

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov



Before the
State Of Wisconsin
Medical Examining Board

In the Matter of Disciplinary Proceedings Against
Victor Ruiz, M.D., Respondent

FINAL DECISION AND ORDER

Order No. 0004664

Division of Legal Services and Compliance Case No. 14 MED 473

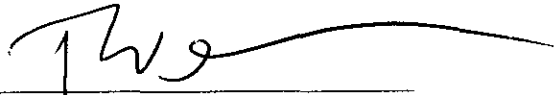
The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 20th day of April, 2016.



Member
Medical Examining Board



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Disciplinary Proceedings Against
Victor Ruiz, M.D., Respondent

DHA Case No. SPS-16-0014
DLSC Case No. 14 MED 473

PROPOSED DECISION AND ORDER

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Victor Ruiz, M.D.
37 Rivard Road
Needham, MA 02492

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

Department of Safety and Professional Services, Division of Legal Services and
Compliance, by

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

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal Complaint against Respondent Victor Ruiz, M.D. (Respondent), alleging that Respondent engaged in unprofessional conduct by failing to complete 30 continuing medical education hours during the 2012-2013 biennium, by failing to retain evidence of compliance with the continuing education requirements, and by failing to cooperate in a timely manner with the Board's investigation of a complaint filed against a license holder.

The Notice of Hearing and Complaint in this matter were served on Respondent by the Division on January 27, 2016, by both certified and regular mail, consistent with Wis. Admin.

Code § SPS 2.08. Respondent failed to file an Answer within 20 days as required by Wis. Admin. Code § SPS 2.09(4), and failed to appear at the telephone prehearing conference held on February 26, 2016. At the prehearing conference, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondent's failure to file an Answer to the Complaint and failure to appear at the prehearing conference, the undersigned Administrative Law Judge (ALJ) found Respondent to be in default.

On February 26, 2016, the ALJ issued a Notice of Default and Order against Respondent and ordered that the Division file a recommended proposed decision and order no later than March 11, 2016. The Division timely filed its required submission.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Fact 1-8 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Victor Ruiz, M.D., is licensed in the State of Wisconsin to practice medicine and surgery, having license number 53700-20, first issued on October 28, 2009, and current through October 31, 2017.

2. Respondent's most recent address on file with the Department is 37 Rivard Road, Needham, Massachusetts 02492.

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

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

5. The Department received an emailed response from the Respondent on June 2, 2015 indicating he believed that he had completed some continuing education hours; however, Respondent did not provide any evidence of completed education.

6. Respondent has failed to send any information to the Department and has failed to respond to follow-up correspondence sent on April 15, 2015; June 2, 2015; July 31, 2015 and November 9, 2015.

7. Respondent renewed his medicine and surgery license on November 3, 2015.

8. Respondent failed to demonstrate compliance with the continuing education requirements for the 2012-2013 biennium.

Facts Related to Default

9. The Complaint and Notice of Hearing in this matter were served on Respondent on January 27, 2016, by both certified and first class mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing instructed Respondent: “If you do not provide a proper Answer within 20 days, you will be found in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Board may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing.”

10. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

11. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for February 26, 2016. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide the ALJ with a telephone number at which he could be reached for the conference no later than February 22, 2016. The Notice instructed Respondent: “The Respondent’s failure to appear at the scheduled conference or hearing may result in default judgment being entered against the Respondent.”

12. Respondent failed to provide a telephone number at which he could be reached for the prehearing conference.

13. At the prehearing conference held on February 26, 2016, the Division provided a telephone number for Respondent. The ALJ attempted to contact Respondent but was unable to do so. The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). The ALJ granted the motion for default.

14. On February 26, 2016, the ALJ issued a Notice of Default and Order which required the Division to file and serve no later than March 11, 2016, a recommended proposed decision and order.

15. The Division timely filed its recommended proposed decision and order.

16. Respondent did not file a response to either the Division’s submission or to the Notice of Default and Order.

DISCUSSION AND CONCLUSIONS OF LAW

Default

As stated in the February 26, 2016 Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint and failing to appear at the prehearing conference held on February 26, 2016. *See* Wis. Admin. Code §§ SPS § 2.09(4) and 2.14; Wis. Admin. Code § HA 1.07(3). Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3).

