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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

WILLIAM H. ZIERING, M.D.
4747 N. First Street, Suite 177
Fresno, CA 93726

Physician and Surgeon No. Certificate No.
G7842

Respondent.

Case No. 08-1996-67590

OAH No. N-1999-110490

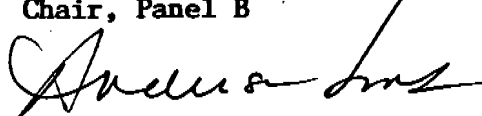
DECISION AND ORDER

The attached Stipulated Surrender of License And Order is hereby adopted by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective at 5:00 p.m. on July 30, 2001.

It is so ORDERED June 29, 2001.

ANABEL ANDERSON IMBERT, M.D.
Chair, Panel B



FOR THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
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7 Attorneys for Complainant

8
9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 WILLIAM H. ZIERING, M.D.
16 4747 N. First Street, Suite 177
Fresno, CA 93726

17 Physician and Surgeon Certificate No. G7842

Respondent.

Case No. 08-1996-67590

OAH No. N-1999-110490

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Complainant Ron Joseph is the Executive Director of the Medical Board
22 of California. He brought this action solely in his official capacity and is represented in this
23 matter by Bill Lockyer, Attorney General of the State of California, by Isa R. Rodriguez, Deputy
24 Attorney General.

25 2. Respondent WILLIAM H. ZIERING, M.D. ("Respondent") is represented
26 in this matter by attorney David A. Fike, Esq., whose address is Emerich, Pedreira & Fike, 5220
27 N. Palm Avenue, Fresno, CA 93704-2209, and Steven I. Kern, Esq., whose address is Kern
28 Augustine Conroy & Schoppmann P.C., 1120 Route 22 East, Bridgewater, New Jersey 08807.

1 CULPABILITY

2 8. Respondent understands that the charges and allegations in the
3 Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Physician
4 and Surgeon Certificate. The parties also agree that it is in their interest to resolve this matter
5 without the expense or uncertainty of further proceedings.

6 9. By way of mitigation, and especially in light of the fact that at age 71 he is
7 contemplating retirement from the practice of medicine, Respondent asserts that he has had no
8 prior discipline in almost 40 years of practice and was one of the few physicians who regularly
9 cared for Medi-Cal patients in his practice. Further, Respondent would like the record to reflect
10 that in his almost 40 years of service, he has been actively engaged in community and charitable
11 activities benefiting the citizens and patients of the State of California including but not limited
12 to the following: Medical Director of Cesar Chavez's Farm Worker's Medical Clinic, helped
13 develop and chaired the Battered Child Committee of Fresno County, served as: Chief of
14 Pediatrics at University Medical Center (formerly Valley Medical Center), President of the
15 California Medical Association's Section on Allergy, head of the Health Component of Head
16 Start of Fresno County, Director of the Fresno Art Museum, Director of the Economic
17 Opportunities Commission of Fresno County, President of Temple Beth Israel, Fresno, and
18 Director of the Fresno County Division of the American Lung Association.

19 10. For the purpose of resolving Accusation Number 08-1996-67590 without
20 the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,
21 Complainant could establish a factual basis for the charges that Respondent engaged in activities
22 which constituted unprofessional conduct pursuant to Business and Professions Code section
23 2234(a). Although Respondent could raise defenses against those charges, and denies those
24 charges, as part of this stipulated settlement, Respondent hereby gives up his right to contest that
25 cause for discipline exists based on these charges and hereby agrees to surrender his Physician
26 and Surgeon Certificate No. G7842 for the Division's formal acceptance as set forth below.

27 EFFECT OF SURRENDER

28 11. Respondent understands that by signing this stipulation he enables the

1 Division to issue its order accepting the surrender of his Physician and Surgeon Certificate, as set
2 forth below, without further process.

3 12. As part of this stipulation, and as a way of allowing for the orderly transfer
4 of patients and the winding down of Respondent's medical practice, Respondent may continue in
5 the practice of medicine until December 31, 2001, after which time he may no longer see any
6 patients and shall close his medical practice.

