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

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
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In the Matter of the Accusation Against:

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

Physician and Surgeon Certificate No. G7842

Respondent.

Case No. 08-1996-67590
OAH No. N-1999-110490

STIPULATED SURRENDER OF LICENSE AND ORDER

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

PARTIES

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

2. Respondent WILLIAM H. ZIERING, M.D. ("Respondent") is represented in this matter by attorney David A. Fike, Esq., whose address is Emerich, Pedreira & Fike, 5220 N. Palm Avenue, Fresno, CA 93704-2209, and Steven I. Kern, Esq., whose address is Augustine Conroy & Schoppmann P.C., 1120 Route 22 East, Bridgewater, New Jersey 08807.
3. On or about July 26, 1962, the Medical Board of California issued Physician and Surgeon Certificate No. G7842 to WILLIAM H. ZIERING, M.D. ("Respondent"). The Physician and Surgeon Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2002, unless renewed.

JURISDICTION

4. Accusation, Number 08-1996-67590, was filed before the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs, ("Division"), and is currently pending against Respondent. The Accusation, together with all other statutorily required documents, was duly served on Respondent on August 30, 2000, and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation Number 08-1996-67590 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and discussed with his counsel the nature of the charges and allegations contained in the Accusation, Number 08-1996-67590. Respondent also has read and carefully considered the Stipulated Surrender of License and understands the effect it will have on his ability to practice.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf and to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

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

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

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

EFFECT OF SURRENDER

11. Respondent understands that by signing this stipulation he enables the
Division to issue its order accepting the surrender of his Physician and Surgeon Certificate, as set forth below, without further process.

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

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


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

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

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

RESERVATION

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

CONTINGENCY

19. This stipulation shall be subject to the approval of the Division.

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

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

ACCEPTANCE

I, WILLIAM H. ZIERING, M.D. have carefully read the above Stipulated
Surrender of License and Order and entered into this agreement freely and voluntarily with the
advice of counsel, and with full knowledge of its force and effect, do hereby agree to surrender
my Physician and Surgeon Certificate to the Division of Medical Quality, Medical Board of
California for its formal acceptance as set forth above. By signing this Stipulated Surrender of
License I recognize that upon its formal acceptance by the Division I will lose all rights and
privileges to practice as a Physician and Surgeon in the State of California and I will also cause
to be delivered to the Division both my license and wallet certificate on or before the February
28, 2002.

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

DATED: 5/7/01.

WILLIAM H. ZIERING, M.D.
Respondent

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

DATED: 5-9-01.

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

ENDORSEMENT

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

DATED: 5/11/01.

BILL LOCKYER, Attorney General
of the State of California

ISA R. RODRIGUEZ
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03573160-SA1999CV1232
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's
Certificate No. G-7842,
Respondent.

The Complainant alleges:

PARTIES

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

2. On or about July 26, 1962, Physician and Surgeon’s
Certificate No. G-7842 was issued by the Board to William H.
Ziering, M.D. (hereinafter "respondent"), and at all times
relevant to the charges brought herein, this license has been in
full force and effect. Unless renewed, it will expire on January

JURISDICTION

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

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

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

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

D. Section 125.3 of the Code provides in pertinent
part that the Board may request the administrative law judge
to direct any licentiate found to have committed a violation
or violations of the licensing act to pay the Board a sum
not to exceed the reasonable costs of the investigation and
enforcement of the case.
E. Section 14124.12(a) of the Welfare & Institutions Code provides in pertinent part that upon written notice of the Medical Board of California that a physician and surgeon's medical license has been placed on probation as a result of a disciplinary action, no Medi-Cal claim for the type of surgical service or invasive procedure giving rise to the probationary order and performed on or after the effective date of said probationary order or during the period of probation shall be reimbursed, except upon a prior determination that compelling circumstances warrant the continuance of reimbursement during the probationary period for procedures other than those giving rise to the probationary order.

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

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

Patient Veronica A.¹

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

¹ The full names of all patients referred to herein will be made available to respondent upon a timely request for discovery.
and/or genital area with erect penis into contact with Veronica
A.'s buttocks area, and touched and/or fondled Veronica A.'s
hands, breasts, shoulders and hips, all without medical
indication, necessity or justification.

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

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

Patient Gwen B.

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

8. Respondent's conduct as set forth in paragraph 7,
above, constitutes acts of sexual abuse or misconduct with a
patient and therefore unprofessional conduct within the meaning
of Code section 726.
THIRD CAUSE FOR DISCIPLINE
(Sexual Abuse/Misconduct with Patient)
[Bus. & Prof. Code § 726]

Patient Angela M.

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

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

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

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

Patient Beverly M.

12. On or about April 30, 1997, Beverly M., a then 14-year old female, was seen in respondent's medical offices for allergy testing and treatment. In the course of respondent's care
of Beverly M. at the time indicated herein, respondent made
inappropriate sexualized comments to and about Beverly M. and
fondled her breast or breasts during a stethoscopical examination,
without medical indication, necessity or justification.

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

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

**Patient Judy S.**

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

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

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

**Patient Terry T.**

16. On or about May 9, 1996, Terry T., a then 46-year
old female, was seen in respondent’s medical offices for allergy
testing and treatment. In the course of respondent's care of Terry T. at the time indicated above, respondent made orally, and also subsequently sent by mail, inappropriate sexualized comments to and about Terry T. After Terry T. had disrobed for testing and had bent over an examination table, respondent brought his pelvic area into contact with Terry T.'s back and subsequently also brought his genital area into contact with Terry T.'s buttocks so that his penis was perceptible to Terry T., all without medical indication, necessity or justification.

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

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

Patient Lana Z.

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

7.
19. Respondent’s conduct as set forth in paragraph 18, above, constitutes acts of sexual abuse or misconduct with a patient and therefore unprofessional conduct within the meaning of Code section 726.

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

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

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

PRAYER

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

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

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

3. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this
case and the costs of probation monitoring if probation is imposed; and

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

DATED: 5/24/99

[Signature]

Ronald Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant
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