

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF

JAMES P. GIERAHN, M.D.

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FINAL DECISION AND ORDER
FOR REMEDIAL EDUCATION

0005271

Division of Legal Services and Compliance Case No. 16 MED 400

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

James P. Gierahn, M.D.
One N. Main Street
Racine, WI 53403

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. Licensee James P. Gierahn, M.D. (DOB May 2, 1949), is licensed by the State of Wisconsin to practice medicine and surgery, having license number 21389-20, first issued on January 20, 1978, with registration current through October 31, 2017. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is One N. Main Street, Racine, Wisconsin 53403.
2. Licensee is certified by the American Board of Internal Medicine.
3. Patient A, a female born in 1933, was a resident of a care facility in Racine, Wisconsin (Facility). At all relevant times, Licensee was Patient A's attending physician at the Facility.

4. At all relevant times, Patient A was competent to make her own medical decisions and was not the subject of an activated Power of Attorney for Health Care.

5. On November 9, 2015, Patient A was admitted to a hospital in Racine, Wisconsin (Hospital) for altered mental status.

6. On November 11, 2015, Patient A was discharged back to the Facility. The discharging physician noted that Patient A's code status was full code.

7. On November 11, 2015, Patient A's code status was changed to "do not resuscitate" (DNR) at the Facility. While Patient A's medical charting reflected her desire to be DNR, the form changing Patient A's code status to DNR was signed by Patient A's granddaughter, but not by the patient herself.

8. Licensee verbally authorized Patient A's change in code status and a physician order was placed in the patient's chart. Licensee did not sign the physician order on the date it was issued.

9. On December 7, 2015, a family member questioned Patient A's DNR status and Licensee verbally rescinded his unsigned November 11, 2015 order, thereby returning Patient A to full code status. That same day, Patient A was found with her head slumped forward and was transported to the Hospital for medical care and treatment.

10. Licensee did not participate in Patient A's care after December 7, 2015. On December 8, 2015, Licensee signed his November 11, 2015 order for Patient A's code status change to "do not resuscitate" even though he had verbally rescinded it the day before.

11. On December 15, 2015, Patient A was discharged from the Hospital to another care facility. Patient A passed away on January 6, 2016.

12. In resolution of this matter and to avoid further expense and litigation, Licensee consents to the entry of the following Conclusions of Law and Order and denies any wrongdoing.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

ORDER

1. The attached Stipulation is accepted.

2. Within six (6) months of the date of this Order, James P. Gierahn, M.D., shall at Licensee's own expense take and successfully complete four (4) hours of education on documentation or advanced directives as follows:

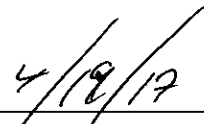
- a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the course(s) from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
 - b. Licensee shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.
3. Requests for course approval and proof of successful course completion shall be sent by Licensee 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DPSMonitoring@wisconsin.gov

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

WISCONSIN MEDICAL EXAMINING BOARD

by: 
A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :
 :
JAMES P. GIERAHN, M.D. : STIPULATION
 : **0005271**

Division of Legal Services and Compliance Case No. 16 MED 400

Licensee James P. Gierahn, 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. Licensee consents to the resolution of this investigation by Stipulation.

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

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee'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 Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Licensee is represented by Attorney Michael P. Russart.

4. Licensee 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. Licensee 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 Licensee, 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. Licensee 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 Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.




James P. Gierahn, M.D., Licensee
One N. Main Street
Racine, WI 53403
License No. 21389-20

4/06/2017
Date



Michael P. Russart, Attorney for Licensee
Hinshaw & Culbertson, LLP
100 E. Wisconsin Avenue, Suite 2600
Milwaukee, WI 53202

4/07/2017
Date



Colleen L. Meloy, Attorney
Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

4/10/2017
Date