

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
JOHNSPENCER C. ARCHINIHU, M.D., :
RESPONDENT. : **0003818**

Division of Legal Services and Compliance Case No. 13 MED 231

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Johnspencer C. Archinihu, M.D.
P.O. Box 782070
Orlando, FL 32878

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Johnspencer C. Archinihu, M.D., (dob December 24, 1958), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 34028-20, first issued on February 24, 1993, with registration current through October 31, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is Post Office Box 782070, Orlando, Florida 32878.

2. On March 11, 2013, the State of Florida Department of Health (FDH) conducted an inspection of Respondent's clinic in Orlando, Florida and found that, although licensure of pain management clinics was required, Respondent was operating an unlicensed pain management clinic.

3. During the inspection, investigators reviewed the records of 305 of the 449 patients that were treated at the clinic in a one-month period. Respondent prescribed controlled substances for the treatment of chronic non-malignant pain to 303 of the 305 patients whose records were reviewed.

4. As part of the inspection, the FDH obtained medical records for five patients. An independent medical expert retained by the FDH opined that Respondent's practice fell below the standard of care in his treatment of the five patients. Respondent prescribed controlled substances to the patients without adequate medical justification, and he failed to maintain adequate medical records.

5. On July 29, 2013, the FDH emergently suspended Respondent's license to practice medicine in the state of Florida.

6. On October 29, 2014, the FDH issued a final order reprimanding Respondent and suspending his license for a period of one year and six months. Respondent is to remain suspended until he undergoes an evaluation, and personally appears before the Board with said evaluation. Upon review of the evaluation the Board shall determine the conditions for reinstatement and may impose additional terms and condition on Respondent's practice. Further terms and conditions include, in part, the following:

- a. Respondent is permanently restricted from prescribing any Schedule I, including any THC related product, any Schedule II-IV medications identified in Chapter 893, Florida Statutes (2011-2013).
- b. Respondent may not treat patients for "chronic nonmalignant pain".
- c. Respondent's practice is permanently restricted in that he may not own, operate or practice in a "Pain Management Clinic".
- d. Respondent is to complete the course "Quality Medical Record Keeping for Health Care Professionals," or a Board-approved equivalent, and the course "Legal and Ethical Implications in Medicine Physician's Survival Guide – Laws and Rules," or a Board-approved equivalent. Both courses administered by the Florida Medical Association.
- e. Respondent shall engage an independent, certified licensed risk manager to review his current practice.
- f. Respondent shall pay an administrative fine of \$50,000.00.
- g. Respondent shall pay costs of \$17,726.87.

7. At this time Respondent has no plans to return to the state of Wisconsin to practice medicine and surgery.

8. In resolution of this matter, Respondent neither admits nor denies the allegations but consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Johnspencer C. Archinihu, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(c) (Oct. 2013) by having adverse action taken by another jurisdiction against his license to practice medicine and surgery.

3. By the conduct described in the Findings of Fact, Respondent Johnspencer C. Archinihu, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(c) (Oct. 2013) by prescribing, ordering, dispensing, administering, supplying, selling, or giving prescription medication in a manner that is inconsistent with the standard of minimal competence.

4. As a result of the above conduct, Johnspencer C. Archinihu, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Johnspencer C. Archinihu, M.D., is REPRIMANDED.
3. The medicine and surgery license issued to Johnspencer C. Archinihu, M.D., (license number 44674-20) is LIMITED as follows:
 - a. Respondent is to maintain full and complete compliance with all terms, limitations, and conditions imposed by the State of Florida Department of Health on his license to practice medicine in that state. Any violation of the Florida Order constitutes a violation of this Order and the Board may, without further notice or hearing, impose additional limitations or summarily suspend his license to practice in Wisconsin as the Board determines is advisable.
 - b. Respondent shall, within 48 hours, provide the Board with a certified copy of any document issued by the State of Florida Department of Health which continues, modifies, or removes the conditions of Respondent's continued practice of medicine in the State of Florida, including any document granting or denying, in whole or in part, reinstatement of Respondent's license to practice medicine and surgery in the state of Florida.
 - c. In the event Respondent applies for hospital privileges or seeks to practice medicine and surgery in the state of Wisconsin, he shall provide a copy of the Florida Order and this Order along with any application he submits or request he makes pertaining to privileges or employment.

d. In the event Respondent plans to practice medicine and surgery in the state of Wisconsin, he shall notify the Board of his intentions and Wisconsin practice address(es) at least thirty (30) days prior resuming practice here.

e. Respondent shall not engage in unprofessional conduct during the pendency of the Florida Order.

f. Upon Respondent providing proof sufficient to the Board, or its designee, that he has successfully complied with all terms and conditions of the October 29, 2014, Order of the State of Florida Department of Health, or any subsequent order, the Board or its designee shall remove the limitations set out in this Order.

4. Within 90 days from the date of this Order, Respondent Johnspencer C. Archinihu, M.D. shall pay COSTS of the matter in the amount of \$275.00.

5. Proof of compliance with the State of Florida Department of Health Order and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. If the Board finds probable cause to believe that Respondent has engaged in unprofessional conduct during the pendency of the limitations established by this Order, the Board may, in an act of discretion, summarily suspend Respondent's authorization to practice medicine and surgery in the state of Wisconsin, or impose limitations and conditions as the Board sees fit, without advance notice or hearing. Any suspension, removal of any stay of suspension, and imposed limitations shall remain in place until the Board closes any disciplinary case arising from the unprofessional conduct, or sooner if the Board determines that the change in the status of Respondent's license to practice medicine and surgery in Wisconsin, or the additional limitations are no longer necessary.

7. Violation of any of the terms of this Order, including violations of the Florida Order, failure to notify the Board in advance of return to practice or additional acts of unprofessional conduct may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's license (no. 34028-20) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs.

WISCONSIN MEDICAL EXAMINING BOARD

by: 
A Member of the Board

3/18/15
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOHNSPENCER C. ARCHINIHU, M.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

00038 18

Division of Legal Services and Compliance Case No. 13 MED 231

Respondent Johnspencer C. Archinihu, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's 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;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

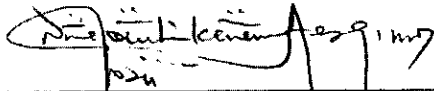
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

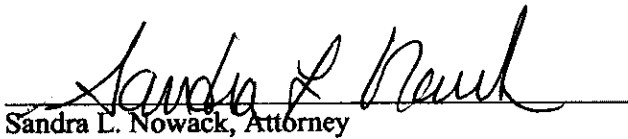
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Johnspencer C. Archinihu, M.D., Respondent
P.O. Box 782070
Orlando, FL 32878
License no. 34028-20

Date

3/3/15



Sandra L. Nowack, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

Date

3/5/15