7 13. From June 1, 2001, through December 31, 2001, Respondent shall,
8 consistent with his stated past practice, continue to have a third party present while examining
9 and treating female patients. Respondent shall within thirty (30) days of the effective date of the
10 decision, submit to the Division or its designee for its approval the names of persons who will act
11 as the third party present. Female patients shall execute a release authorizing the third party(s)
12 present to divulge any examination information that the Board may request to monitor
13 compliance during this period. Respondent shall use the release, attached as Exhibit "B" to this
14 stipulation, for each female patient he sees during this period and this release shall become a part
15 of that patient's medical record. Respondent shall also include in the patient's medical records a
16 certification by the third party, attached as Exhibit C, documenting the presence of the third party
17 at all times.

18 14. Respondent shall surrender both his wall and wallet Physician and
19 Surgeon Certificate No. G7842, for the Division's formal acceptance on February 28, 2002.

20 15. Within sixty (60) days of the effective date of this Order, respondent shall
21 pay the Division \$2,500 for its costs in monitoring compliance with the terms of this stipulation.
22 Such payment shall be by way of a cashier's check or money order made payable to the Medical
23 Board of California.

24 16. Respondent fully understands and agrees that if he ever files an application
25 for relicensure or reinstatement in the State of California, the Division shall treat it as a petition
26 for reinstatement. Respondent must comply with all the laws, regulations and procedures for
27 reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges
28 and allegations contained in the Accusation Number 08-1996-67590 will be deemed to be true,

1 correct and admitted by Respondent when the Division determines whether to grant or deny the
2 petition.

3 17. Respondent understands that any violation of these conditions shall be
4 deemed grounds for further discipline and may result in the filing of another accusation.

5 RESERVATION

6 18. The admissions made by Respondent herein are only for the purposes of
7 this proceeding, or any other proceedings in which the Division of Medical Quality, Medical
8 Board of California or other professional licensing agency is involved, and shall not be
9 admissible in any other administrative, or any criminal or civil proceeding.

10 CONTINGENCY

11 19. This stipulation shall be subject to the approval of the Division.
12 Respondent understands and agrees that Medical Board of California's staff and counsel for
13 complainant may communicate directly with the Division regarding this stipulation and
14 settlement, without notice to or participation by Respondent or his counsel. If the Division fails
15 to adopt this stipulation as its Order, the Stipulation for Surrender of License and Order shall be
16 of no force or effect, it shall be inadmissible in any legal action between the parties, and the
17 Division shall not be disqualified from further action in this matter by virtue of its consideration
18 of this stipulation.

19 20. The parties agree that facsimile copies to this Stipulated Surrender of
20 License and Order, including facsimile signatures thereto, shall have the same force and effect as
21 original Stipulated Surrender of License and Order and signatures.

22 ACCEPTANCE

23 I, WILLIAM H. ZIERING, M.D. have carefully read the above Stipulated
24 Surrender of License and Order and entered into this agreement freely and voluntarily with the
25 advice of counsel, and with full knowledge of its force and effect, do hereby agree to surrender
26 my Physician and Surgeon Certificate to the Division of Medical Quality, Medical Board of
27 California for its formal acceptance as set forth above. By signing this Stipulated Surrender of
28 License I recognize that upon its formal acceptance by the Division I will lose all rights and

1 privileges to practice as a Physician and Surgeon in the State of California and I will also cause
2 to be delivered to the Division both my license and wallet certificate on or before the February
3 28, 2002.


4 I further agree that a facsimile copy of this Stipulated Surrender of License and
5 Order including facsimile copies of signatures, may be used with the same force and effect as the
6 originals.

7 DATED: 5/9/01

8 
9 WILLIAM H. ZIERING, M.D.
Respondent

10 I have read and fully discussed with Respondent WILLIAM H. ZIERING, M.D.
11 the terms and conditions and other matters contained in the above Stipulated Surrender Of
12 License And Order. I approve as to its form only.

13 DATED: 5-9-01


14 
15 STEVEN I. KERN AND/OR DAVID A. FIKE
Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Surrender of License And Order is hereby respectfully
18 submitted for consideration by the Division of Medical Quality, Medical Board of California of
19 the Department of Consumer Affairs.

