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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
 : (88 MED 231; 89 MED 410;
 : 90 MED 280)
RATHNA ALWA, M.D., :
RESPONDENT. :

The parties to this proceeding for the purposes of sec. 227.53, Stats. are:

Rathna Alwa, M.D.
717 Geneva Street
Lake Geneva, WI 53147

Wisconsin Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Rathna Alwa, M.D., personally, Samuel J. Leib, the attorney for Rathna Alwa, M.D., and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Rathna Alwa, M.D., 717 Geneva Street, Lake Geneva, Wisconsin 53147 was born on March 31, 1927, and was licensed to practice medicine and surgery in the State of Wisconsin on December 3, 1976, license #20542.

2. A formal complaint is pending before the Wisconsin Medical Examining Board and Dr. Alwa has answered denying said allegations.

3. Dr. Alwa is fully retiring from the practice of medicine and surgery effective July 1, 1995, and will not be engaging in the practice of medicine or surgery after the date of her retirement.

4. Dr. Alwa, in consideration of her retirement, will not renew her registration when it expires on November 1, 1995, and will not renew it at any time thereafter.

5. Dr. Alwa is not licensed to practice medicine and surgery in any other States.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this matter pursuant to sec. 448.02, Stats.

2. The Wisconsin Medical Examining Board has the authority to resolve this matter by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Dr. Alwa shall retire from the practice of medicine and surgery effective July 1, 1995, as she has so indicated, and will not engage in the practice of medicine and surgery after the date of her retirement.

IT IS FURTHER ORDERED that Dr. Alwa will not renew her registration when it expires on November 1, 1995, or at any time thereafter.

IT IS FURTHER ORDERED that Dr. Alwa will not practice or attempt to practice medicine and surgery in the state of Wisconsin when not currently registered.

IT IS FURTHER ORDERED that the pending Amended Complaint shall be, and hereby is, dismissed with prejudice and upon its merits.

IT IS FURTHER ORDERED that pursuant to sec. 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Dr. Alwa has violated the terms of this Final Decision and Order of the Wisconsin Medical Examining Board,

the Board may order that the license of Dr. Alwa to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 28th day of June, 1995.

WISCONSIN MEDICAL EXAMINING BOARD


Walter R. Schwartz, Secretary

GCL:kcb
ATY-DLG1535

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	(88 MED 231; 89 MED 410;
RATHNA ALWA, M.D.,	:	90 MED 280)
RESPONDENT.	:	

It is hereby stipulated between Rathna Alwa, M.D., personally, Samuel J. Leib, attorney for Dr. Alwa, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Rathna Alwa, M.D., 717 Geneva Street, Lake Geneva, Wisconsin 53147 was born on March 31, 1927, and was licensed to practice medicine and surgery in the State of Wisconsin on December 3, 1976, license #20542.
2. A formal complaint and answer are pending before the Wisconsin Medical Examining Board, copies of which are attached hereto.
3. Dr. Alwa is fully retiring from the practice of medicine and surgery effective July 1, 1995, and will not be engaging in the practice of medicine or surgery after the date of her retirement.
4. Dr. Alwa, in consideration of her retirement, will not renew her registration when it expires on November 1, 1995, and will not renew it at any time thereafter.
5. Dr. Alwa is not licensed to practice medicine and surgery in any other States.
6. The Wisconsin Medical Examining Board may enter the Final Decision and Order, a copy of which is attached hereto and incorporated herein.
7. The parties waive all costs of this proceeding.
8. Dr. Alwa understands that by signing this stipulation, she freely, voluntarily and knowingly waives her rights, including the right to a hearing on all allegations against her, the right to confront and cross-examine witnesses against her, the right to call witnesses on her behalf and to compel their attendance by subpoena, the right to testify on her own behalf, the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the Final Decision and Order, the right to petition for rehearing, the right to judicial review and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

9. The parties to this Stipulation and the board advisor, Michael P. Mehr, M.D., may appear before the Wisconsin Medical Examining Board in support of this Stipulation. Any appearance by any party pursuant to this paragraph shall be preceded by proper and timely notice to all parties to this proceeding.

10. If any term of this Stipulation or the incorporated Final Decision and Order is not accepted by the Wisconsin Medical Examining Board, then no term of this Stipulation or the Final Decision and Order will be binding in any manner on any party and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: 16 May 95 Rathna Alwa
Rathna Alwa, M.D.

Dated: 5/16/95 Samuel Leib
Samuel J. Leib
Attorney for Dr. Alwa

Dated: 5/16/95 Gilbert C. Lubcke
Gilbert C. Lubcke
Attorney for the Department of Regulation and Licensing
Division of Enforcement

GCL:kcb
ATY-DLG1534

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE :
DISCIPLINARY PROCEEDINGS AGAINST :
: AMENDED COMPLAINT
RATHNA ALWA, M.D. : (88 MED 231; 89 MED 410; 90 MED 280)
RESPONDENT. :

Stuart Engerman, an investigator and supervisor for the Wisconsin Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, Madison, Wisconsin 53703, upon information and belief, complains and alleges as follows:

COUNT I

1. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.
2. On December 6, 1980, Patient A, a 21-year old female, first presented at Respondent's office. Patient A stated that she was pregnant, but was "not sure how many weeks." Respondent took an oral family history, social history and personal history from Patient A. Respondent recorded that Patient A's last menstrual period was September 8 and that the estimated date of confinement (EDC) was June 15. Based on this EDC, the fetus was about 13 weeks old on this date.
3. After taking an oral history from Patient A, Respondent examined Patient A on December 6, 1980. Patient A's height was 5 feet and her weight was 154 lbs. Respondent examined Patient A's abdomen and noted that her cervix was soft and her uterus was enlarged. Respondent also noted "? uterus just palpable". Based on her examination of Patient A, Respondent believed that the uterus was just above the symphysis pubis and that Patient A was therefore approximately six weeks pregnant.
4. On January 10, 1981, Patient A again presented at Respondent's office. Patient A weighed 152 lbs. Respondent noted "uterus just palpable". Based on her examination of Patient A, Respondent believed that Patient A was about 12 weeks pregnant. Based on the original EDC, which had not been changed, the fetus would be about 18 weeks old on this date.
5. On January 12, 1981, Respondent sent some prenatal blood work on Patient A to Metpath. The results of the blood tests are not noted in Respondent's office record.
6. On February 7, 1981, Respondent palpated Patient A's uterus and believed that the top of the uterus was more than midway between the umbilicus and the symphysis pubis. Respondent noted that the uterus was 20 weeks. Patient A weighed 156 lbs., clothed. Respondent noted that Patient A "feels flutter".
7. On March 14, 1981, Respondent palpated Patient A's uterus, believed that it went up to the umbilicus and noted "uterus 24-26 size". Patient A weighed 163 lbs., clothed. Respondent noted "fetal movement".

8. On April 11, 1981, Respondent palpated Patient A's uterus and noted "uterus 28 wks." Based on the original EDC, which had not been changed, the fetus would be about 31 weeks old on this date. Patient A weighed 173 lbs., clothed. Respondent also noted "vertex F.H.", with a plus sign in the left lower quadrant of the abdomen.

9. Respondent did not take and record fundal height measurements on April 11, 1981, nor prior to that date, because Respondent did not believe that fundal height measurements were accurate until the fetus was beyond 30 weeks old.

10. On May 2, 1981, Respondent examined Patient A and noted "cervix long, presenting part not fixed. Breech?" Patient A weighed 178 lbs. Respondent did not document the estimated stage of Patient A's pregnancy on that day.

11. On May 15, 1981, Respondent examined Patient A and noted "head floating, cervix long, os closed". Respondent also noted "FH", with a plus sign in the left lower quadrant of the abdomen. Patient A weighed 181-1/2 lbs. Respondent did not document the estimated stage of Patient A's pregnancy on that date.

12. On May 30, 1981, Respondent palpated the top part of Patient A's uterus and noted "uterus 38 wks." Respondent also noted "vertex floating" and "FH faint", with a plus sign and "140" in the left lower quadrant of the abdomen. Patient A weighed 183 lbs. on that date.

13. On June 10, 1981, Respondent palpated Patient A's uterus and noted "uterus 32 wks." Respondent did not document any explanation for this apparent decrease in the estimated size of the uterus. Respondent also noted "vertex getting engaged" and "cervix long and soft". Respondent also noted "FH", with a plus sign in the right lower quadrant of the abdomen. Patient A weighed 185 lbs. Respondent did not believe that any further testing was necessary, as of this date, to ascertain the accuracy of the EDC, which had not been changed from the original estimate of June 15, 1981.

14. On June 17, 1981, Respondent examined Patient A and noted "head not engaged. Cervix long. ? outlet small." Respondent did not document the estimated stage of Patient A's pregnancy on that date. Respondent did not believe that any further testing was necessary to ascertain the accuracy of the EDC. Respondent also noted "FH", with a plus sign and "160" in the right lower quadrant of the abdomen.

