

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

GRACIELA HERNANDEZ, M.D.,
RESPONDENT.

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FINAL DECISION AND ORDER

0003998

Division of Legal Services and Compliance Case No. 14 MED 422

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

Graciela Hernandez, M.D.,
2125 Elm Tree Rd
Elm Grove WI 53122

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 Graciela Hernandez, M.D., (DOB April 10, 1955), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 25608-20, first granted on October 28, 1983, 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 2125 Elm Tree Road, Elm Grove, Wisconsin 53122.

2. In 2014, the Department conducted an audit of physicians to determine their compliance with the continuing medical education requirements for the 2012-2013 biennium.

3. Respondent's name was randomly selected as a subject of the audit pursuant to Wis. Stat. § 448.13(1m).

4. Respondent did not request and was not granted a postponement or waiver of the continuing medical education requirements for the 2012-2013 biennium.

5. When Respondent was contacted pursuant to the audit, Respondent indicated that she wishes to voluntarily surrender her license.

6. In resolution of this matter, Respondent 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 violated Wis. Stat. § 448.13(1)(a) by failing to complete thirty (30) acceptable continuing medical education hours.

3. In violating Wis. Stat. § 448.13(1)(a), Respondent committed unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(1)(a).

4. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. The voluntary SURRENDER of the license to practice medicine and surgery in the State of Wisconsin issued to Graciela Hernandez, M.D., (license no. 25608-20) is hereby ACCEPTED.

3. Respondent shall not engage in the practice of medicine and surgery; use any title that represents or may tend to represent that she is licensed to practice medicine and surgery; represent herself as an individual who engages in the practice of medicine and surgery.

4. Respondent shall not petition for re-licensure for a period of one (1) year following the date of this order.

5. Should Respondent petition for re-licensure, Respondent shall first satisfy the Board or its designee that she has complied with the following:

- a. Respondent shall pay COSTS in this matter in the amount of \$100.00 before any such application may be considered.

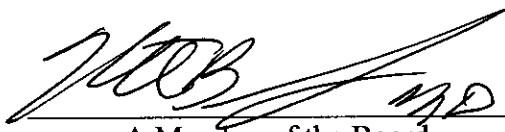
- b. Respondent shall successfully complete thirty (30) hours of continuing medical education for each biennium from 2012-2013 through the biennium in which Respondent seeks re-licensure. Continuing education completed pursuant to this paragraph shall comply with the requirements specified in Wis. Admin. Code Med § 13.02(1).
- c. Respondent shall submit proof, satisfactory to the Board or its designee, of the successful completion of the education.
- d. The education completed pursuant to this limitation may not be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.
- e. Respondent shall submit a new application for licensure and meet all requirements for licensure existing at the time of the application.
- f. Whether to grant licensure shall be in the discretion of the Board. The Board may, in its discretion, impose such limitations as it deems advisable.
- g. The decision of whether or not to grant re-licensure is within the Board's sole discretion and is not reviewable.

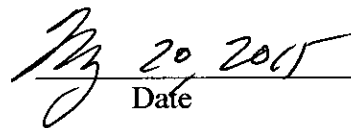
6. Violation of any terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a revocation of Respondent's right to reapply for licensure. The Department in its discretion may impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

7. This Order is effective on the date of its signing.

MEDICAL EXAMINING BOARD

By:


A Member of the Board

 20 2015
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

GRACIELA HERNANDEZ, M.D.,
RESPONDENT.

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STIPULATION

0003998

Division of Legal Services and Compliance Case No. 14 MED 422

Respondent Graciela Hernandez, 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 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.

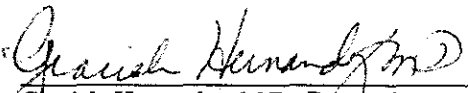
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

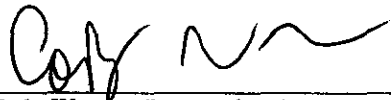
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.


Graciela Hernandez, M.D., Respondent
2125 Elm Tree Road
Elm Grove WI 53122
License no. 25608-20

4-28-2015
Date


Cody Wagner, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190
Tel. (608) 261-0116
Fax: (608) 266-2264

4/29/2015
Date