20 DATED: 5/11/01

21 BILL LOCKYER, Attorney General
of the State of California

22 
23 ISA R. RODRIGUEZ
24 Deputy Attorney General

25 Attorneys for Complainant

1 BILL LOCKYER, Attorney General
 of the State of California
 2 GAIL M. HEPPELL, Supervising
 Deputy Attorney General
 3 ISA RODRIGUEZ,
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
 SACRAMENTO September 24 19 99
 BY Kimberly K. May ANALYST

6 Attorneys for Complainant

7
 8 **BEFORE THE**
 9 **DIVISION OF MEDICAL QUALITY**
MEDICAL BOARD OF CALIFORNIA
 10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation) Case No. 08-1996-67590
 Against:)
 12)
 WILLIAM H. ZIERING, M.D.) **ACCUSATION**
 13 4747 N. First Street, Suite 177)
 Fresno, CA 93726)
 14)
 Physician and Surgeon's)
 15 Certificate No. G-7842,)
)
 16 Respondent.)
)

17
 18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Ronald Joseph, is the Executive
 21 Director of the Medical Board of California (hereinafter the
 22 "Board") and brings this accusation solely in his official
 23 capacity.

24 2. On or about July 26, 1962, Physician and Surgeon's
 25 Certificate No. G-7842 was issued by the Board to William H.
 26 Ziering, M.D. (hereinafter "respondent"), and at all times
 27

1 relevant to the charges brought herein, this license has been in
2 full force and effect. Unless renewed, it will expire on January
3 31, 2000.

4 **JURISDICTION**

5 3. This accusation is brought before the Division of
6 Medical Quality of the Medical Board of California, Department of
7 Consumer Affairs (hereinafter the "Division"), under the
8 authority of the following sections of the California Business
9 and Professions Code (hereinafter "Code") and/or other relevant
10 statutory enactment:

11 A. Section 2227 of the Code provides that the Board
12 may revoke, suspend for a period not to exceed one year, or
13 place on probation, the license of any licensee who has been
14 found guilty under the Medical Practice Act, and may recover
15 the costs of probation monitoring if probation is imposed.

16 B. Section 2234(c) of the Code provides that repeated
17 negligent acts constitute unprofessional conduct.

18 C. Section 726 of the Code provides that any act of
19 sexual abuse, misconduct or relations with a patient
20 constitutes unprofessional conduct.

21 D. Section 125.3 of the Code provides in pertinent
22 part that the Board may request the administrative law judge
23 to direct any licentiate found to have committed a violation
24 or violations of the licensing act to pay the Board a sum
25 not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

27

1 E. Section 14124.12(a) of the Welfare & Institutions
2 Code provides in pertinent part that upon written notice of
3 the Medical Board of California that a physician and
4 surgeon's medical license has been placed on probation as a
5 result of a disciplinary action, no Medi-Cal claim for the
6 type of surgical service or invasive procedure giving rise
7 to the probationary order and performed on or after the
8 effective date of said probationary order or during the
9 period of probation shall be reimbursed, except upon a prior
10 determination that compelling circumstances warrant the
11 continuance of reimbursement during the probationary period
12 for procedures other than those giving rise to the
13 probationary order.

14 4. Respondent is guilty of unprofessional conduct
15 within the meaning of Code sections 726 and 2234(c) as more
16 particularly set forth hereinbelow.

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Sexual Abuse/Misconduct with Patient)
19 [Bus. & Prof. Code § 726]

20 Patient Veronica A.^{1/}

21 5. On or about April 3, 1996, Veronica A., a then 30-
22 year old female, was seen in respondent's medical offices for
23 allergy testing and treatment. In the course of respondent's care
24 of Veronica A. on the above date, respondent made inappropriate
25 sexualized comments to and about Veronica A., brought his crotch

26 1. The full names of all patients referred to herein will
27 be made available to respondent upon a timely request for
discovery.

1 and/or genital area with erect penis into contact with Veronica
2 A.'s buttocks area, and touched and/or fondled Veronica A.'s
3 hands, breasts, shoulders and hips, all without medical
4 indication, necessity or justification.