15. On June 24, 1981, Respondent examined Patient A and noted "uterus full term. FH midline 160. Vertex engaged."

16. On July 1, 1981, Respondent examined Patient A and noted "Full term. Head still high up." Respondent did not document any explanation for the fact that the vertex was engaged on June 24, but the head was still high up on July 1. Respondent noted "pelvimetry and age of infant." Respondent believed that pelvimetry was a reliable way to ascertain the gestational stage of the pregnancy.

17. Pelvimetry testing of Patient A was done on July 1, 1981, at Burlington Memorial Hospital. The results indicated that most of the measurements were within the average range. The bispinous mid-pelvis measurement was slightly below the average normal.

18. On July 8, 1981, Respondent examined Patient A and noted "uterus full term. Vertex engaged. Cervix effaced. Head low down." Respondent also noted "x-ray not post-mature. Midcavity small," in reference to the pelvimetry x-rays. Respondent did not consider the baby to be post-mature on this date.

19. On July 12, 1981, at approximately 11:00 a.m., Patient A was admitted to Burlington Memorial Hospital in early labor. This was 28 days after the original EDC, which Respondent had not changed. At 11:00 a.m., the cervix was 2 cm. dilated and 50 percent effaced. At 1:00 p.m., the cervix was 3 cm. dilated and 50 percent effaced. At 4:00 p.m., the cervix was 5 cm. dilated and 75 percent effaced. Respondent first saw Patient A at the hospital between 4:00 and 5:00 p.m. At 5:15 p.m., Respondent ruptured the membranes. The amniotic fluid was meconium-stained. At some point after the rupture of membranes, the fetal heart rate dropped to 100. Patient A was taken to the delivery room at 5:45 p.m. Respondent delivered Patient A's baby by low forceps at 6:35 p.m. The baby weighed 6 lbs. 6-1/2 ounces.

20. Patient A's baby had an Apgar score of two at one minute. Respondent requested one of the nurses to aspirate the baby and the nurse reported that a lot of fluid was aspirated. The baby's Apgar score was 6 at five minutes.

21. Patient A's baby was bagged for about 10 minutes to establish respirations. The baby was not intubated. The baby's blood sugar went down to 25, the baby was flaccid, with dusky color and had mild seizures. Respondent noted that an x-ray showed a "non-expanded left lung", although the radiology report indicates that the chest x-ray was "within normal". At about 7:00 p.m., Respondent discussed the baby's condition with the ICU at St. Joseph's Hospital, Milwaukee, and arranged to have the baby transferred there.

22. The record from St. Joseph's Hospital indicates that an ambulance was called, regarding the transfer of Patient A's baby from Burlington Memorial Hospital, at 8:00 p.m. The ambulance returned to St. Joseph's Hospital, with the baby, at 10:15 p.m. The baby was hospitalized at St. Joseph's from July 12, 1981, to August 12, 1981. The discharge summary states that the baby was transferred to St. Joseph's because of hypoglycemia, central nervous system depression and respiratory distress. On arrival, an umbilical artery catheter was immediately placed into the aorta and glucose was administered. Tonic seizures were noted after arrival at St. Joseph's. The baby was placed on a respirator. The seizures continued for four days and were somewhat difficult to control. The chest x-ray was compatible with wet lung syndrome and aspiration. The baby gradually improved.

23. On August 12, 1981, Patient A's baby was discharged from St. Joseph's Hospital on several medications, with the following final diagnoses: term born male infant, 37 to 38 weeks' gestation; diagnosed fetal distress because of abruptio placenta; forceps delivery; neonatal asphyxiation; post-asphyxial syndrome with seizures; wet lung syndrome; aspiration pneumonitis; mild meningitis, the organism unidentified; intravascular coagulopathy with significant decreased platelet count; hypothermia; hypoglycemia; seizures, secondary to hypoglycemia and hypoxia; metabolic acidosis; central nervous system depression and mild cerebral palsy; moniliasis of the skin and oral moniliasis; umbilical artery catheterization; respirator therapy; continuous positive airway pressure therapy; EEG; phototherapy. The family was asked to take the baby to Dr. Siegel in one week, who would arrange for further follow-up.

24. Respondent's conduct in providing medical care and treatment to Patient A and her baby fell below the minimum standards of competence established in the profession in the following respects:

- a. Respondent failed to recognize that there was a discrepancy between the original EDC, based upon Patient A's menstrual history, and the probable EDC, based upon physical examinations and additional information gathered at subsequent office visits.
- b. Respondent failed to establish an accurate EDC, by failing to conduct any tests or other procedures or to take any other action to resolve the difference between the original EDC and the probable EDC. Respondent failed to take and record any fundal height measurements of Patient A's uterus in order to reach a more accurate EDC. Respondent did not understand the stage of the pregnancy at which fundal height measurements are most useful. Respondent did not order an ultrasound to assist her in reaching a more accurate EDC. Respondent did not consult an obstetrician or refer Patient A to an obstetrician in order to get additional input regarding a more accurate EDC. Respondent did not take any other action to resolve the difference between the original EDC and the probable EDC or to establish a more accurate EDC.
- c. Respondent ordered pelvimetry x-rays on July 1, 1981, in part for the purpose of assessing the gestational age of the fetus.
- d. Respondent failed to adequately assess whether or not the vertex was "engaged" in the pelvis in June and July, 1981.
- e. Respondent failed to order a non-stress test FAD or an oxytocin challenge test in June or July, 1981 in order to assess the condition of the fetus.
- f. Respondent failed to order an external fetal monitor for Patient A during labor, even though the fetus was post-date, according to the original EDC, which had not been changed.
- g. Respondent failed to assume the responsibility of resuscitating Patient A's baby after it was born. Instead, Respondent allowed a nurse to attempt to suction the baby.

25. Respondent's conduct in providing medical care and treatment to Patient A and her baby created the following unacceptable risks:

- a. Respondent's failure to recognize the discrepancy between the original EDC and the probable EDC, and to resolve the difference between them by taking some action to establish a more accurate EDC, created the unacceptable risk that Respondent would be unaware of the gestational stage of the pregnancy, would not know what level of observation was necessary regarding Patient A's pregnancy, and would fail to recognize signs of fetal distress or placental insufficiency, which could result in serious injury or death for Patient A or her baby.
- b. Respondent's conduct in ordering pelvimetry x-rays to assess the gestational age of the fetus and Respondent's failure to adequately assess whether or not the vertex was

"engaged" created the unacceptable risk that Respondent would not accurately assess the gestational age of the fetus, that Respondent would not know what level of observation was necessary regarding Patient A's pregnancy and that Respondent would fail to recognize signs of fetal distress or placental insufficiency, which could result in serious injury or death for Patient A or her baby.

- c. Respondent's failure to order a non-stress test, FAD or an oxytocin challenge test and Respondent's failure to order an external fetal monitor for Patient A during labor created the unacceptable risk that Respondent would not accurately assess the condition of the fetus, and that Respondent would not recognize signs of fetal distress or placental insufficiency, which could result in serious injury or death for Patient A or her baby.
- d. Respondent's failure to assume the responsibility for resuscitating Patient A's baby after it was born created the unacceptable risk that the baby would be improperly resuscitated, which could result in serious injury or death for the baby.

26. Respondent's acts and omissions, as set out in this Count of this Complaint, are practice and conduct which tend to constitute a danger to the health, welfare and safety of the patient or public and thereby constitute unprofessional conduct within the meaning of sec. 448.02(3), Wis. Stats. and sec. MED 10.02(2)(h), Wis. Adm. Code.

COUNT II

27. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.

28. On November 2, 1987, Patient B, date of birth March 1, 1984, presented with her mother at the Beloit Clinic. Patient B had a painful and swollen left knee. David Kelly, M.D., examined Patient B and documented that his assessment was "toxic synovitis vs. trauma vs. J.R.A." Dr. Kelly noted that an x-ray, taken on November 1, 1987, at Beloit Memorial Hospital, was negative. Dr. Kelly ordered an ANA and provided for follow-up.

29. On November 5, 1987, Dr. Kelly noted that the ANA test was "diffuse." Dr. Kelly consulted with Sheldon Horowitz, M.D., a physician at the University of Wisconsin Hospital, who recommended a Lyme titer, anti-DNA, rule out uveitis and ? trial of ASA 80 mg. Dr. Kelly's plan was to refer the patient to Dr. Horowitz. Dr. Horowitz subsequently examined Patient B and started her on aspirin.

30. On November 18, 1987, Patient B returned to see Dr. Kelly. Dr. Kelly noted the following laboratory findings: ANA positive at a 1:20 dilution; anti-DNA positive for single DNA at a 1:4 dilution; slit lamp exam showed no uveitis; and lyme titer negative for initial serum. Dr. Kelly noted that Patient B had developed recurrent fevers beginning on November 13, with temperature spikes as high as 104°. On physical examination, Patient B's left knee continued to be swollen but was not tender on passive range of motion. Dr. Kelly's assessment was that Patient B likely had juvenile rheumatoid arthritis with some systemic manifestations. Dr. Kelly recommended that Patient B take children's aspirin 280 mg. 4 times per day and that a salicylate level be taken on November 24. The salicylate level was 34.7.

