



3. Dr. Wilkerson had never examined or interviewed patient "K.J.B." prior to November 4, 1987, although he was designated as her "primary care physician" and was required to pre-approve certain supplemental testing for coverage under "K.J.B.'s" group health insurance program.

4. "K.J.B." was angry and upset when she arrived at Dr. Wilkerson's office on November 4, 1987 to obtain approval for a supplemental "thyroid uptake" diagnostic test ordered by another physician on October 27, 1987.

5. "K.J.B." had already ingested the radioisotope required to conduct the "thyroid uptake" test, without having first obtained Dr. Wilkerson's approval for insurance coverage of the procedure.

6. Dr. Wilkerson had not reviewed "K.J.B.'s" medical records from the physician who ordered the "thyroid uptake" examination, before she appeared at Dr. Wilkerson's office on November 4, 1987.

7. In the exercise of his discretion, it was not unprofessional or dishonorable conduct for Dr. Wilkerson to require a physical examination, including a vaginal and rectal examination of "K.J.B." prior to authorizing supplemental diagnostic testing for her.

8. Dr. Wilkerson did however abuse "K.J.B." and cause her emotional distress in conducting a physical examination of her on November 4, 1987, by doing so in a manner outside accepted standards of care, which included slapping her breasts and pulling on her nipples with undue force, roughly slapping the inside of her thighs to induce her to spread her legs, having her assume various medically unnecessary poses while partially clothed in a paper gown, and by addressing and instructing her in an abusive tone or manner.

9. A memorandum purportedly drafted by the Respondent on November 4, 1987, shortly after his examination of "K.J.B.", which pertains to "K.J.B." and discussions between the Respondent and "K.J.B.'s" gynecologist, Dr. Richard F. Nuila-Crouse, is inconsistent with the recollections of Dr. Crouse who maintains that although two telephone conversations took place between himself and the Respondent, the first call only addressed "K.J.B.'s" dissatisfaction with the

Respondent's examination and did not include discussion of her being a lawyer or that she would get back at the Respondent, and the second call was a warning from the Respondent that he would take legal action against anyone who associated him with the case and that both calls were after November 4, 1987.

10. On April 9, 1987, Dr. Wilkerson admitted patient "B.L.S." to Sam Houston Memorial Hospital for diagnostic tests and treatment related to postpartum depression or major affective depression, hypoglycemia, stress insomnia and thyromegaly.

11. Sam Houston Memorial Hospital requires that all patients have a complete history and physical within 24 hours of admission to that hospital.

12. At the time of "B.L.S.'s" admission on April 9, 1987, Dr. Wilkerson deferred the physical examination due to the patient's mental and emotional condition.

13. Prior to the discharge of "B.L.S." on April 17, 1987, Dr. Wilkerson conducted a complete physical examination including a pelvic and rectal examination, and noted in the patient's discharge summary that no abnormalities were found.

14. Dr. Wilkerson failed to make any record of his examination of patient "B.L.S." in the progress notes on April 17, 1987 and did not complete the discharge summary in a timely manner.

15. Patient "B.L.S." did not inform Dr. Wilkerson that another physician had completed a pelvic examination a few months prior to his examination conducted on April 17, 1987.

16. Patient "B.L.S." was distressed by the examination conducted by Dr. Wilkerson on April 17, 1987, which was not medically necessary and involved unnecessary exposure of the patient's body to the Respondent.

17. In November, 1986, Dr. Wilkerson performed a physical examination, including a rectal examination, and a visual inspection for skin disease, for "A.F.", a prospective employee of his medical office.

18. Dr. Wilkerson never conducted a pelvic examination of "A.F." although he suggested it, because she declined.

19. A female attendant was present during Dr. Wilkerson's examinations of "K.J.B.", "B.L.S.", and "A.F."

20. Dr. Wilkerson did require a physical examination of "A.F." by the Respondent as a condition of employment, including a rectal examination and examination of her pubic hair using her comb, which "A.F." found objectionable even though "A.F." accepted employment from the Respondent due to her poor financial situation.

21. Physical examination by a physician of his employee is not per se unprofessional conduct, unless required as a condition of employment as was done in the case of "A.F."

22. Dr. Wilkerson has required patients to visit his office for consultation and examination before authorization of refills for prescription medication.

23. The professional standard of care for a family physician allows the physician to exercise reasonable discretion in requiring a consultation and examination prior to authorization of refills for prescription medication.

24. In authorizing refills for prescription medication for certain patients, including "P.B.", "K.G.", and "R.W.", Dr. Wilkerson did not abuse his discretion.

25. Dr. Wilkerson conducted pelvic and rectal examinations of "P.B." and "R.W." only at their request.

26. In conducting a physical examination of a female patient, it may be medically necessary for the physician to observe the patient's unclothed body parts, including the breasts or back, while the patient is in a standing or seated position.