5 6. Respondent's conduct as set forth in paragraph 5,
6 above, constitutes acts of sexual abuse or misconduct with a
7 patient and therefore unprofessional conduct within the meaning
8 of Code section 726.

9 SECOND CAUSE FOR DISCIPLINE
10 (Sexual Abuse/Misconduct with Patient)
11 [Bus. & Prof. Code § 726]

12 Patient Gwen B.

13 7. On or about April 3, 1996, Gwen B., a then 53-year
14 old female, was seen in respondent's medical offices for allergy
15 testing and treatment. In the course of respondent's care of Gwen
16 B., respondent made inappropriate sexualized comments to and
17 about Gwen B., pressed his lower body against her legs during his
18 examination, and attempted to touch her breasts, all without
19 medical indication, necessity or justification.

20 8. Respondent's conduct as set forth in paragraph 7,
21 above, constitutes acts of sexual abuse or misconduct with a
22 patient and therefore unprofessional conduct within the meaning
23 of Code section 726.

24 ///
25 ///
26 ///
27

1 **THIRD CAUSE FOR DISCIPLINE**
2 (Sexual Abuse/Misconduct with Patient)
3 [Bus. & Prof. Code § 726]

4 Patient Angela M.

5 9. In 1989 Angela M., a then 32-year old female, saw
6 respondent for allergy testing and treatment. On at least one
7 occasion during respondent's care of Angela M. in 1989,
8 respondent, while examining Angela M.'s ears, rubbed his genital
9 or crotch area against Angela M.'s knee or knees without medical
10 indication, necessity or justification.

11 10. On or about April 17, 1996, Angela M. was again
12 seen in respondent's medical offices for allergy testing and
13 treatment. After the completion of further allergy testing and
14 while explaining the test results to Angela M., respondent
15 touched and/or stroked the sides of Angela M.'s back with his
16 hands and attempted to touch her breasts, all without medical
17 indication, necessity or justification.

18 11. Respondent's conduct as set forth in paragraph 10,
19 above, constitutes acts of sexual abuse or misconduct with a
20 patient and therefore unprofessional conduct within the meaning
21 of Code section 726.

22 **FOURTH CAUSE FOR DISCIPLINE**
23 (Sexual Abuse/Misconduct with Patient)
24 [Bus. & Prof. Code § 726]

25 Patient Beverly M.

26 12. On or about April 30, 1997, Beverly M., a then 14-
27 year old female, was seen in respondent's medical offices for
28 allergy testing and treatment. In the course of respondent's care

1 of Beverly M. at the time indicated herein, respondent made
2 inappropriate sexualized comments to and about Beverly M. and
3 fondled her breast or breasts during a stethoscopic examination,
4 all without medical indication, necessity or justification.

5 13. Respondent's conduct as set forth in paragraph 12,
6 above, constitutes acts of sexual abuse or misconduct with a
7 patient and therefore unprofessional conduct within the meaning
8 of Code section 726.

9 **FIFTH CAUSE FOR DISCIPLINE**
10 (Sexual Abuse/Misconduct with Patient)
11 [Bus. & Prof. Code § 726]

12 Patient Judy S.

13 14. On or about May 9, 1994, Judy S., a then 55-year
14 old female, was seen in respondent's medical offices for allergy
15 testing and treatment. In the course of respondent's care of Judy
16 S. at the time indicated above, respondent pressed his lower body
17 against her legs during his examination without medical
18 indication, necessity or justification.

19 15. Respondent's conduct as set forth in paragraph 14,
20 above, constitutes an act of sexual abuse or misconduct with a
21 patient and therefore unprofessional conduct within the meaning
22 of Code section 726.