31. On January 12, 1988, Patient B presented with her mother at Respondent's office. Respondent took a family history, personal history and social history of Patient B. Respondent documented that the present illness was juvenile rheumatoid arthritis, with a swollen left knee and that Patient B took 10 aspirin per day. Respondent did a physical examination and documented that the Patient's left knee was swollen, with free fluid.

32. On January 12, 1988, Respondent performed an electroacupuncture according to Voll (EAV) evaluation on Patient B, with the use of a Biotron 1000 machine. The evaluation was intended to determine Patient B's "sensitivities" to a large number of foods and other substances. Respondent documented that Patient B was sensitive to "metals, bacteria, tobacco and chemicals."

33. Based upon the results of the EAV evaluation, Respondent dispensed a detoxification liquid, Detoxosode, for Patient B, with instructions to take 10 drops, 2 times per day. Respondent also dispensed liquid psyllium seed, 1/2 teaspoon in apple juice daily for 10 days, and Nutradophilus, 1/4 teaspoon in a little warm water daily for 10 days, both for bowel detoxification.

34. Respondent recommended on January 12, 1988, that Patient B follow certain dietary guidelines and return in 10 days for allergy and live cell tests. Respondent also told Patient B's mother to discontinue giving aspirin to Patient B.

35. Patient B and her mother returned to Respondent's office on January 27, 1988. Respondent noted that Patient B's left knee was swollen, with free fluid, and that Patient B was limping. Respondent performed a second EAV evaluation on Patient B and noted that Patient B was no longer sensitive to bacteria, tobacco and metal, but was still sensitive to chemicals. Respondent also did a partial allergy test and a live cell test on Patient B. Respondent documented the results of the live cell test to show that Patient B's blood was "rouleau" and "chylous", that the "neutrophils" were "round and slow" and that there were "tubules" in the blood.

36. On January 27, 1988, Respondent applied 5 "cora mags" to relieve Patient B's pain, dispensed drops for Patient B's continued sensitivity to chemicals, dispensed aspergileus for a fungus allergy and dispensed a number of other supplements to help Patient B's immune system. Respondent also instructed Patient B to return the next week for the rest of the allergy test.

37. On January 27, 1988, Respondent also referred Patient B to Rajesh Alwa, Respondent's son, for cranio-sacral therapy. Mr. Alwa uses the titles certified hypnotherapist and cranio-sacral therapist, but he is not licensed or certified by any State of Wisconsin examining board or examining council.

38. Mr. Alwa noted that Patient B had knee swelling since the end of October and that the lateral left femur was twisted on January 27, 1988. Mr. Alwa did local cranio-sacral therapy to Patient B's knee and instructed her to return in one week for follow-up.

39. On February 25, 1988, Patient B and her mother returned to Respondent's office. Respondent noted that Patient B's knee was still swollen but was not so stiff. Respondent also noted that Patient B was still sensitive to chemicals. Respondent applied 4 cora mags to Patient B and dispensed drops for Patient B's continued sensitivity to chemicals and dispensed aspergileus.

40. Rajesh Alwa also saw Patient B on February 25, 1988. Mr. Alwa did local cranio-

sacral therapy on Patient B's left knee and noted "not much movement." Mr. Alwa instructed Patient B to return "if it gets worse."

41. On June 10, 1988, Patient B and her mother returned to the Beloit Clinic. Patient B was seen by Jane Fossum, M.D., with a chief complaint of a swollen left knee. Dr. Fossum recorded the following history: "She has not been bearing weight on it for three months. The mother admits to having visited numerous health care givers, including a chiropractor and a 'specialist' in Lake Geneva, who has been using some form of acupuncture. Nothing has seemed to help."

42. Dr. Fossum noted that Patient B had previously been evaluated by Dr. Kelly, who diagnosed juvenile rheumatoid arthritis, monoarucular. Dr. Fossum examined Patient B on June 10, 1988, and noted marked swelling and warmth in the left knee, with no erythema. Dr. Fossum documented that Patient B held her left knee in flexion at about 90°, resisted any extension of the knee, both active and passive, and stood on one foot with her left knee bent. Dr. Fossum referred Patient B to Dr. Horowitz at the University of Wisconsin Hospital, with an appointment set up for June 14.

43. Dr. Horowitz examined Patient B on June 14, 1988. Dr. Horowitz noted that her left knee was fixed at 90° of flexion and that he was unable to extend or further flex the knee, which was painful to movement. An x-ray of the left knee showed the bones to be osteopenic. Dr. Horowitz's assessment was that Patient B had pauciarticular juvenile rheumatoid arthritis. He recommended beginning Trilisate liquid 500 mg. bid with follow-up at Beloit Clinic in two weeks to check aspirin level, slit lamp examinations every three months to check for uveitis and consideration of physical therapy once the acute swelling and inflammation was improved on aspirin therapy.

44. Patient B and her mother returned to the Beloit Clinic to see Dr. Fossum on June 28, 1988. Patient B's mother indicated that Patient B was starting to use her left leg more, specifically for pushing off. Dr. Fossum examined Patient B and suggested several exercises for the mother to do with Patient B, in order build up Patient B's leg muscles. Dr. Fossum called Patient B's mother in the evening on June 28, to inform her that the salicylate level was 32.1, and to suggest that the Trilisate dose be decreased to 4 cc. p.o. bid.

45. On September 13, 1988, Dr. Fossum saw Patient B. Dr. Fossum noted that Patient B had been discharged from her physical therapy, as of September 7, because she was walking on her left leg. Patient B was taking Trilisate, 3 cc. p.o. bid. Dr. Fossum noted that Patient B's parents planned to take her to an arthritis clinic at Janesville Mercy Hospital that week and to a rheumatologist in Madison on September 19.

46. Patient B continues to be treated by a rheumatologist for juvenile rheumatoid arthritis.

47. Respondent's conduct in providing medical care and treatment to Patient B fell below the minimum standards of competence established in the profession in the following respects:

- ✓ a. Respondent failed to confirm or rule out the diagnosis of juvenile rheumatoid arthritis (JRA), either by attempting to obtain Patient B's previous medical records or

by conducting independent tests on Patient B.

- b. Respondent failed to determine whether Patient B was in danger of suffering from complications of JRA, either by attempting to obtain Patient B's previous medical records or by conducting independent tests on Patient B.
- c. Respondent advised Patient B's mother to discontinue giving aspirin to Patient B.
- d. The physical examinations which Respondent conducted on Patient B were not adequate to identify whether or not Patient B's JRA was progressing.
- e. Respondent used cora mags and referred Patient B to Rajesh Alwa for cranio-sacral therapy, in attempts to treat Patient B for the pain she experienced because of her JRA.

48. Respondent's conduct in providing medical care and treatment to Patient B created the following unacceptable risks:

- a. Respondent's failure to confirm or rule out the diagnosis of JRA created the unacceptable risk that the cause of Patient B's swollen and painful left knee would not be timely diagnosed and treated.
- b. Respondent's failure to determine whether Patient B was in danger of suffering from complications of JRA created the unacceptable risk that Patient B would suffer from complications of JRA, including uveitis, which could cause blindness.
- c. Respondent's conduct in advising Patient B to discontinue her use of aspirin created the unacceptable risk that Patient B's left knee could become permanently damaged by JRA.
- d. Respondent's failure to conduct physical examinations on Patient B adequate to identify whether or not Patient B's JRA was progressing created the unacceptable risk that Patient B's JRA would progress to other joints.
- e. Respondent's conduct in using cora mags on Patient B and in referring Patient B for cranio-sacral therapy created the unacceptable risk that conventional methods for treating Patient B's JRA would be delayed.

49. Respondent's acts and omissions, as set out in this Count of this Complaint, are practice and conduct which tend to constitute a danger to the health, welfare and safety of the patient or public and thereby constitute unprofessional conduct within the meaning of sec. 448.02(3), Wis. Stats., and sec. MED 10.02(2)(h), Wis. Adm. Code.

COUNT III

50. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.

51. Paragraphs 28 to 46 of Count II are realleged.

52. Respondent represented to Patient B's mother that the Respondent's therapy would cure Patient B's condition.

53. Respondent's conduct, as set forth in this Count of this Complaint, constituted representing that a manifestly incurable disease or condition can be or will be permanently cured, and thereby constitutes unprofessional conduct within the meaning of sec. 448.02(3), Wis. Stats., and sec. MED 10.02(2)(l), Wis. Adm. Code.

COUNT IV

54. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.

55. Paragraphs 28 to 46 of Count II are realleged.

56. Respondent represented to Patient B's mother that Patient B needed to be seen by Rajesh Alwa for cranio-sacral therapy. Respondent did not tell Patient B's mother that Rajesh Alwa was not a doctor.

57. Respondent's conduct, as set forth in this Count of this Complaint, constituted representing that unlicensed persons practicing under supervision are licensed, by failing to identify the individuals clearly as unlicensed physicians or delegates, and thereby constitutes unprofessional conduct within the meaning of sec. 448.02(3), Wis. Stats., and sec. MED. 10.02(2)(t), Wis. Adm. Code.

