

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2025-024

In the Matter of

DONALD T. NICELL, M.D.

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (“Board”) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Donald T. Nicell, M.D., (“Respondent”) has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 24-808.

Biographical Information

1. The Respondent graduated from University of Cape Town Faculty of Medicine in 1982. He has been licensed to practice medicine in Massachusetts under license number 220826 since 2004.

Factual Allegations

2. The Respondent is licensed to practice medicine in many other states including Maine, Minnesota, New Hampshire, and Wisconsin.

3. On or around November 20, 2024, the Wisconsin Medical Examining Board (“WI Board”) imposed discipline on Respondent’s license in Wisconsin due to Respondent’s violation of Wisconsin state law governing the practice of medicine.

4. Specifically, the WI Board disciplined the Respondent for “engag[ing] in unprofessional conduct by departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person,” pursuant to Wis. Admin. Code § Med 10.03(2)(b), which is hereby incorporated by reference.

5. The WI Board disciplined the Respondent for the following conduct related to two patients (A & B):

- a. On December 16, 2018, Patient A, experienced sudden onset right-sided numbness and tingling in his face and dizziness. He was taken to the emergency department (“ED”) of a hospital in Winona, Minnesota.
- b. After a neurology consultation, a CT Angiography of the neck with contrast was performed and read by Respondent remotely. Respondent was provided a clinical history that included Patient A’s age and “right sided weakness/numbness episode.”
- c. Respondent’s report included his impression that there was calcific plaque present in the right internal carotid artery, but no dissection or occlusion and overall, no acute findings.
- d. Later that same day, Patient A underwent an MRI that revealed a small infarction in the left cerebellum and a stroke in the left medulla.
- e. Respondent failed to identify a blockage in Patient A’s left vertebral artery on the CT Angiography. Respondent maintains there was inadequate IV contrast in the left vertebral artery and poor imaging by the hospital technician but failed to note that in his report or request a repeat study.

- f. The standard of minimally competent medical practice required Respondent to note in his report that he could not accurately characterize the arteries in the neck due to insufficient contrast and marked degradation of the imaging, and request that a repeat study be performed.
- g. On May 23, 2021, Patient B was injured in a motor vehicle accident and taken to a hospital in Portsmouth, New Hampshire, which the WI Board incorrectly identified as Portsmouth, Maine.
- h. The ED providers ordered a CT Head without contrast and a CT Cervical Spine without contrast, which were read remotely by Respondent.
- i. Respondent's impression in his CT Head report was no acute intracerebral abnormality or injury, and a scalp laceration with no underlying calvarial or orbital fractures. Respondent's impression in his CT Cervical Spine report was no acute fractures.
- j. Two days later, Patient B presented to the ED with complaints of continued pain. Further imaging studies were performed, and Patient B was diagnosed with a non-displaced fracture of the 6th cervical vertebra, Grade 1 anterolisthesis of C6 and C7, and a non-displaced fracture of the right lamina of C5.
- k. Respondent admitted that he missed the fractures and anterolisthesis of C6 and C7.
- l. Respondent's failure to identify the fractures on May 23, 2021 resulted in a two-day delay in treating Patient B with a C-collar, causing instability of the cervical spine and ultimately the need for subsequent surgery.

6. The WI Board reprimanded the Respondent, imposed a fine of \$1,022.00, and limited his medical license until Respondent completed at least three hours of education on the topic of the CT appearance of neck trauma, including a course on vascular injury.

7. On or about January 15, 2025, Respondent's WI medical license was returned to full, unrestricted status.

Legal Basis for Proposed Relief

A. Pursuant to 243 C.M.R. 1.03(5)(12), the Board may discipline a physician upon satisfactory proof to a majority of the Board that said physician has been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in G.L. c. 112, § 5 or 243 C.M.R. 1.03(5). More specifically, in Massachusetts, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has violated G.L. c. 112, § 5, eighth par. (c) and/or 243 C.M.R. 1.03(5)(a)(3) by engaging in conduct which places into question the Respondent's competence to practice medicine, including but not limited to gross negligence or negligence on repeated occasions.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of Respondent's license to practice medicine. The Board

may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training, or other restrictions upon Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline Respondent for the conduct described herein.

By the Board of Registration in Medicine,

A handwritten signature in black ink, appearing to read 'Booker T. Bush', written over a horizontal line.

Booker T. Bush, M.D.
Board Chair

Date: June 12, 2025