

## 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  
DAVID L. GEARHART, M.D., :  
RESPONDENT. : **ORDER 0008693**

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Division of Legal Services and Compliance Case No. 21 MED 316

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

David L. Gearhart, M.D.  
Town and Country, MO 63131

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. David L. Gearhart, M.D. (Respondent), (Year of Birth 1945) is licensed in the state of Wisconsin to practice medicine and surgery having license number 73367-20, first issued on May 26, 2020, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services is in Town and Country, Missouri 63131.

2. At all times relevant to this proceeding, Respondent practiced on a locum tenens basis providing weekend OB/GYN coverage at a hospital located in Janesville, Wisconsin (Facility). Respondent is a board-certified Obstetrician-Gynecologist.

3. The Facility filed a complaint with the Board alleging that Respondent erroneously utilized non-absorbable nylon sutures to repair postpartum right and left side vaginal tears on a 28-year-old patient who sought medical attention following a home birth assisted by a midwife.

4. Respondent denies utilizing non-absorbable nylon sutures. Respondent asserts that he directed the attending nurse to provide him with absorbable sutures and to the best of his knowledge, he utilized absorbable sutures when repairing the injury.

5. Respondent does not intend on practicing in Wisconsin after August 2023 and in the interests of resolving this matter without incurrence of further time or cost, consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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 SURRENDER by Respondent of his license and registration to practice medicine and surgery in the state of Wisconsin (license no. 73367-20), as well as his right to renew such license and registration, is accepted and is effective August 30, 2023.

3. In the event Respondent petitions the Board for reinstatement of his license and registration to practice medicine and surgery in the state of Wisconsin or applies for another credential in the state of Wisconsin under Wis. Stat. chs. 440 through 480, Respondent shall pay the costs of this matter in the amount of \$2040.00, before any petition or application for a credential will be considered by the applicable board or Department.

4. In the event Respondent petitions the Board for reinstatement of his license to practice medicine and surgery in the state of Wisconsin, the Board may enter an order denying such application without further notice or hearing. Whether to grant a license and registration and whether to impose any limitations or restrictions on any license and registration granted shall be in the sole discretion of the Board and such decision is not reviewable.

5. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 266-2112; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmmonitoring.wi.gov>.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Stephen A. Wasserman, MD  
A Member of the Board

8/16/2023  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DAVID L. GEARHART, M.D.,  
RESPONDENT.

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STIPULATION

ORDER 0008693

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Division of Legal Services and Compliance Case No. 21 MED 316

David L. Gearhart, M.D. (Respondent), 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 Mark Larson.

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

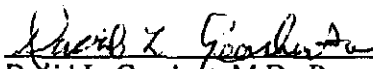
accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.


9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
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David L. Gearhart, M.D., Respondent  
Town and Country, MO 63131  
License No. 73367-20

07/18/2023  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Mark Larson, Attorney for Respondent  
Gutglass, Erickson, Larson & Schneider, S.C.  
735 N. Water St., Ste 1400  
Milwaukee, WI 53202

07/19/2023  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Gretchen Mrozinski, Prosecuting Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

7/20/2023  
\_\_\_\_\_  
Date