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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
DONALD CLYDE WILLIS, M.D.)
657 Waverley Street)
Palo Alto, CA 94301-2550)
)
Physician and Surgeon's Certificate)
No. G 35712)
)
Respondent.)
_____)

No. 16-94-46312
OAH No. N 9506238

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on FEBRUARY 5, 1996 .

IT IS SO ORDERED JANUARY 5, 1996 .

Anabel Imbert M.D.
ANABEL ANDERSON IMBERT, M.D.
President
Division of Medical Quality

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

DONALD CLYDE WILLIS, M.D.)
657 Waverley Street)
Palo Alto, CA 94301-2550)

No. 16-94-46312

OAH No. N 9506238

Physician and Surgeon's Certificate)
No. G 35712)

Respondent.)

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California on December 4, 1995.

Complainant Dixon Arnett was represented by Mara Faust, Deputy Attorney General.

Respondent Donald Clyde Willis, M.D., was present and was represented by David M. Galie, Attorney at Law, 507 Polk Street, Suite 350, San Francisco, California 94102.

FINDINGS OF FACT

1. On October 17, 1977 the Medical Board of California issued physician and surgeon certificate number G35712 to Donald Clyde Willis, M.D. ("respondent"). Respondent's certificate has been renewed through June 30, 1997.

2. Respondent received his medical degree from Indiana University in 1976. He had previously received a Ph.D. in clinical psychology from the University of Portland in 1970. Respondent undertook a one-year rotating internship at the Royal Jubilee Hospital in Victoria, British Columbia in 1976-77. He then undertook a three-year residency in obstetrics and gynecology at Stanford University from 1977 to 1980.

In July 1980 respondent began employment as an obstetrician and gynecologist with Kaiser Permanente in Portland, Oregon. Respondent remained employed by Kaiser until 1994. During his career at Kaiser respondent served as a member of the Perinatal Committee at Bess Kaiser Hospital, including serving as

chairman of that committee from 1981 to 1984. Respondent was board certified in obstetrics and gynecology in 1982. He has a special interest in laproscopic surgery.

3. Despondent over severe marital troubles, on September 20, 1993 respondent attempted suicide, shooting himself in the forehead with a .22 caliber revolver in a park near his home. Although he never lost consciousness, respondent remained in the park until the following morning, when he was discovered by a passerby. He thereafter underwent surgery for the removal of bone and bullet fragments before being transferred to the Menninger Foundation in Topeka, Kansas for three months of inpatient psychiatric care.

4. On January 5, 1994 the president of Northwest Permanente notified the Oregon Board of Medical Examiners ("Oregon Board") in writing that respondent was scheduled to return to the Portland area around January 14, 1994 and that it was Kaiser's intention, as his employer, "to undertake an evaluation of his current level of cognitive functioning, prognosis for future function, and any residual impairment," and to "return him to clinical practice at the level at which his cognitive functioning allows."

5. At some point following his return to Oregon, respondent requested, pursuant to Oregon Revised Statutes 677.410, that voluntary limitations be placed upon his license. Respondent subsequently appeared before an Investigative Committee of the Oregon Board. That committee's report bears the following entry for June 9, 1994:

"Recommendation to allow Dr. Willis to return to practice at Kaiser [sic] Permanente in OBG in a supervised setting with neuro-psychiatric examinations to be stipulated every two years and quarterly psych and hospital reporting through VL [voluntary limitation] (non-reportable, non-disciplinary. July FB [full board] agenda item."

6. By the time respondent's case came before the full Oregon Board in July he had decided to leave Oregon and relocate in California. The Oregon Board's minutes contain the following entry for July 13, 1994:

"Dr. Willis attempted suicide in September 1993. He has recently resigned from Kaiser and is going to Palo Alto to practice. He has applied for a California license* and intends to tell the California Board his full

* This statement by the Oregon Board was obviously in error since respondent has held a California license since 1977.

history. The Investigative Committee recommends accepting a voluntary limitation from licensee, allowing him to return to practice under specific guidelines (including no surgery). This voluntary limitation will be reportable to the national data bank and the FSMB."

The Oregon Board thereafter approved the following motion: "IN THE MATTER OF DONALD WILLIS, M.D., THE BOARD OF MEDICAL EXAMINERS ACCEPT THE VOLUNTARY LIMITATION AS AMENDED."