27. Dr. Wilkerson has never required patient "K.K." to assume various poses during an unclothed physical examination.

28. Dr. Wilkerson conducted a pelvic examination of patient "S.L." on August 29, 1986, at which time she reported a history of polycystic ovaries, abnormal hair growth, scoliosis and yeast infections.

29. A pelvic examination is reasonably indicated for a patient exhibiting abnormal hair growth and a history of polycystic ovaries to confirm if the ovaries are enlarged or if a pelvic mass is present.

### CONCLUSIONS OF LAW

Based on Findings of Fact 1-29, the Texas State Board of Medical Examiners makes the following Conclusions of Law:

1. The Texas State Board of Medical Examiners has jurisdiction over the subject matter of this case, and the Respondent, Dr. Robert G. Wilkerson, M.D. The Respondent has received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied.

2. Sufficient evidence was presented to show that, during the period of August 1986 through approximately November 1987, Dr. Wilkerson engaged in conduct which was unprofessional, dishonorable or likely to deceive, defraud or injure the public in his care of his patients known as "K.J.B.", "B.L.S.", and "A.F."

3. Based on the above findings of fact, the Board may conclude that the Respondent, Dr. Robert G. Wilkerson, has violated art. 4495b, the Texas Medical Practice Act, Sec. 3.08(4) by engaging in unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Respondent's license to practice medicine in Texas is revoked; however, the revocation is stayed and the Respondent is placed on probation for ten (10) years effective the date of the signing of this Order by the Board's presiding officer, under the following terms and conditions:

1. Respondent shall submit in writing to the Executive Director of the Board the names of three (3) American Board Certified psychiatrists for the Executive Director's approval and, when such approval is received, shall expeditiously submit himself for evaluation and treatment by the approved psychiatrist. Respondent shall follow the psychiatrist's recommendations, if any, regarding continuing care and treatment.

The Board will furnish a copy of this Order to the psychiatrist as authorization for the psychiatrist to make

reports to the Board regarding Respondent's psychiatric evaluation, quarterly reports of the Respondent's progress thereafter, and such other reports as the Board may request. Board staff shall furnish to the approved psychiatrist any Board information which may be helpful or required for the evaluation and treatment of Respondent. Respondent's failure to cooperate with the psychiatrist shall constitute a violation of this Order.

2. The Respondent shall have a chaperone present at all times during any examinations of female patients by the Respondent.
3. Respondent shall perform ten (10) hours per month of community service for a non-profit charitable organization for the first five (5) years of his probation. Community service is not limited to service as a physician. Community service means Respondent shall work for free with no reimbursement at all from anyone for any expenses which may be incurred by Respondent in association with the required community service. Documentation that the community service has been performed shall be forwarded quarterly to the Director of Hearings for the Board.
4. Respondent shall appear before the Board or a committee of the Board one time a year during each year of probation to report on Respondent's compliance with this Order and the Medical Practice Act.
5. Respondent shall give a copy of this Order to all Hospitals and Health Care Entities where he has privileges.
6. Respondent shall cooperate with the Board, its attorneys, investigators, compliance officers, and other employees and agents, to verify that Respondent has complied and is in compliance with this Board Order.

7. Respondent shall advise the Board of any change of address, mailing or office, within ten (10) days of such occurrence.
8. The time period during which the restrictions, limitations, or conditions are herein assessed shall not include any periods of time during which Respondent either resides or practices medicine outside the state of Texas. If Respondent leaves Texas to live or practice medicine elsewhere, Respondent shall immediately notify the Board of the dates of Respondent's departure from and subsequent return to Texas. Upon Respondent's return to Texas, the time period tolled by Respondent's departure shall continue until its expiration or termination by the Board.
9. Respondent shall comply with all the provisions of Article 4495b, Texas Revised Civil Statutes Annotated, and other statutes regulating the practice of medicine, as is required by law for physicians licensed by the Board.


Any violation of the terms, conditions and requirements of this Order shall constitute conclusive evidence of unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure the public within Section 3.08(4) of the Act, and may result in disciplinary action pursuant to Section 4.01(a) of the Act.

The above-referenced conditions of probation shall continue in full force and effect without opportunity for amendment, except for clear error in drafting for 12 months following entry of this Order. If, after the passage of the 12 month period, the Respondent wishes to seek amendment or termination of these conditions, then he may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition. Petitions for modifying or terminating may be filed only once a year thereafter.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that all costs of appeal be charged to the Respondent.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED this 10<sup>th</sup> day of Oct, 1991.

  
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Presiding Officer, Texas State Board  
of Medical Examiners

(Bd.or.11 - 8.13/TEW)