COUNT V

58. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.

59. Patient C was born on 7/27/19, and was involved in a physician-patient relationship with Respondent from 3/31/92 through 6/12/92.

60. On 3/31/92, the patient presented at Respondent's clinic with a history of Raynaud's disease and was experiencing pain in her toe of three months duration. Respondent's physical examination disclosed no vascular pulsation in the foot and a gangrenous area on the toe.

61. Respondent diagnosed gangrene of the toe, arteriosclerosis, peripheral vascular disease and scleroderma.

62. Respondent treated the patient's conditions on the following dates by injecting an oxygen/ozone gas mixture in the amounts indicated directly into the patient's veins in the area of the foot with the gangrenous toe:

4/8/92 90 ccs oxygen/ozone mixture

4/10/92 Unknown amount of oxygen/ozone mixture
4/20/92 120 ccs oxygen/ozone mixture
5/2/92 120 ccs oxygen/ozone mixture

63. Ozone is a highly reactive gas.
64. Respondent's conduct in injecting an oxygen/ozone gas mixture directly into the patient's venous system fell below the minimum standards of competence established in the profession.
65. Respondent's conduct created the following unacceptable risks for the patient:
- a. Ozone entering the lungs through the venous system creates the unacceptable risk that the ozone will react with the tissues in the lungs and damage the vascular lining of the pulmonary capillary bed, thereby reducing the diffusion of gases into the blood through the lungs and thus reducing the efficiency of the respiratory process in the lungs.
 - b. The patient may have a right to left shunt in her heart permitting the injected oxygen/ozone gas bubbles to pass directly from the venous system to the arterial system and then to the brain creating the unacceptable risk of a gas embolus and a resulting cerebrovascular accident.
66. A minimally competent physician, to avoid or minimize these unacceptable risks, would not have injected the oxygen/ozone gas mixture into the patient's venous system.
67. Respondent's conduct as herein described was unprofessional conduct contrary to Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(h) in that she engaged in conduct which tended to constitute a danger to the health, welfare and safety of the patient.

COUNT VI

68. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.
69. Respondent attended medical school in India and graduated with a M.B.B.S. degree in 1946. Following graduation, she received additional medical education including a one year residency in India immediately following graduation, a postgraduate training program in internal medicine, hematology and tropical medicine in the United Kingdom, one year of a three year residency in obstetrics and gynecology in Syracuse, New York, an additional four years of training in surgery in McHenry, Illinois, and one year of a general practice residency in Akron, Ohio. Respondent practiced medicine in Milwaukee, Wisconsin from 1972 to 1975, in Williams Bay, Wisconsin from 1975 to 1988, and in Lake Geneva, Wisconsin from 1988 to the present.
70. Patient D was born on 1/17/58, and was involved in a physician-patient relationship with Respondent from 3/20/92 through 6/1/92.
71. On 3/20/92, the patient presented at Respondent's clinic with a history of Lyme's

disease, endometriosis and lupus, and was experiencing weakness of her arms, face and back pain, stiffness, vaginal bleeding, depression and fatigue.

72. Respondent diagnosed chronic candidiasis, Lyme's disease, hypoglycemia, allergies and chronic fatigue syndrome.

73. Respondent treated the patient's conditions with oxidative therapy by utilizing a technique known as autohemotherapy, hereinafter designated as AHT, and by blowing an oxygen/ozone mixture into the patient's ears.

74. AHT is performed by withdrawing 150 ccs to 200 ccs of blood from the patient, injecting an oxygen/ozone mixture into the blood collection bottle containing the blood, and reinfusing the blood into the patient.

75. Respondent represented to the patient, with the intent that these representations be acted upon, that AHT and blowing an oxygen/ozone mixture into the patient's ears would increase the oxygen content of the blood and that these treatments would be medically beneficial treatments for the patient's conditions.

76. In truth and in fact, neither AHT nor blowing an oxygen/ozone mixture into the patient's ears produces a therapeutically significant change in the oxygen content of the patient's blood or provides any medically beneficial treatment for the patient's conditions.

77. Respondent either knew these representations were false when she made them to the patient or she made them without knowledge of their truth or falsity and in reckless disregard of whether they were true or false.

78. The patient did not know these representations to be false and, by the exercise of reasonable care, could not have ascertained their falsity. The patient did not possess the specialized knowledge of a physician and, therefore, relied upon the professional expertise of the Respondent.

79. The patient, acting in reliance on Respondent's representations, received oxidative therapy from Respondent or at her direction at Respondent's clinic in Lake Geneva, Wisconsin, as set forth in Amended Attachment A, a copy of which is attached hereto and incorporated herein.

80. Respondent attempted to obtain and obtained professional fees by fraud and deceit by billing the patient as set forth in Amended Attachment A, said amounts including fees for oxidative therapy treatments as well as other professional services rendered on the dates indicated, and by receiving payments for said treatments from the patient.

81. Obtaining or attempting to obtain any professional fee or compensation in any form by fraud or deceit constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(m).

COUNT VII

82. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.

83. Respondent attended medical school in India and graduated with a M.B.B.S. degree in 1946. Following graduation, she received additional medical education including a one year residency in India immediately following graduation, a postgraduate training program in internal medicine, hematology and tropical medicine in the United Kingdom, one year of a three year residency in obstetrics and gynecology in Syracuse, New York, an additional four years of training in surgery in McHenry, Illinois, and one year of a general practice residency in Akron, Ohio. Respondent practiced medicine in Milwaukee, Wisconsin from 1972 to 1975, in Williams Bay, Wisconsin from 1975 to 1988, and in Lake Geneva, Wisconsin from 1988 to the present.

84. Patient C was born on 7/27/19, and was involved in a physician-patient relationship with Respondent from 3/31/92 through 6/12/92.

85. On 3/31/92, the patient presented at Respondent's clinic with a history of Raynaud's disease and was experiencing pain in her toe of three months duration. Respondent's physical examination disclosed no vascular pulsation in the foot and a gangrenous area on the toe.

86. Respondent diagnosed gangrene of the toe, arteriosclerosis, peripheral vascular disease and scleroderma.

87. Respondent treated the patient's conditions with oxidative therapy by utilizing a technique known as autohemotherapy, hereinafter designated as AHT, by blowing an oxygen/ozone mixture into the patient's ears, by blowing an oxygen/ozone mixture onto the gangrenous area of the patient's toe, by direct I.V. injection of an oxygen/ozone mixture into the patient's veins and by placing the patient in the ozone bath.

88. AHT is performed by withdrawing 150 ccs to 200 ccs of blood from the patient, injecting an oxygen/ozone mixture into the blood collection bottle containing the blood, and reinfusing the blood into the patient.

89. Respondent represented to the patient, with the intent that these representations be acted upon, that AHT, blowing an oxygen/ozone mixture into the patient's ears and onto the gangrenous area of the patient's toe, direct I.V. injection of an oxygen/ozone mixture into the patient's veins and the ozone bath would increase the oxygen content of the blood and be medically beneficial treatments for the patient's conditions and that the ozone bath would also benefit the patient by cleansing the pores of the patient's skin.

90. In truth and in fact, the oxidative therapy modalities administered as described in Paragraph 87 do not produce a therapeutically significant change in the oxygen content of the patient's blood or provide any other medically beneficial treatment for the patient's conditions.

91. Respondent either knew these representations were false when she made them to the patient or she made them without knowledge of their truth or falsity and in reckless disregard of whether they were true or false.

92. The patient did not know these representations to be false and, by the exercise of reasonable care, could not have ascertained their falsity. The patient did not possess the specialized knowledge of a physician and, thereby, relied upon the professional expertise of the Respondent.

93. The patient, acting in reliance on Respondent's representations, received oxidative therapy from the Respondent or at her direction at Respondent's clinic in Lake Geneva, Wisconsin, as set forth in Amended Attachment B, a copy of which is attached hereto and incorporated herein.

94. Respondent attempted to obtain and obtained professional fees by fraud and deceit by billing the patient as set forth in Amended Attachment B, said amounts including fees for oxidative therapy treatments as well as other professional services rendered on the dates indicated, and by receiving payments for said treatments from the patient.

95. Obtaining or attempting to obtain any professional fee or compensation in any form by fraud or deceit constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(m).

COUNT VIII

96. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.

97. Respondent attended medical school in India and graduated with a M.B.B.S. degree in 1946. Following graduation, she received additional medical education including a one year residency in India immediately following graduation, a postgraduate training program in internal medicine, hematology and tropical medicine in the United Kingdom, one year of a three year residency in obstetrics and gynecology in Syracuse, New York, an additional four years of training in surgery in McHenry, Illinois, and one year of a general practice residency in Akron, Ohio. Respondent practiced medicine in Milwaukee, Wisconsin from 1972 to 1975, in Williams Bay, Wisconsin from 1975 to 1988, and in Lake Geneva, Wisconsin from 1988 to the present.

98. Patient E was born on 9/15/54, and was involved in a physician-patient relationship with Respondent from 8/12/91 through 6/15/92.