7. In August 1994 a formal document entitled "Voluntary Limitation" was signed by respondent and the chairman of the Oregon Board. That document provides:

"Donald Willis, M.D. is a physician licensed to practice medicine in the State of Oregon. Pursuant to the provisions of ORS 677.410, Dr. Willis requests that the Board of Medical Examiners (Board) impose the following conditions on his license to practice medicine in the State of Oregon:

"(1) Dr. Willis will practice medicine only in a supervised setting approved by the Board in advance.

"(2) Dr. Willis must undergo a neuropsychological examination at his expense to be reported to the Board of Medical Examiners beginning in July 1996 and continuing every two years thereafter, or sooner if deemed appropriate by the Board.

"(3) Dr. Willis will arrange to have written reports from the Chief of Staff of his approved supervisory setting, and his treating psychiatrist, to be sent to the Board at each of its quarterly meetings beginning in October 1994.

"Dr. Willis understands and agrees that this voluntary limitation is subject to approval by the full Board. If Dr. Willis fails to abide by the conditions imposed herein, he understands and agrees that the Board may enter an order imposing disciplinary action to include revoking, suspending or otherwise sanctioning the license of Dr. Willis. Dr. Willis also understands that...this voluntary limitation...will be a reportable license limitation to the National Practitioner Data Bank. This voluntary limitation also will be reportable to any hospital or other institutional health care provider at which Dr. Willis intends to practice, the Federation of State Medical Boards, and, if requested by any person, reportable as a public record."

8. Respondent moved to Palo Alto in July 1994. He did not resume the practice of medicine until around April 1995 when he undertook part-time employment as a contract physician at Planned Parenthood of San Mateo County. He is still employed in that position. In June and July 1995 respondent acted as locum tenens in the private practice of Forrest O. Smith, M.D. Since that time respondent has continued to work as a part-time contract physician at Dr. Smith's Pregnancy Consultation Center in Pleasanton. In both his part-time positions, which total between 10 and 25 hours a week, respondent's functions are limited to performing abortions and providing contraception, pregnancy and abortion consultations.

9. Although respondent asserted that within a week of his arrival in Palo Alto in July 1994 he notified the Medical Board of California ("Board") of his change of address, intention to practice and the circumstances of his suicide attempt, the only response from the Board was the filing of the instant accusation. Respondent has never been asked to submit to the Board any medical reports concerning his condition, nor has he been required to undergo any medical or psychiatric evaluations.

10. Although the accusation contained a cost recovery prayer, no evidence of costs was presented at the hearing.

DETERMINATION OF ISSUES

1. Complainant seeks to discipline respondent pursuant to Business and Professions Code section 2305. It provides:

"The revocation, suspension, or other discipline by another state of a license or certificate to practice medicine issued by the state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, to a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against such licensee in this state."

In support of his position, complainant cites Marek v. Board of Podiatric Medicine (1993) 16 Cal.App.4th 1089, 1096, where it was held that section 2305 "applies by its terms to any discipline imposed by another state on the holder of a license or certificate to practice medicine," even when no hearing on the merits had been held by the sister state. The court stated, "The focus of section 2305 is the mere fact that a measure of discipline was imposed on a licensee and not how it was imposed by the foreign jurisdiction."

2. Respondent asserts that section 2305 does not establish cause for disciplinary action against him since the

voluntary limitation to which he agreed to subject his Oregon license did not constitute discipline by that state and does not, therefore, constitute unprofessional conduct.

3. It is determined that the voluntary limitation action taken in Oregon did not constitute discipline by a sister state within the meaning of section 2305.

a) A reading of Oregon's statutory scheme relating to the discipline of medical licenses demonstrates that a voluntary limitation does not constitute a disciplinary action. Oregon Revised Statutes 677.200(1) provides that a disciplinary action is initiated by the filing of a verified written complaint. ORS 677.205 then provides:

"(1) The Board of Medical Examiners for the State of Oregon may discipline...any person licensed, registered or certified under this chapter who has:

"(a) Admitted the facts of a complaint filed in accordance with ORS 677.200(1) alleging facts which establish that such person is in violation of one or more of the grounds for suspension or revocation of a license as set forth in ORS 677.190;

"(b) Been found to be in violation of one or more of the grounds for disciplinary action of a licensee as set forth in this chapter; or

"(c) Had an automatic license suspension as provided in ORS 677.225."

