

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

ROBERT M. GERSON, M.D.,
RESPONDENT.

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:
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: FINAL DECISION AND ORDER
:
:

0005849

Division of Legal Services and Compliance Case No. 15 MED 396

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

Robert M. Gerson, M.D.
2528 Countryside Drive
Delavan, WI 53115-2775

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 Wisconsin 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 Robert M. Gerson, M.D. (DOB April 7, 1953) is licensed in the State of Wisconsin to practice medicine and surgery, having license number 25931-20, first issued on July 1, 1984, with registration current through October 31, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2528 Countryside Drive, Delavan, Wisconsin 53115-2775.

2. On January 19, 2016, the Department received a National Practitioner Data Bank report of medical malpractice settlement related to allegations that a cosmetic procedure Respondent performed yielded poor results.

3. Respondent has retired from the practice of medicine due to health reasons and has no intention of returning to practice other than providing non-surgical volunteer services.

4. Respondent denies any unprofessional conduct and consents to the entry of the following Conclusion of Law and Order in resolution of this matter.

CONCLUSION 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).

ORDER

1. The attached Stipulation is accepted.

2. The medicine and surgery license issued to Robert M. Gerson, M.D. (license number 25931-20, is LIMITED as follows.

3. Prior to performing any non-surgical volunteer services, Respondent shall, at his own expense, undergone a competency assessment with a pre-approved physician experienced in evaluating health care practitioners' competence for duty:

- a. The provider performing the assessment must not have treated Respondent and shall have been approved by the Board or its designee, prior to the assessment being performed.
- b. Within fifteen (15) days of the completion of the assessment, a written report of the assessment shall be submitted by the Respondent to the Department Monitor at the address below. The report shall address whether Respondent suffers from any condition(s) that may interfere with his ability to safely provide non-surgical volunteer services and, if so, shall recommend any limitations needed for safe practice.
- c. Prior to the assessment, Respondent shall provide a copy of this Final Decision and Order to the health care provider.
- d. Respondent shall execute necessary documents authorizing the Division to obtain records of assessment, and to discuss Respondent and his case with the assessing physician. Respondent shall execute all releases necessary to permit disclosure of the final assessment report to the Board or its designee.
- e. Respondent shall identify and provide the assessing physician with authorizations to communicate with all physicians and facilities at which Respondent has been treated or evaluated.

- f. Respondent shall comply with any and all reasonable requests by the assessing physician for purposes of scheduling and completing the assessment, including additional testing the examiner deems helpful. Any lack of reasonable and timely cooperation, as determined by the examiner, may constitute a violation of an order of the Board.
 - g. Respondent is responsible for timely payment of the costs of the assessment. Payment shall be made directly to the assessing physician.
 - h. Respondent must provide proof sufficient to convince the Board that Respondent is able to, while performing non-surgical volunteer services, practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner.
 - i. If the Board determines that Respondent is not fit to practice, the Board may suspend Respondent's license until Respondent provides proof sufficient to convince the Board that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner. In the alternative, the Board may limit Respondent's license in a manner to address any concerns the Board has as a result of the assessment report.
4. In the event Respondent desires to perform any surgical procedures in the future, Respondent must first petition the Board and provide:
- a. Evidence satisfactory to the Board that Respondent is able to perform surgical procedures with reasonable skill and safety of patients and public.
 - b. Documentation of a competence assessment through CPEP and successful completion of any educational recommendations, other recommendations, or additional testing provided in CPEP's report within one hundred-eighty (180) days of Respondent's petition to the Board, is pre-approved, and shall be considered evidence satisfactory to the Board of Respondent's competence to perform surgical procedures.
 - c. The Board may require Respondent to undergo, and may consider the results of, one or more physical, mental or professional competency examinations if the Board believes that the results of any such examination may be useful to the Board.
5. Respondent is responsible for timely payment of all costs incurred by complying with this Order.
6. Whether to remove this limitation from Respondent's license shall be within the sole discretion of the Board.
7. The assessment report(s) shall be sent by Respondent to the Department Monitor at the address below:

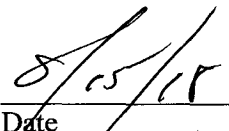
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

8. In the event Respondent violates any term of this Order, Respondent's license (no. 25931-20), or Respondent's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

9. 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 DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT M. GERSON, M.D.,
RESPONDENT.

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STIPULATION

0005849

Division of Legal Services and Compliance Case No. 15 MED 396

Respondent Robert M. Gerson, 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.

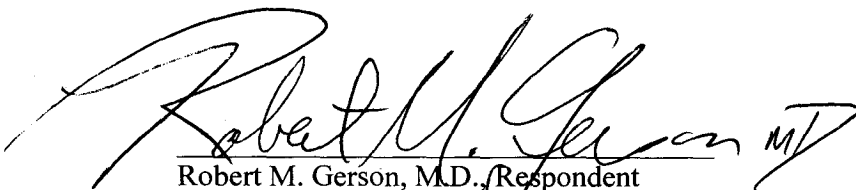
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

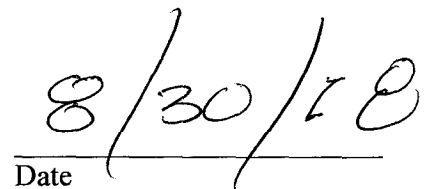
of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.


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.

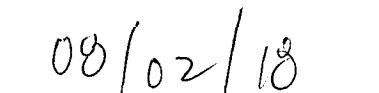
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.


Robert M. Gerson, M.D., Respondent
2528 Countryside Drive
Delavan, WI 53115-2773
License no. 25931-20


Date


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


Date