99. On 8/12/91, the patient presented at Respondent's clinic complaining of nausea and vomiting, fatigue, cramping and diarrhea 20 to 30 times per day with mucus and bright red blood present.

100. Respondent diagnosed depression, chronic fatigue syndrome, hypothyroidism, candidiasis, irritated colon, allergies and bronchitis.

101. Respondent treated the patient's conditions with oxidative therapy by utilizing a technique known as autohemotherapy, hereinafter designated as AHT, by blowing an oxygen/ozone gas mixture into the patient's rectum and by administering ozone baths to the patient.

102. AHT is performed by withdrawing 150 ccs to 200 ccs of blood from the patient, injecting an oxygen/ozone mixture into the blood collection bottle containing the blood, and reinfusing the blood into the patient.

103. Respondent represented to the patient, with the intent that these representations be acted upon, that AHT, blowing the oxygen/ozone gas mixture into the patient's rectum and administering ozone baths to the patient would increase the oxygen content of the blood and that

these treatments would be medically beneficial treatments for the patient's conditions, and that the ozone baths would also benefit the patient by cleansing the pores of the patient's skin.

104. In truth and in fact, AHT, blowing the oxygen/ozone gas mixture into the patient's rectum and administering ozone baths to the patient do not produce a therapeutically significant change in the oxygen content of the patient's blood or provide any medically beneficial treatment for the patient's conditions.

105. Respondent either knew these representations were false when she made them to the patient or she made them without knowledge of their truth or falsity and in reckless disregard of whether they were true or false.

106. The patient did not know these representations to be false and, by the exercise of reasonable care, could not have ascertained their falsity. The patient did not possess the specialized knowledge of a physician and, therefore, relied upon the professional expertise of the Respondent.

107. The patient, acting in reliance on Respondent's representations, received oxidative therapy from Respondent or at her direction at Respondent's clinic in Lake Geneva, Wisconsin, as set forth in Amended Attachment C, a copy of which is attached hereto and incorporated herein.

108. Respondent attempted to obtain and obtained professional fees by fraud and deceit by billing the patient as set forth in Amended Attachment C, said amounts including fees for the oxidative therapy treatments as well as other professional services rendered on the dates indicated, and by receiving payments for said treatments from the patient.

109. Obtaining or attempting to obtain any professional fee or compensation in any form by fraud or deceit constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(m).

COUNT IX

110. Rathna Alwa, M.D., Respondent herein, of 717 Geneva Street, Lake Geneva, Wisconsin 53147, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #20542, said license having been granted on 12/3/76.

111. Respondent practices medicine and surgery as a sole practitioner at the Sai Holistic Clinic in Lake Geneva, Wisconsin.

112. Rajesh Alwa is employed at the Sai Holistic Clinic as a therapist and as the clinic administrator.

113. Rajesh Alwa is not licensed to practice medicine and surgery in the State of Wisconsin.

114. On 11/2/90, Respondent was in India. In her absence, Respondent left Rajesh Alwa in charge of the operation of the Sai Holistic Clinic and authorized him to continue to administer oxidative therapy treatments to patients, including ozone IV treatments.

115. On 11/2/90, Rajesh Alwa engaged in the practice of medicine by performing a

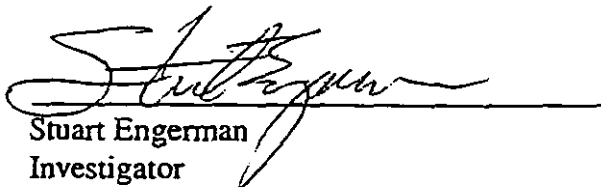
stethoscopic examination of Patient F, by piercing Patient F's skin to establish an IV line and by administering an ozone IV for treatment of Patient F's medical condition.

116. On 11/2/90, Rajesh Alwa was not acting under the supervision of Respondent or any other person licensed to practice medicine and surgery in the State of Wisconsin, or under the supervision of any person whose license permitted him or her to perform the acts described in paragraph 115 above.

117. Respondent's conduct in authorizing Rajesh Alwa to engage in acts which constituted the practice of medicine and surgery when not under the supervision of a licensed physician or other person licensed to perform these acts constituted unprofessional conduct in violation of Wis. Stats. sec. 448.03(1) and Wis. Adm. Code secs. MED 10.02(2)(a) and (g).

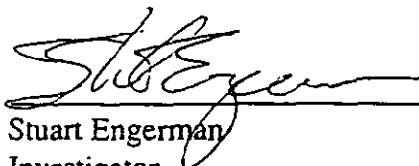
WHEREFORE, the Complainant demands that the disciplinary authority hear evidence relevant to matters alleged in this complaint, determine and impose the discipline warranted, and assess the costs of the proceeding against the Respondent.

Dated this 15th day of December, 1993.


Stuart Engerman
Investigator
Department of Regulation & Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708-8935

STATE OF WISCONSIN)
)
COUNTY OF DANE)

Stuart Engerman, being first duly sworn on oath deposes and says that he is an investigator for the State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, and that he has read the foregoing Complaint and knows the contents thereof and that the same is true to his own knowledge, except as to those matters therein stated on information and belief and as to such matters, he believes them to be true.



Stuart Engerman
Investigator
Department of Regulation & Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708-8935

Subscribed and sworn to before me
this 13th day of December, 1993.



Notary Public

My Commission is permanent.

Gilbert C. Lubcke
Attorney for Complainant
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
Tel. No. (608) 266-9925

GCL:pw
ATTY-ELG697

AMENDED ATTACHMENT A

(Patient D)

DATE	TREATMENT	TOTAL FEE/MISIT
3/21/92	AHT	\$150.00
3/23/92	AHT	\$150.00
3/24/92	AHT	\$160.00
3/25/92	AHT	\$150.00
3/26/92	AHT	\$150.00
3/27/92	AHT	\$125.00
3/28/92	AHT	\$196.75
4/4/92	Minor AHT; O ₂ /O ₃ (Ears)	\$183.25
4/6/92	O ₂ /O ₃ (Ears)	\$ 50.00
4/8/92	O ₂ /O ₃ (Ears)	\$ 86.25
4/10/92	O ₂ /O ₃ (Ears)	\$ 75.00
4/15/92	O ₂ /O ₃ (Ears)	\$ 75.00
4/17/92	O ₂ /O ₃ (Ears)	\$211.70

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DATE	TREATMENT	TOTAL FEE/VISIT
3/31/92	AHT: O ₂ /O ₃ (Toe)	\$ 75.00
4/1/92	O ₂ /O ₃ (Toe)	\$ 34.00
4/3/92	O ₂ /O ₃ (Toe & Ears)	\$123.45
4/6/92	O ₂ /O ₃ (Toe & Ears)	\$ 50.00
4/8/92	O ₂ /O ₃ (Ears); IV O ₃	\$ 55.00
4/10/92	O ₂ /O ₃ (Toe & Ears); IV O ₃	\$ 50.00
4/13/92	O ₂ /O ₃ (Toe & Ears)	\$115.95
4/15/92	O ₂ /O ₃ (Toe)	\$ 87.00
4/20/92	Ozone Bath; IV O ₃	\$110.00
4/22/92	Ozone Bath	\$ 50.00
4/27/92	O ₂ /O ₃ (Ears); Ozone Bath	\$210.25
4/29/92	O ₂ /O ₃ (Ears)	\$100.00
5/2/92	Ozone Bath; IV O ₃	\$109.00
5/4/92	O ₂ /O ₃ (Toe)	\$105.50
5/8/92	Ozone Bath	\$100.00
5/11/92	Ozone Bath	\$100.00
5/18/92	Ozone Bath	\$132.00
5/22/92	Ozone Bath	\$180.73
5/27/92	Ozone Bath	\$100.00
6/5/92	Ozone Bath	\$109.90
6/8/92	Ozone Bath	\$109.00
6/9/92	Ozone Bath	\$100.00
6/10/92	Ozone Bath	\$ 75.00
6/12/92	Ozone Bath	\$ 34.00

(Patient C)

AMENDED ATTACHMENT B

AMENDED ATTACHMENT C

(Patient E)

<u>DATE</u>	<u>TREATMENT</u>	<u>TOTAL FEE/VISIT</u>
12/11/91	AHT; O ₂ /O ₃ (Rectal); Ozone Bath	\$134.00
12/21/91	AHT; O ₂ /O ₃ (Rectal); Ozone Bath	\$125.00
12/27/91	AHT; O ₂ /O ₃ (Rectal); Ozone Bath	\$142.00
1/4/92	AHT; Ozone Bath	\$150.00
1/18/92	AHT; Ozone Bath	\$139.95
1/24/92	Ozone Bath	\$100.00
1/31/92	AHT; Ozone Bath	\$178.95
2/7/92	AHT; Ozone Bath	\$100.00
2/18/92	AHT; Ozone Bath	\$100.00
2/26/92	Ozone Bath	\$ 76.45
3/2/92	AHT	?
3/9/92	AHT	\$ 26.75
3/21/92	AHT	\$ 19.25
5/6/92	AHT	\$ 75.00
6/15/92	AHT; ; Ozone Bath	\$134.00

GCL:pw
ATTY-ELG697

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE
DISCIPLINARY PROCEEDINGS
AGAINST

AMENDED ANSWER
(88 MED 231; 89 MED 410; 90 MED 280)

RATHNA ALWA, M.D.
RESPONDENT.