The Oregon proceeding relating to respondent was not initiated by the filing of a verified written complaint and none of the bases for discipline set forth in ORS 677.205 apply to respondent. By contrast, the restrictions placed on respondent's license were imposed pursuant to ORS 677.410, which provides:

"A licensee may request in writing to the board a limitation of license to practice medicine or podiatry, respectively. The board may grant such request for limitation and shall have the authority, if it deems appropriate, to attach conditions to the license of the licensee within the provisions of ORS 677.205 and 677.410 to 677.425. Removal of a voluntary limitation on licensure to practice medicine or podiatry shall be determined by the board."

b) That the Oregon action was nondisciplinary in nature is further demonstrated by the recommendation of the Investigative Committee, the action of the Oregon Board in accepting, with modifications, that recommendation and the terms

of the voluntary limitation agreement approved by the Oregon Board. In its recommendation to the full board that a voluntary limitation on respondent's license be imposed, the committee specifically provided that the voluntary limitation would be "non-reportable, non-disciplinary." Although the Oregon Board subsequently specified that the voluntary limitation would be "reportable to the national data bank and the FSMB," the board made no mention of modifying the "non-disciplinary" aspect of the committee's recommendation.

Further, the voluntary limitation agreement later signed by respondent and approved by the Oregon Board provides that if respondent fails to abide by the conditions of the voluntary limitation, "the Board may enter an order imposing disciplinary action to include revoking, suspending or otherwise sanctioning" respondent's license. The clear implication of this provision is that the voluntary limitation is not a disciplinary action, but that failure to adhere to its terms would result in such an action being taken.

c) In Marek, supra, 16 Cal.App.4th 1089, two podiatrists entered into a consent decree in Nevada which revoked their licenses to practice in that state and placed them on three years' probation on certain terms and conditions. Under the terms of the consent decree, the podiatrists did not admit the truth of any of the allegations of the complaint which had been filed against them in Nevada but acknowledged that their failure to contest those allegations "'subjects them to disciplinary action by the [Nevada Board].'" (16 Cal.App.4th at p. 1093.) The California Board of Podiatric Medicine's subsequent discipline of the podiatrists under Business and Professions Code section 2305, based solely upon their having been disciplined in a sister state, was upheld upon the court's finding, as set forth above, that section 2305 was not limited only to "discipline imposed after a full hearing on the merits," but applied to "any discipline imposed by another state." (16 Cal.App.4th at p. 1096.)

The facts of Marek are distinguishable from the present case in that the state of Nevada clearly imposed discipline upon the podiatrists' licenses, even though that discipline resulted from a consent decree and the licensees admitted no wrongdoing. The consent decree itself provided that the licensees acknowledged they were subjecting themselves to disciplinary action. In the present case, as set forth above, although restrictions were placed on his license by the state of Oregon, the voluntary limitation to which respondent agreed did not constitute disciplinary action under either that state's statutory scheme or the terms of the voluntary limitation agreement itself.

d) While the phrase "any discipline imposed by another state" as used in section 2305 was broadly construed in

Marek, supra, 16 Cal.App.4th 1089, to include discipline imposed without a hearing on the merits, it does not follow that all restrictions imposed on a license by a sister state constitute "discipline." It is significant that the statute establishes as unprofessional conduct a "revocation, suspension, or other discipline" imposed by a sister state but a "revocation, suspension, or restriction" imposed by a federal government agency. Had the legislature chosen to do so, it could have made the imposition of a "restriction" by a sister state unprofessional conduct just as it did a "restriction" imposed by the federal government. That it chose not to do so indicates the legislature did not intend to include all restrictions imposed by sister states as grounds for disciplinary action.


This determination is only bolstered by the legislature's recent amendment of section 2305. Effective January 1, 1996, that section will provide that "[t]he revocation, suspension, or other discipline, restriction, or limitation imposed by another state" constitutes unprofessional conduct. (Stats.1995 c.708, §9 (S.B. 609).) By that amendment, the legislature has broadened the sort of sister state action which will result in cause for disciplinary action in California so that it more closely parallels the manner in which federal agency actions are treated.

