

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
JOHN W.P. HORAN, M.D., :  
RESPONDENT. : **ORDER 0006729**

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Division of Legal Services and Compliance Case Number 16 MED 014

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

John W.P. Horan, M.D.  
Omro, WI

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 John W.P. Horan, M.D. (DOB XX-XX-1964), is licensed by the State of Wisconsin to practice medicine and surgery, having license number 50382-20, first issued on May 17, 2007, with registration current through October 31, 2021.
2. At all times relevant to this matter, Respondent practiced orthopedic surgery in Wisconsin.
3. In prior case 13 MED 362, Respondent stipulated to Medical Examining Board Order # 0033432-00010115 for allegedly utilizing incorrectly sized parts during a hip arthroplasty and failing to recognize and/or communicate post-operative x-ray findings to the patient.

Respondent successfully completed 10 hours of remedial education related to arthroplasty and interpretation and principles of radiography.

4. Respondent was recertified by his Board in 2015.
5. In December 2007, Respondent saw Patient K.M. for evaluation and treatment of bilateral shoulder pain. Patient K.M. had previously undergone rotator cuff surgery on both shoulders.
6. On February 4, 2008, Respondent performed the first of several shoulder surgeries on Patient K.M. – a revision of his right rotator cuff repair.
7. On April 4, 2008, Respondent performed a second surgery on Patient K.M. – an irrigation and debridement with revision of right rotator cuff repair and a deltoid rupture repair.
8. On May 8, 2008, Respondent performed a third surgery on Patient K.M. – a right shoulder hemiarthroplasty and rotator cuff debridement.
9. On July 9, 2008, Respondent performed the first surgery on Patient K.M.'s left shoulder – a rotator cuff repair. Respondent's post-operative diagnosis was a massive rotator cuff tear.
10. On August 1, 2008, Respondent performed a second surgery on Patient K.M.'s left shoulder – a left shoulder hemiarthroplasty.
11. On March 7, 2009, Respondent performed a third surgery on Patient K.M.'s left shoulder – a conversion of the left shoulder hemiarthroplasty to a left total shoulder arthroplasty.
12. On April 29, 2009, Patient K.M. was adamant that the right shoulder be converted to a total shoulder arthroplasty before his heavy work season started.
13. On May 13, 2009, Respondent performed a fourth surgery on Patient K.M.'s right shoulder – a conversion of the right shoulder hemiarthroplasty to a right total shoulder arthroplasty.
14. On October 2, 2009, Respondent was screened for a pain treatment program by Dr. Dremel. According to the chart, Respondent reported that his shoulder surgeries have left him with chronic pain and weakness bilaterally and that he has difficulty lifting his arm or moving his shoulders.
15. On February 15, 2010, Patient K.M. got a second opinion from Dr. Steven Grindel of the Medical College of Wisconsin. Dr. Grindel charted the following:

[Patient K.M.] is a 49-year-old right-hand dominant male who has had bilateral shoulder surgeries, 4 times on each shoulder. He had had prior rotator cuff repairs which were complicated with an infection, and then this was followed by attempted shoulder replacement. It looks as though a total shoulder replacement was done on the right followed by what I understand to be a CTA hemiarthroplasty on the left which was then followed by glenoid replacement, which is sort of an unusual order in which to do that.

16. On March 23, 2010, Patient K.M. returned to Dr. Grindel. In his progress note, Dr. Grindel stated that the “[right] component is now dislodged from the glenoid and dislocated. Unfortunately he has not been compliant with his pain meds and in establishing a primary care physician. Given the complexity of his problem I feel that he must demonstrate a greater commitment with his care and show us that he is compliant before I will consider surgical intervention.”

17. On June 25, 2010, Patient K.M. returned to Respondent who performed a fifth surgery on his right shoulder – a conversion of the right total shoulder arthroplasty to a CTA hemiarthroplasty and removal of the glenoid – due to Patient K.M.’s continued pain and disability, Dr. Grindel’s refusal to treat him, and because the total arthroplasty failed.

18. On September 16, 2010, Respondent performed a fourth surgery to Patient K.M.’s left shoulder – a conversion of the left total shoulder arthroplasty to a hemiarthroplasty – due to Patient K.M.’s continued disability, Dr. Grindel’s refusal to treat him, and because the total arthroplasty failed.

19. On January 31, 2013, Patient K.M. went to the Mayo Clinic and underwent a reimplantation of both shoulder joints with a reverse total shoulder arthroplasty.

20. The documentation in Patient K.M.’s healthcare chart of a discussion between Respondent and Patient K.M. regarding the nine shoulder surgeries, their medical justification and the related surgical risks, or the availability of alternate modes of medical treatment and the risks/benefits of each is incomplete.

21. Respondent has proven successful completion of the following fourteen (14) continuing medical education (CME) hours on total shoulder arthroplasty and reverse shoulder arthroplasty, and three (3) CME hours on clinical documentation:

a. March 3-4, 2017: Stryker Orthopaedics – *Simplifying Shoulder Arthroplasty: A focus on glenoid exposure & surgical technique.*

b. January 28, 2020: Medical Management Institute – *CDI Basics: Clinical Documentation Improvement.*

22. 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 John W.P. Horan, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(h)<sup>1</sup> by

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<sup>1</sup> All references to the Wisconsin Administrative Code are to the Code in effect at the time of the alleged conduct.

engaging in any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.

3. By the conduct described in the Findings of Facts, Respondent John W.P. Horan, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(za) by failing to maintain patient health care records consistent with the requirements of ch. Med 21.

4. As a result of the above conduct, John W.P. Horan, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

#### ORDER

1. The attached Stipulation is accepted.

2. Respondent John W.P. Horan, M.D, is REPRIMANDED.

3. The Board recognizes and accepts the successful completion of the above-described CME credits as the equivalent of the education it would have otherwise ordered.

4. The three (3) CME hours on clinical documentation completed by Respondent during the current reporting period may not be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.

5. Within 90 days from the date of this Order, Respondent shall pay COSTS of these matters in the amount of \$3,000.00.

6. 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 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

You may also submit this information online via DSPS Monitoring Case Management System here: <https://app.wi.gov/DSPSMonitoring>.

7. In the event Respondent violates any term of this Order, his Wisconsin license to practice medicine and surgery (license number 50382-20), or his 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Kenneth Simons MD  
A Member of the Board

3/27/2020  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JOHN W.P. HORAN, M.D.,  
RESPONDENT.

:  
:  
:  
:  
:

STIPULATION

**ORDER 0006729**

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Division of Legal Services and Compliance Case No. 16 MED 014

Respondent John W.P. Horan, 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. Respondent is represented by Attorney Paul Erickson.

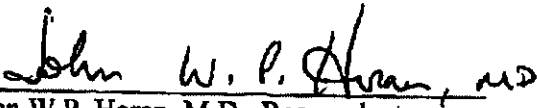
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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 or Respondent's attorney, 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.

  
John W.P. Horan, M.D., Respondent  
License No. 50382-20

18 Feb 2020  
Date

  
Paul Erickson, Attorney for Respondent  
Gutglass, Erickson, Larson & Schneider, S.C.  
735 N. Water St., Suite 1400  
Milwaukee, WI 53202

2-20-2020  
Date

  
Julie Zimmer, Prosecuting Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

2/21/2020  
Date