Rathna Alwa, M.D., by and through her attorneys of record, Blumenthal, Jacquart, Blumenthal, Leib & Phelps, S.C. by Samuel J. Leib, and Dilling & Dilling by Kirkpatrick W. Dilling and Ronald Nesmith, hereby respond to the Complaint of the Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

RESPONSE TO COUNT I

1. Admit that Rathna Alwa, M.D. is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, with her principle place of business at 717 Geneva Street, Lake Geneva, Wisconsin 53147. Admit that her license number is #20542 and that said license was granted on December 3, 1976.

2. As to the allegations contained in paragraph two (2) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof. Affirmatively allege that the patient indicated she was not sure of her last menstrual period date.

3. As to the allegations contained in paragraph three (3) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof. Affirmatively allege that the possibility of a different last date of menstrual period than the one reported was discussed repeatedly with the patient.

4. As to the allegations contained in paragraph four (4) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

5. As to the allegations contained in paragraph five (5) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

6. As to the allegations contained in paragraph six (6) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

7. As to the allegations contained in paragraph seven (7) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

8. As to the allegations contained in paragraph eight (8) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

9. As to the allegations contained in paragraph nine (9) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

10. As to the allegations contained in paragraph ten (10) of the complaint, respondent admits references to her office charts

and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

11. As to the allegations contained in paragraph eleven (11) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

12. As to the allegations contained in paragraph twelve (12) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

13. As to the allegations contained in paragraph thirteen (13) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

14. As to the allegations contained in paragraph fourteen (14) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

15. As to the allegations contained in paragraph fifteen (15) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

16. As to the allegations contained in paragraph sixteen (16) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

17. As to the allegations contained in paragraph seventeen (17) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

18. As to the allegations contained in paragraph eighteen (18) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

19. As to the allegations contained in paragraph nineteen (19) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

20. As to the allegations contained in paragraph twenty (20) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

21. As to the allegations contained in paragraph twenty one (21) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to

the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

22. As to the allegations contained in paragraph twenty two (22) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

23. As to the allegations contained in paragraph twenty three (23) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

24. As to the allegations contained in paragraph twenty four (24) of the complaint, deny.

25. As to the allegations contained in paragraph twenty five (25) of the complaint, deny.

26. As to the allegations contained in paragraph twenty six (26) of the complaint, deny.

27. By way of affirmative defense, Respondent states that all of the issues raised by Count I have long since been adjudicated in her favor, Respondent being found not to have committed malpractice or other unprofessional conduct, pursuant to Chapter 655 proceedings before the Wisconsin Patients Compensation Panel.

28. By virtue of the issues thus adjudicated in her favor, being res judicata, Complainant is estopped from now reviving a dead matter and in doing so is responsible for wholly frivolous conduct designed only to harass, intimidate and oppress Respondent. Such conduct merits, and should result in, the strongest possible sanctions. Said Count I is also barred by the Doctrine of Laches.

RESPONSE TO COUNT II

29. As to the allegations contained in paragraph twenty seven (27) of the complaint, admit.

30. As to the allegations contained in paragraph twenty eight (28) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

31. As to the allegations contained in paragraph twenty nine (29) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

32. As to the allegations contained in paragraph thirty (30) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

33. As to the allegations contained in paragraph thirty one (31) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

34. As to the allegations contained in paragraph thirty two (32) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

35. As to the allegations contained in paragraph thirty three (33) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

36. As to the allegations contained in paragraph thirty four (34) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof. Deny that the patient's mother was informed to discontinue giving aspirin to the patient.

37. As to the allegations contained in paragraph thirty five (35) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

38. As to the allegations contained in paragraph thirty six (36) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to

the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

39. As to the allegations contained in paragraph thirty seven (37) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

40. As to the allegations contained in paragraph thirty eight (38) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

41. As to the allegations contained in paragraph thirty nine (39) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

42. As to the allegations contained in paragraph forty (40) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

43. As to the allegations contained in paragraph forty one (41) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

44. As to the allegations contained in paragraph forty two (42) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

45. As to the allegations contained in paragraph forty three (43) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

46. As to the allegations contained in paragraph forty four (44) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

47. As to the allegations contained in paragraph forty five (45) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

48. As to the allegations contained in paragraph forty six (46) of the complaint, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same.

49. As to the allegations contained in paragraph forty seven (47) of the complaint, deny.

50. As to the allegations contained in paragraph forty eight (48) of the complaint, deny.

51. As to the allegations contained in paragraph forty nine (49) of the complaint, deny.

52. Further answering the Complaint, Respondent states that, as a duly licensed Wisconsin physician, she has the right, and can, practice medicine in all its branches. According to her best judgment as to what would be beneficial for her patients, including for the patient involved in Count II, she has employed Homeopathy, recognized world-wide and a branch of the healing arts practiced since the 18th Century. Homeopathy has recognition and equal status under Federal law with Allopathy. Homeopathy is officially recognized by the laws of the State of Wisconsin.

53. Respondent states that generally speaking, Homeopathy involves a far more favorable benefit-risk ratio than that of numerous comparative Allopathic procedures and therapies. Respondent has therefore often employed Homeopathy for the maximum safety and benefit of her patients, including the patient involved in Count II.

54. Further answering the Complaint, Respondent states that Oxygen Therapies are not new or novel in the medical or scientific community, one or more of their Oxygen Therapy procedures has been in use for the past 100 years. As a responsible and caring physician, Respondent has often employed Oxygen-ozone therapies for the best welfare of her patients, including for the patient involved in Count II. Thousands of physicians in the United States, Germany, Switzerland and elsewhere throughout the world have employed, and employ, Oxygen Therapies for their patients. A large number of clinical and scientific references attests to the therapeutic value of those therapies.

55. Respondent further states that Oxygen Therapies involve a more favorable benefit-risk ratio than various alternative

orthodox therapies. Respondent therefore has often employed Oxygen Therapies for the benefit and welfare of her patients.

56. Further Answering said Count II, Respondent states that she has frequently employed Voll "EAV" electro-acupuncture techniques as an adjunctive diagnostic procedure. Such procedure, by use of acupuncture principles, parameters and frames of reference has not only been used by Respondent but by thousands of other progressive physicians in the United States and elsewhere. Use of the EAV procedures has proved valuable for the diagnosis and treatment of Respondent's patients, including the patient involved in Count II.

RESPONSE TO COUNT III

57. As to the allegations contained in paragraph fifty (50) of the complaint, admit.

58. As to the allegations contained in paragraph fifty one (51) of the complaint, the admissions, denials and responses in paragraphs thirty (30) through forty eight (48) are hereby incorporated herein by reference as though set forth at length.

59. As to the allegations contained in paragraph fifty two (52) of the complaint, deny. It is affirmatively alleged that the respondent was at all times completely honest with the patient and did absolutely nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended possible results of the treatment rendered by the respondent.

60. As to the allegations contained in paragraph fifty three (53) of the complaint, deny.

RESPONSE TO COUNT IV

61. As to the allegations contained in paragraph fifty four (54) of the complaint, admit.

62. As to the allegations contained in paragraph fifty five (55) of the complaint, the admissions, denials and responses in paragraphs twenty eight (28) through forty six (46) are hereby incorporated by reference as though set forth at length.

63. As to the allegations contained in paragraph fifty six (56) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

64. As to the allegations contained in paragraph fifty seven (57) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

RESPONSE TO COUNT V

65. As to the allegations contained in paragraph fifty eight (58) of the complaint, admit.

66. As to the allegations contained in paragraph fifty nine (59) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

67. As to the allegations contained in paragraph sixty (60) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

68. As to the allegations contained in paragraph sixty one (61) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

69. As to the allegations contained in paragraph sixty two (62) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

70. As to the allegations contained in paragraph sixty three (63) of the complaint, admit that Ozone is a reactive gas but not a "highly reactive" gas.

71. As to the allegations contained in paragraph sixty four (64) of the complaint, deny.

72. As to the allegations contained in paragraph sixty five (65) of the complaint, deny.

73. As to the allegations contained in paragraph sixty six (66) of the complaint, deny.

74. As to the allegations contained in paragraph sixty seven (67) of the complaint, deny.

75. Further answering said Count V, Respondent states that Oxygen Therapies are not new or novel in the medical or scientific community, one or more of Oxygen Therapy procedures having been in use for the past 100 years. As a responsible physician, Respondent has often employed Oxygen-ozone therapies for the best welfare of her patients, including for the patient involved in Count V. Thousands of physicians in the United States, Germany, Switzerland and elsewhere throughout the world have employed, and employ Oxygen Therapies for their patients. A large number of clinical and scientific references attests to the therapeutic value of such therapies.

