performing a physical examination, including pelvic and rectal examinations, when she had sought only Respondent's authorization for a thyroid scan which was to be performed by another

physician. The patient had told Respondent that her gynecologist had given her a complete physical one week before. Respondent asked no questions as part of a medical history and did not obtain the patient's blood pressure. Respondent provided the patient with only a paper gown, which he later tore down the back. Respondent repeatedly ordered the patient to sit up straight and to pose facing left and right while sitting on the exam table with her breasts exposed. Respondent examined the patient's breasts roughly, including slapping them and pulling hard on her nipples. Respondent required the patient to stand on the floor while he was seated on a stool, and he repeatedly slapped the insides of her thighs to induce the patient to spread her thighs apart. Respondent requested the patient to remove her tampon, and after she did so, he performed a vaginal examination. Respondent performed a rectal examination and repeatedly asked the patient to bend over from the waist to touch her toes while facing away from him. Respondent held the patient's buttocks in both his hands. The patient suffered emotional distress because of Respondent's actions and she wept during the encounter.

Count II

During April, 1987, Respondent admitted B.L.S. to Sam Houston Memorial Hospital for diagnostic tests and/or treatment related to her stress symptoms. Early on the morning of the day the patient was to be discharged, Respondent insisted on performing a pelvic examination, despite the patient's having told him that she had had such an exam only a few months previously. After completing the patient's pap smear, Respondent asked the patient to remove her gown and to spread her legs. Respondent stared at the patient's breasts and at her buttocks. Respondent approached the patient from behind and separated her buttocks. Said conduct caused the patient significant emotional distress.

Said examination of B.L.S. was unnecessary at the time and under the circumstances it was performed, and was therefore done primarily

by Respondent for his own gratification. No record was made of Respondent's findings or observations, and the patient was discharged from the hospital later the same morning, thereby limiting Respondent's opportunity to utilize any information obtained.

Count III

In November, 1986 Respondent told A.F. that her employment in his office would be conditional on his performing a physical examination on her, and that results of another examination by her own physician were not acceptable. Respondent required her to remove all her clothes and to stand in front of him with her hands behind her head. Respondent touched all areas of her body with his fingers, stating that he was checking for skin disease. Respondent stood behind A.F. and combed the hair on her head, then sat in front of her and combed her pubic hair. Respondent also instructed her to lie on the exam table with her chest on the table, knees flexed, and with her buttocks in the air for a rectal examination. During A.F.'s term of employment, which lasted through February, 1987, Respondent allegedly asked her to undergo a pelvic examination to be performed by him three times, all of which she refused.

Count IV

During the period August, 1986 through approximately August, 1987, Respondent engaged in the following conduct:

A.

Instructed his office staff to discard blood and urine specimens obtained from many patients, including K.K. and Sonya Petenbrink, with no testing of the samples. Respondent billed the patients for said tests that had not been performed and fabricated results for inclusion in the patients' records. He instructed his staff to tell patients who called about their test results that there were no problems.

B.

Required many female patients, including P.B., K.G., R.W., and S.B., to return to the office for physical examinations, which included pelvic and rectal exams, before he would authorize regular, routine refills of their prescriptions.

C.

Asked office staff members Sonyia Petenbrink and Susan Matthews on several occasions to take the temperature of adolescent or older male patients rectally instead of orally for no discernible medical reason.

D.

Often asked physically attractive female patients, including K.K., and D.G., to assume various poses during their unclothed physical examinations, during which interludes he would simply stare at the patients.

E.

Required patient S.L. to undergo an unclothed examination, including a breast and a pelvic examination, when the patient had requested only a prescription for dental pain.

III

Section 3.08(4) of the Act provides that the Board may refuse to admit persons to its examinations and to issue a license to practice medicine to any person for "unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public;..."

IV

Section 4.01(a) of the Act provides that "Except as provided herein, the Board may cancel, revoke, or suspend the license of any practitioner of medicine or impose any other authorized means of discipline upon proof of the violation of this Act in any respect or for any cause for which the Board is authorized to refuse to admit persons to its examination and to issue a license and renewal license..."

V

Respondent's conduct described in Counts I, II, III, and IV constitutes a violation of Section 3.08(4) of the Act.

VI

Respondent's violation of Section 3.08(4) the Act is grounds for cancellation, revocation or suspension of the Respondent's license to practice medicine in the State of Texas pursuant to Section 4.01 of the Act.

VII

Respondent's violation of Section 3.08(4) of the Act is grounds for the Board to enter an order imposing other means of discipline upon the Respondent pursuant to Section 4.12 of the Act.

VIII

Respondent's violation of Section 3.08(4) of the Act resulting in the cancellation, revocation or suspension of the Respondent's Texas medical license or the imposition of other means of discipline may be probated pursuant to Section 4.11 of the Act.

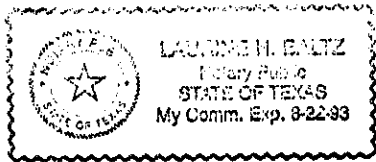
WHEREFORE, PREMISES CONSIDERED, it is prayed that a hearing on this complaint be held before the Texas State Board of Medical Examiners and that the Board enter its order herein to (1) cancel, revoke or suspend the Respondent's medical license; (2) impose other means of discipline, or (3) probate the cancellation, revocation, suspension or the Respondent's Texas medical license, or the imposition of other means of discipline.

Respectfully submitted,


Michael G. Young
Staff Counsel

THE STATE OF TEXAS)(
)(
COUNTY OF TRAVIS)(

SUBSCRIBED AND SWORN to before me by the said Michael G. Young on
this the 15th day of March, 1991.



Signature of Laurine H. Baltz
Notary Public, State of Texas

Filed with the Texas State Board of Medical Examiners on this the
15th day of March, 1991.

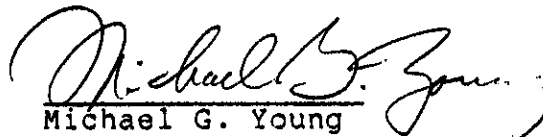
Signature of Homer H. Goehrs
Homer H. Goehrs, M.D.
Executive Director
Texas State Board of Medical
Examiners

M.Compl 8.17/2

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing
Second Amended Complaint has been sent by facsimile transmission
on this the 15th day of March, 1991 to:

Kevin A. Reed
Davis & Davis
San Jacinto Center, 19th Floor
Austin, Texas 78701


Michael G. Young
Staff Attorney