23 **SIXTH CAUSE FOR DISCIPLINE**
24 (Sexual Abuse/Misconduct with Patient)
25 [Bus. & Prof. Code § 726]

26 Patient Terry T.

27 16. On or about May 9, 1996, Terry T., a then 46-year
old female, was seen in respondent's medical offices for allergy

1 testing and treatment. In the course of respondent's care of
2 Terry T. at the time indicated above, respondent made orally, and
3 also subsequently sent by mail, inappropriate sexualized comments
4 to and about Terry T. After Terry T. had disrobed for testing and
5 had bent over an examination table, respondent brought his pelvic
6 area into contact with Terry T.'s back and subsequently also
7 brought his genital area into contact with Terry T.'s buttocks so
8 that his penis was perceptible to Terry T., all without medical
9 indication, necessity or justification.

10 17. Respondent's conduct as set forth in paragraph 16,
11 above, constitutes acts of sexual abuse or misconduct with a
12 patient and therefore unprofessional conduct within the meaning
13 of Code section 726.

14 **SEVENTH CAUSE FOR DISCIPLINE**
15 (Sexual Abuse/Misconduct with Patient)
16 [Bus. & Prof. Code § 726]

17 Patient Lana Z.

18 18. On or about June 4, 1997, Lana Z., a then 47-year
19 old female, was seen in respondent's medical offices for allergy
20 testing and treatment of a hand allergy. In the course of
21 respondent's care of Lana Z. at the time indicated above,
22 respondent made inappropriate sexualized comments to and about
23 Lana Z. After Lana Z. had disrobed for testing and had bent over
24 an examination table, respondent brought his genital area into
25 contact with Lana Z.'s buttocks and, while leaning against Lana
26 Z., fondled Lana Z.'s breast or breasts, all without medical
27 indication, necessity or justification.

1 19. Respondent's conduct as set forth in paragraph 18,
2 above, constitutes acts of sexual abuse or misconduct with a
3 patient and therefore unprofessional conduct within the meaning
4 of Code section 726.

5 **EIGHTH CAUSE FOR DISCIPLINE**
6 (Repeated Negligent Acts)
7 [Bus. & Prof. Code § 2234(c)]

8 20. Complainant realleges paragraphs 5, 7, 10, 12, 14,
9 16 and 18, above, and incorporates them herein by reference as if
10 fully set forth at this point.

11 21. Respondent's conduct as set forth in paragraphs 5,
12 7, 10, 12, 14, 16 and 18, above, or any combination of two or
13 more thereof, constitutes repeated negligent acts and therefore
14 unprofessional conduct within the meaning of Code section
15 2234(c).

16 **PRAYER**

17 **WHEREFORE** complainant requests that a hearing be held
18 on the matters herein alleged and that, following the hearing,
19 the Division issue a decision:

20 1. Revoking or suspending Physician and Surgeon's
21 Certificate Number G-7842 heretofore issued to respondent William
22 H. Ziering, M.D.;

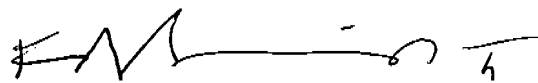
23 2. Revoking, suspending or denying approval of
24 respondent's authority to supervise physician assistants pursuant
25 to Code section 3527;

26 3. Ordering respondent to pay the Division the actual
27 and reasonable costs of the investigation and enforcement of this

1 case and the costs of probation monitoring if probation is
2 imposed; and

3 4. Taking such other and further action as the
4 Division may deem necessary or proper.

5 DATED: 9/24/99

6
7
8 
9 Ronald Joseph
10 Executive Director
11 Medical Board of California
12 Department of Consumer Affairs
13 State of California

14 Complainant

15 forms\accuse [115 rev]

**OFFICE POLICIES OF
WILLIAM H. ZIERING, M.D., INC.
AND ZIERING ALLERGY AND RESPIRATORY CENTER (our "Offices")**

A. All physical examinations, evaluations and treatment are performed by me with a third person present. This is in accordance with requirements of the Medical Board of California. In furtherance of these requirements, I authorize information regarding same to be available to the Medical Board of California.

I, _____, certify that I understand the office policies described above and I agree to same. I authorize the Offices, Dr. Ziering, and the third party present to cooperate with and provide information concerning my examination or treatment to the Medical Board of California.

Dated: _____

Patient's Signature

THIRD PARTY CERTIFICATION

I certify that I was present at all times during the examination and treatment of _____ on _____.

Date: _____

Signature of Third Party