Violations of Wisconsin Statute and Administrative Code

If the Board finds that a person is guilty of unprofessional conduct or negligence in treatment, the Board may warn or reprimand that person, and/or limit, suspend or revoke any license granted by the Board to that person. Wis. Stat. § 448.02(3)(c).

Unprofessional conduct is defined by Wis. Admin. Code § Med 10.03(1)(a) to include “[v]iolating or attempting to violate ch. 448, Stats., or any provision, condition, or term of a valid rule or order of the board.”

Wisconsin Stat. § 448.13(1)(a) provides that each physician shall, in each second year at the time of application for a certificate of registration, submit proof that the physician completed at least 30 credits of continuing education hours within the two calendar years preceding the calendar year for which the registration is effective.

As shown by the facts above, Respondent violated Wis. Stat. § 448.13(1)(a) by failing to provide proof that he had completed 30 continuing medical education hours approved by the Board during the 2012-2013 biennium. In violating Wis. Stat. § 448.13(1)(a), Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(1)(a) and is therefore subject to discipline pursuant to Wis. Stat. § 448.02(3).¹

Appropriate Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends that Respondent’s license to practice medicine and surgery in the State of Wisconsin be indefinitely suspended and limited to provide proof of compliance with continuing education requirements, as set forth in the Order section below.

Under the factors set forth in *Aldrich* and the facts of this case, the discipline recommended by the Division is warranted. The discipline protects the public by ensuring that Respondent practices only if he can show that he is in compliance with the continuing medical education requirements that apply to all physicians. It will serve to rehabilitate Respondent by requiring him to comply with the rules and by helping him understand that such compliance is not optional and that failure to comply is serious. Finally, it deters other licensees from engaging in similar conduct.

¹ The Division also alleged in its Complaint that Respondent violated Wis. Admin. Code § 13.05(2), which states that “[e]vidence of compliance shall be retained by each physician through the biennium for which 30 hours of credit are required for registration.” The Division further alleged in its Complaint that Respondent violated Wis. Admin. Code § Med 10.03(3)(g) by failing to cooperate in a timely manner with the Board’s investigation of a complaint filed against a license holder. Because the Division does not address these allegations in its recommended proposed decision and order, it appears to have abandoned them. Thus, this decision does not address these allegations.

Costs

The Division has the authority to assess costs pursuant to Wis. Stat. § 440.22. The Division requests that Respondent be ordered to pay the full costs of this investigation and of these proceedings. The factors to be considered in assessing costs are: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the Department is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz, D.C.*, LS0802183CHI (Aug. 14, 2008).

In this case, the Division has proven unprofessional conduct. The discipline recommended and imposed involves an indefinite suspension, one of the highest levels of discipline. In addition, Respondent has failed to participate in any way in these proceedings. Moreover, given the fact that the Department is a "program revenue" agency, whose operating costs are funded by the revenue received for licenses, fairness here dictates imposing the costs of disciplining Respondent upon Respondent and not fellow members of the medical profession who have not engaged in such conduct.

Based on the facts of this case and the factors delineated in *Buenzli-Fritz*, Respondent should be assessed all recoverable costs in this matter, as determined pursuant to Wis. Admin. Code § SPS 2.18.

ORDER

Accordingly, IT IS ORDERED that the license of Respondent Victor Ruiz, M.D., to practice medicine and surgery in the state of Wisconsin (license no. 53700-20) is INDEFINITELY SUSPENDED and LIMITED as follows:

- a. Respondent shall provide proof satisfactory to the Board or its delegate that he is in compliance with the continuing education requirements for the 2014-2015 biennium.
- b. Respondent shall provide proof satisfactory to the Board or its delegate that he has completed 30 hours of acceptable continuing medical education which shall be applied to the 2012-2013 biennium. These hours may not be applied to any other biennium.
- c. This order shall remain in effect until Respondent has complied with a and b above.

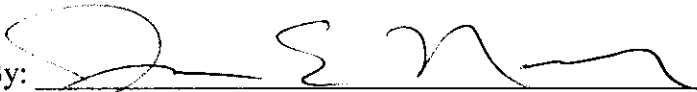
IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter in an amount to be established pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

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

IT IS FURTHER ORDERED that the terms of this Order are effective the date the Final Decision and Order is signed by the Board.

Dated at Madison, Wisconsin on March 11, 2016.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Tel. (608) 266-7709
Fax (608) 264-9885

By: 
Jennifer E. Nashold
Administrative Law Judge