4. Inasmuch as it has been determined that the voluntary limitation action taken in Oregon did not constitute discipline by a sister state within the meaning of Business and Professions Code section 2305, no cause for disciplinary action against respondent for unprofessional conduct was established pursuant to that section.

ORDER

The accusation against respondent Donald Clyde Willis, M.D., is dismissed.

DATED: December 11, 1995


MICHAEL C. COHN
Administrative Law Judge

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
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P. O. Box 944255
5 Sacramento, California 94244-2550
Telephone: (916) 324-5358
6

Attorneys for Complainant
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10 BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
11 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation) NO. 16-95-46312
Against:)
13)
14 DONALD CLYDE WILLIS, M.D.) ACCUSATION
657 Waverley Street)
15 Palo Alto, California 94301-2550)
California Physician and)
16 Surgeon Certificate)
No. G35712)
17 Respondent.)
18

19 Dixon Arnett, for causes for discipline, alleges:
20

21 1. Complainant Dixon Arnett makes and files this
22 accusation in his official capacity as Executive Director of the
23 Medical Board of California (hereinafter referred to as the
24 "Board").
25

26 2. On October 17, 1977, the Medical Board of
27 California issued physician and surgeon certificate number G35712

1 to Donald Clyde Willis, M.D. The certificate will expire June
2 30, 1995, unless renewed.

3

4 3. Under Business and Professions Code section 2234,
5 the Division of Medical Quality shall take action against any
6 licensee who is charged with unprofessional conduct.

7 Under Business and Professions Code section 2305, the
8 revocation, suspension, or other discipline by another state of a
9 license or certificate to practice medicine issued by the state
10 shall constitute unprofessional conduct against such licensee in
11 this state.

12 Under Business and Professions Code section 118(b), the
13 expiration of a license shall not deprive the Board of
14 jurisdiction to proceed with a disciplinary action during the
15 time within which the license may be renewed, restored, or
16 reinstated.

17 Under Business and Professions Code section 2428, a
18 license which has expired may be renewed any time within five
19 years after expiration.

20 Under Business and Professions Code section 125.3, the
21 Medical Board of California may request the administrative law
22 judge to direct a licentiate found to have committed a violation
23 or violations of the licensing act to pay a sum not to exceed the
24 reasonable costs of the investigation and enforcement of the
25 case.

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27 //

1 4. Respondent has subjected his physician and surgeon
2 certificate to discipline under Business and Professions Code
3 section 2305 on the grounds of unprofessional conduct in that on
4 August 18, 1994, the State of Oregon imposed discipline on
5 respondent's license to practice medicine in that state by
6 approving respondent's voluntary limitation of his license.
7 Respondent is required to practice medicine only in a supervised
8 setting, must undergo a neuropsychological examination every two
9 years, and must have written reports submitted from the Chief of
10 Staff of his approved supervised setting and his treating
11 psychiatrist. Attached as Exhibit A and incorporated by
12 reference is a true and correct copy of the Voluntary Limitation
13 from the State of Oregon.

14
15 WHEREFORE, complainant prays a hearing be had and that
16 the Medical Board of California make its order:

17 1. Revoking or suspending physician and surgeon
18 certificate number G35712, issued to Donald Clyde Willis, M.D.

19 2. Prohibiting Donald Clyde Willis, M.D. from
20 supervising physician assistants.

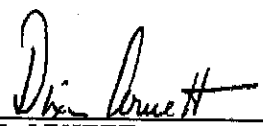
21 3. Ordering Donald Clyde Willis, M.D., to pay to the
22 Medical Board of California its costs for investigation and
23 enforcement according to proof at the hearing, pursuant to
24 Business and Professions Code section 125.3.

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4. Taking such other and further action as may be deemed proper and appropriate.