76. Respondent further states that Oxygen Therapies involve a more favorable benefit-risk ratio than various alternative orthodox therapies. Respondent has therefore often employed Oxygen Therapies for her patients, including for the patient involved in Count V. In so employing Oxygen Therapies for the patient, respondent employed suitable, proper and safe protocol and procedures as long-established by and for the informed medical community.

RESPONSE TO COUNT VI

77. As to the allegations contained in paragraph sixty eight (68) of the complaint, admit.

78. As to the allegations contained in paragraph sixty nine (69) of the complaint, admit.

79. As to the allegations contained in paragraph seventy (70) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the

truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

80. As to the allegations contained in paragraph seventy one (71) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

81. As to the allegations contained in paragraph seventy two (72) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

82. As to the allegations contained in paragraph seventy three (73) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

83. As to the allegations contained in paragraph seventy four (74) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

84. As to the allegations contained in paragraph seventy five (75) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

85. As to the allegations contained in paragraph seventy six (76) of the complaint, deny.

86. As to the allegations contained in paragraph seventy seven (77) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing

fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

87. As to the allegations contained in paragraph seventy eight (78) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

88. As to the allegations contained in paragraph seventy nine (79) of the complaint, deny.

89. As to the allegations contained in paragraph eighty (80) of the complaint, deny.

90. As to the allegations contained in paragraph eighty one (81) of the complaint, deny.

91. Further answering said Count VI, Respondent states that Oxygen Therapies are not new or novel in the medical or scientific community, one or more of Oxygen Therapy procedures having been in use for the past 100 years. As a responsible physician, Respondent has often employed Oxygen-ozone therapies for the best welfare of her patients, including for the patient involved in Count VI. Thousands of physicians in the United States, Germany, Switzerland and elsewhere throughout the world have employed, and employ Oxygen Therapies for their patients. A large number of clinical and scientific references attests to the therapeutic value of such therapies.

92. Respondent further states that Oxygen Therapies involve a more favorable benefit-risk ratio than various alternative orthodox therapies. Respondent has therefore often employed Oxygen Therapies for her patients, including for the patient involved in Count VI. In so employing Oxygen Therapies for the patient, respondent employed suitable, proper and safe protocol and procedures as long-established by and for the informed medical community.

RESPONSE TO COUNT VII

93. As to the allegations contained in paragraph eighty two (82) of the complaint, admit.

94. As to the allegations contained in paragraph eighty three (83) of the complaint, admit.

95. As to the allegations contained in paragraph eighty four (84) of the complaint, respondent admits references to her office

charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

96. As to the allegations contained in paragraph eighty five (85) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

97. As to the allegations contained in paragraph eighty six (86) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

98. As to the allegations contained in paragraph eighty seven (87) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

99. As to the allegations contained in paragraph eighty eight (88) of the complaint, admit that Dr. Alwa represented to the patient that blowing an oxygen/ozone gas mixture into the patient's ears was an experimental attempt to increase the oxygen content of the blood. As to the balance of the allegations contained in paragraph eighty eight (88) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

100. As to the allegations contained in paragraph eighty nine (89) of the complaint, admit upon information and belief that this statement may be true in this case, however, affirmatively allege, that it is not true in all cases and that various cases in opposition to the allegations contained in paragraph eighty nine (89) are contained in the medical literature.

101. As to the allegations contained in paragraph ninety (90) of the complaint, deny.

102. As to the allegations contained in paragraph ninety one (91) of the complaint, deny that the representations were false. As to the balance of the allegations contained therein, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

103. As to the allegations contained in paragraph ninety two (92) of the complaint, admit that the patient received oxidative therapy from Dr. Alwa at Dr. Alwa's clinic in Lake Geneva, Wisconsin on the dates set forth in Attachment B. Deny sufficient information to form a belief as to the truth of the matters asserted as to the patient's intention or reliance and therefore deny same and put Petitioner to its strict proof. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

104. As to the allegations contained in paragraph ninety three (93) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

105. As to the allegations contained in paragraph ninety four (94) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

106. Further answering said Count VII, Respondent states that Oxygen Therapies are not new or novel in the medical or scientific community, one or more of Oxygen Therapy procedures having been in use for the past 100 years. As a responsible physician, Respondent has often employed Oxygen-ozone therapies for the best welfare of her patients, including for the patient involved in Count VII. Thousands of physicians in the United States, Germany, Switzerland and elsewhere throughout the world have employed, and employ Oxygen Therapies for their patients. A large number of clinical and scientific references attests to the therapeutic value of such therapies.

107. Respondent further states that Oxygen Therapies involve a more favorable benefit-risk ratio than various alternative orthodox therapies. Respondent has therefore often employed Oxygen Therapies for her patients, including for the patient involved in Count VII. In so employing Oxygen Therapies for the patient, respondent employed suitable, proper and safe protocol and procedures as long-established by and for the informed medical community.

RESPONSE TO COUNT VIII

108. As to the allegations contained in paragraph ninety five (95) of the complaint, admit.

109. As to the allegations contained in paragraph ninety six (96) of the complaint, admit.

110. As to the allegations contained in paragraph ninety seven (97) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

111. As to the allegations contained in paragraph ninety eight (98) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

112. As to the allegations contained in paragraph ninety ninety (99) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

113. As to the allegations contained in paragraph one hundred (100) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to

the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

114. As to the allegations contained in paragraph one hundred one (101) of the complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

115. As to the allegations contained in paragraph one hundred two (102) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

116. As to the allegations contained in paragraph one hundred three (103) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

117. As to the allegations contained in paragraph one hundred four (104) of the complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

118. As to the allegations contained in paragraph one hundred five (105) of the complaint, deny that Dr. Alwa made any representations that were false to the patient. Admit that the patient did not possess the specialized knowledge of a physician. As to the balance of the allegations deny.

119. As to the allegations contained in paragraph one hundred six (106) of the complaint, admit that the patient received oxidative therapy from Dr. Alwa at Dr. Alwa's clinic in Lake Geneva, Wisconsin as set forth in Attachment C. As to the balance of the allegations, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same and put Petitioner to its strict proof. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

120. As to the allegations contained in paragraph one hundred seven (107) of the complaint, deny.,

121. As to the allegations contained in paragraph one hundred eight (108) of the complaint, deny.

122. Further answering said Count VIII, Respondent states that Oxygen Therapies are not new or novel in the medical or scientific community, one or more of Oxygen Therapy procedures having been in use for the past 100 years. As a responsible physician, Respondent has often employed Oxygen-ozone therapies for the best welfare of her patients, including for the patient involved in Count VIII. Thousands of physicians in the United States,, Germany, Switzerland and elsewhere throughout the world have employed, and employ Oxygen Therapies for their patients. A large number of clinical and scientific references attests to the therapeutic value of such therapies.

123. Respondent further states that Oxygen Therapies involve a more favorable benefit-risk ratio than various alternative orthodox therapies. Respondent has therefore often employed Oxygen Therapies for her patients, including for the patient involved in Count VIII. In so employing Oxygen Therapies for the patient, respondent employed suitable, proper and safe protocol and procedures as long-established by and for the informed medical community.

RESPONSE TO COUNT IX

124. As to the allegations contained in paragraph one hundred nine (109) of the complaint, admit.

125. As to the allegations contained in paragraph one hundred ten (110) of the complaint, admit.

126. As to the allegations contained in paragraph one hundred eleven (111) of the complaint, admit.

127. As to the allegations contained in paragraph one hundred twelve (112) of the complaint, admit.

128. As to the allegations contained in paragraph one hundred thirteen (113) of the complaint, deny.

129. As to the allegations contained in paragraph one hundred fourteen (114) of the complaint, deny.

130. As to the allegations contained in paragraph one hundred fifteen (115) of the complaint, deny.

131. As to the allegations contained in paragraph one hundred sixteen (116) of the complaint, deny.

AFFIRMATIVE DEFENSES

NOW COMES the respondent, Rathna Alwa, M.D., by and through her attorneys of record, Blumenthal, Jacquart, Blumenthal, Leib & Phelps, S.C. by Samuel J. Leib and Dilling & Dilling by Kirkpatrick W. Dilling and Ronald C. Nesmith, and as and for Affirmative Defenses to the Complaint of the Petitioner, upon information and belief, allege as follows:

1. Count I is barred by the Doctrine of Res Judicata and Collateral Estoppel in that this matter was fully litigated pursuant to Chapter 655 before the Patients Compensation Panel. Respondent was exonerated in all regards. This defense is asserted to preserve appellate review.

2. Count I is barred by the Doctrine of Laches. This defense is asserted to preserve appellate review.

3. Every patient is informed that some of the treatments provided by Dr. Alwa are supplemental and related to the nutritional and functional needs of the patient and that each patient can, if desired, maintain their relationship and treatment with their primary health care provider.

4. As to all counts, the claims do not constitute a basis for disciplinary action in that at all times Dr. Alwa acted for the benefit of her patients and was within the ethical and legal constraints of her profession.

5. Further responding to said Complaint, Respondent states that the claims herein against her do not constitute a basis for disciplinary action against her. At all times she has acted for the benefit and welfare of her patients, and well within the ethical and legal constraints of her profession.