DATED: April 5, 1995



DIXON ARNETT
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

03573160-
SA95AD0400
(SM 3/15/95)

BEFORE THE
BOARD OF MEDICAL EXAMINERS
STATE OF OREGON

COPY

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In the Matter of:)
DONALD WILLIS, M.D.,) VOLUNTARY LIMITATION
LICENSE NO. MD10994.)
_____)

6 Donald Willis, M.D. is a physician licensed to practice
7 medicine in the State of Oregon. Pursuant to the provisions of
8 ORS 677.410, Dr. Willis requests that the Board of Medical
9 Examiners (Board) impose the following conditions on his license
10 to practice medicine in the State of Oregon:

11 (1) Dr. Willis will practice medicine only in a supervised
12 setting approved by the Board in advance.

13 (2) Dr. Willis must undergo a neuropsychological examination
14 at his expense to be reported to the Board of Medical Examiners
15 beginning in July 1996 and continuing every two years thereafter,
16 or sooner if deemed appropriate by the Board.

17 (3) Dr. Willis will arrange to have written reports from the
18 Chief of Staff of his approved supervised setting, and his
19 treating psychiatrist, to be sent to the Board at each of its
20 quarterly meetings beginning in October 1994.

21 Dr. Willis understands and agrees that this voluntary
22 limitation is subject to approval by the full Board. If
23 Dr. Willis fails to abide by the conditions imposed herein, he
24 understands and agrees that the Board may enter an order imposing
25 disciplinary action to include revoking, suspending or otherwise
26 sanctioning the license of Dr. Willis. Dr. Willis also

1 understands that, if this voluntary limitation is accepted by the
2 Board, it will be a reportable license limitation to the National
3 Practitioner Data Bank. This voluntary limitation also will be
4 reportable to any hospital or other institutional health care
5 provider at which Dr. Willis intends to practice, the Federation
6 of State Medical Boards, and, if requested by any person,
7 reportable as a public record.

8 IT IS SO STIPULATED this 9 day of Aug., 1994.

9
10 Donald C Willis
11 Donald Willis, M.D.

12 IT IS SO ACCEPTED this 18th day of AUGUST, 1994.

13
14 Terry Connor
15 Terry Connor, D.O., Chairman
16 Board of Medical Examiners
17 State of Oregon

18
19 CERTIFIED TO BE A TRUE COPY OF
20 THE ORIGINAL

21 Kathy Paine
22 Kathy Paine, Notary Public

23 My Commission Expires 10-14-97

24
25
26 PJS:cfs:ros/JGG09EAE



MEDICAL BOARD OF CALIFORNIA
DISCIPLINE COORDINATION UNIT
1426 Howe Avenue, Suite 54
Sacramento, CA 95825-3236
(916) 263-2525
www.medbd.ca.gov



December 22, 2003

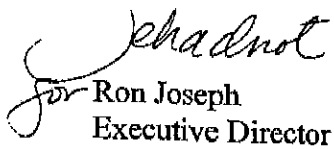
Donald C. Willis, M.D.
3818 Granda Vista Drive
Paradise, CA 95969

RE: Physician's and Surgeon's License No. G 35712
Case No. 16-2003-150531

Public Letter of Reprimand

An investigation by the Medical Board of California revealed that on August 7, 2003, the Alaska Division of Occupational Licensing accepted the voluntary surrender of your medical license. You failed to fully disclose your employment history on your application for licensure, to wit, you neglected to list your 4 month employment with the U.S. Indian Health Service in Oklahoma from December 3, 2000 to April 13, 2001. These actions are in violation of California B&P Code sections 141(a), 2305, and 2234.

Pursuant to the authority of the California Business and Professions Code section 2233, you are hereby issued this Public Letter of Reprimand by the Medical Board of California.


for Ron Joseph
Executive Director

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

In the matter of the Public Letter
of Reprimand Issued to:

DONALD C. WILLIS, M.D.
License No. G 35712

Respondent.

No. 16-2003-150531

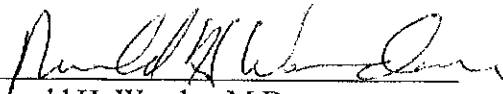
ORDER ISSUING PUBLIC LETTER OF REPRIMAND

The above named respondent was issued a Public Letter of Reprimand on December 22, 2003 pursuant to Section 2233 of the Business and Professions Code.

WHEREFORE, THE ABOVE IS SO ORDERED by the Division of Medical Quality of the Medical Board of California.

So ordered January 30, 2004.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA



Ronald H. Wender, M.D.
President