6. Further responding to said Complaint, Respondent avers that with respect to all of the patients involved in this cause she at all times treated them according to their individual medical needs and conditions, exercising her knowledge and judgment as to what would be best for them. At all times Respondent rendered a high standard of care, as judged from any comparative Homeopathic, Allopathic, and/or Acupunctural standards applicable. In no respect has Respondent's treatment of her patients ever constituted an unprofessional "danger to the patient and the public", as falsely charged in the Complaint. Nor has Respondent ever committed "fraud" or "deceit" upon any patient, as falsely and maliciously charged in said Complaint.

7. Count I is frivolous and asserted in bad faith and Respondence is entitled to actual costs of defense and such other appropriate relief.

WHEREFORE, Rathna Alwa, M.D. demands judgment in her favor as follows:

1. Dismissing the Complaint in this action, with prejudice, together with costs, fees and disbursements, and

2. Any other such relief as the court may deem just and proper.

DATED this 24th day of September 1993, at Milwaukee, Wisconsin.

BLUMENTHAL, JACQUART, BLUMENTHAL,
LEIB & RHELPS, S.C.



BY:

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST,

Case # 9306032MED

RATHNA ALWA, M.D.,
Respondent.

ANSWER TO AMENDED COMPLAINT

NOW COMES the respondent, Rathna Alwa, M.D., by and through her attorneys of record, Blumenthal, Leib & Phelps, S.C. by Samuel J. Leib, and Dilling & Dilling by Kirkpatrick W. Dilling, and hereby responds to the Amended Complaint of the Wisconsin Department of Regulations and Licensing, Division of Enforcement, as follows:

1. Respondent hereby incorporates by reference every allegation, admission, denial and response, including affirmative defenses, in her Answer and Amended Answer as though set forth at length.

2. As to the allegations contained in ¶s one (1) through seventy eight (78) of the Amended Complaint, reallege and incorporate each and every response to ¶s one (1) through seventy eight (78) in the complainant's original Complaint as set forth at length in the Answer and Amended Answer of the respondent which are incorporated herein by reference.

3. As to the allegations contained in ¶ seventy nine (79) of the Amended Complaint, admit that the patient received oxidative therapy from Dr. Alwa at Dr. Alwa's clinic in Lake Geneva, Wisconsin on the dates set forth in Attachment A. Deny sufficient information to form a belief as to the truth of the matters

asserted as to the patient's intention or reliance and therefore deny same and put Petitioner to its strict proof. Affirmative allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

4. As to the allegations contained in ¶ eighty (80) of the Amended Complaint, deny.

5. As to the allegations contained in ¶s eight one (81) through eighty six (86) of the Amended Complaint, reallege and incorporate herein each and every response of the respondent to ¶s eighty one (81) through eighty six (86) of the complainant's original Complaint as set forth in respondent's original Answer and Amended Answer which are incorporated herein by reference.

6. As to the allegations contained in ¶ eight seven (87) of the Amended Complaint, respondent admits references to her office charts and hospital records, except as to any matters asserted which are inconsistent with the documents referenced as those allegations are denied. As to the balance of the allegations contained therein, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same and put the complainant to its strict proof.

7. As to the allegations contained in ¶ eighty eight (88), deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same and put complainant to its strict proof.

8. As to the allegations contained in ¶ eighty nine (89) of the Amended Complaint, admit that Dr. Alwa represented to the patient that blowing an oxygen/ozone gas mixture into the patient's ears was an experimental attempt to increase the oxygen content of the blood. As to the balance of the allegations contained in ¶ eighty nine (89) of the Amended Complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

9. As to the allegations contained in ¶ ninety (90) of the Amended Complaint, admit upon information and belief that this statement may be true in this case, however, affirmatively allege, that it is not true in all cases and that various cases in opposition to the allegations contained in ¶ ninety (90) are contained in the medical literature.

10. As to the allegations contained in ¶ ninety one (91) of the Amended Complaint, deny.

11. As to the allegations contained in ¶ ninety two (92) of the Amended Complaint, deny that the representations were false. As to the balance of the allegations contained therein, deny sufficient information to form a belief as to the truth of th matters asserted and therefore deny same. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

12. As to the allegations contained in ¶ ninety three (93) of the Amended Complaint, admit that the patient received oxidative therapy from Dr. Alwa at Dr. Alwa's clinic in Lake Geneva, Wisconsin on the dates set forth in Attachment B. Deny sufficient information to form a belief as to the truth of the matters asserted as to the patient's intention or reliance and therefore deny same and put Petitioner to its strict proof. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

13. As to the allegations contained in ¶ ninety four (94) of the Amended Complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

14. As to the allegations contained in ¶ ninety five (95) of the Amended Complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

15. As to the allegations contained in ¶ ninety six (96) of the Amended Complaint, admit.

16. As to the allegations contained in ¶ ninety seven (97) of the Amended Complaint, admit.

17. As to the allegations contained in ¶ ninety eight (98) of the Amended Complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

18. As to the allegations contained in ¶ ninety nine (99) of the Amended Complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

19. As to the allegations contained in ¶ one hundred (100) of the Amended Complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

20. As to the allegations contained in ¶ one hundred and one (101) of the Amended Complaint, respondent admits references to her office charts and the hospital records quoted, except as to any

matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

21. As to the allegations contained in ¶ one hundred two (102) of the Amended Complaint, respondent admits references to her office charts and the hospital records quoted, except as to any matters asserted which are inconsistent with the documents referenced and as to those allegations deny. As to the balance of the allegations deny sufficient information, at this time, to form a belief as to the truth of the matters asserted and therefore deny same and put petitioner to its strict proof.

22. As to the allegations contained in ¶ one hundred three (103) of the Amended Complaint, admit that Dr. Alwa represented to the patient that blowing the oxygen/ozone gas mixture into the patient's rectum and administering ozone baths to the patient was an experimental attempt to increase the oxygen content of the blood. As to the balance of the allegations contained in ¶ one hundred three (103) of the Amended Complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

23. As to the allegations contained in ¶ one hundred four (104) of the Amended Complaint, admit upon information and belief that this statement may be true in this case, however,

affirmatively allege, that it is not true in all cases and that various cases in opposition to the allegations contained in ¶ one hundred four (104) are contained in the medical literature.

24. As to the allegations contained in ¶ one hundred five (105) of the Amended Complaint, deny. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

25. As to the allegations contained in ¶ one hundred six (106) of the Amended Complaint, deny that Dr. Alwa made any representations that were false to the patient. Admit that the patient did not possess the specialized knowledge of a physician. As to the balance of the allegations deny.

26. As to the allegations contained in ¶ one hundred seven (107) of the Amended Complaint, admit that the patient received oxidative therapy from Dr. Alwa at Dr. Alwa's clinic in Lake Geneva, Wisconsin as set forth in Attachment C. As to the balance of the allegations, deny sufficient information to form a belief as to the truth of the matters asserted and therefore deny same and put Petitioner to its strict proof. Affirmatively allege that the respondent was completely honest with the patient and did nothing fraudulent, made no mis-representations and completely disclosed the procedures, purpose and intended results of the treatment rendered by the respondent.

27. As to the allegations contained in ¶ one hundred eight (108) of the Amended Complaint, deny.

28. As to the allegations contained in ¶ one hundred nine (109) of the Amended Complaint, deny.

29. As to the allegations contained in ¶ one hundred ten (110) of the Amended Complaint, admit.

30. As to the allegations contained in ¶ hundred eleven (111) of the Amended Complaint, admit.

31. As to the allegations contained in ¶ one hundred twelve (112) of the Amended Complaint, admit.

32. As to the allegations contained in ¶ one hundred thirteen (113) of the Amended Complaint, admit.

33. As to the allegations contained in ¶ one hundred fourteen (114) of the Amended Complaint, deny.

34. As to the allegations contained in ¶ one hundred fifteen (115) of the Amended Complaint, deny.

35. As to the allegations contained in ¶ one hundred sixteen (116) of the Amended Complaint, deny.

36. As to the allegations contained in ¶ one hundred seventeen (117) of the Amended Complaint, deny.

AFFIRMATIVE DEFENSES

NOW COMES the respondent, Rathna Alwa, M.D., by and through her attorneys of record, Blumenthal, Leib & Phelps, S.C. by Samuel J. Leib, and Dilling & Dilling by Kirkpatrick W. Dilling, and as and for Affirmative Defenses to the Amended Complaint of the complainant, on information and belief, allege as follows:

1. Reincorporate by reference any and all of the Affirmative Defenses set forth in the petitioner's original Answer and Amended Answer to the Complaint as though set forth at length.

WHEREFORE, Rathna Alwa, M.D. demands judgment in her favor as follows:

1. Dismissing the Amended Complaint in this action, with prejudice, together with costs, fees, disbursements and;
2. Any other such further relief as the court may deem just and proper.

DATED this 28th day of January, 1994, at Milwaukee, Wisconsin.

BLUMENTHAL LEIB & PHELPS, S.C.

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Samuel J. Leib
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a:Ans.RBS

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

JUNE 30, 1995

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)