

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

JUAN FERNANDEZ III, M.D.,

FINAL DECISION AND ORDER

RESPONDENT

LS0109202MED  
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The parties to this action for the purposes of § 227.53, Stats., are:

Juan Fernandez III, M.D.

2600 Stewart Ave., Suite 270

Wausau, WI 54401

Wisconsin Medical Examining Board

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining 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

1. Juan Fernandez III, M.D., Respondent, date of birth June 10, 1956, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin, pursuant to license number 30727, which was first granted September 27, 1989.
2. Respondent's last address reported to the Department of Regulation and Licensing is 2600 Stewart Avenue, Suite 270, Wausau, Wisconsin, 54401.
3. Respondent specializes in the practice of psychiatry.
4. Respondent provided psychiatric services to Ms. A from January 8, 1991, when she was 37 years of age, through August 1994. Ms. A was initially referred to Respondent by her psychotherapist, who practiced in a different clinic, to determine appropriate medications for Ms. A's depression.
5. Respondent initially diagnosed Ms. A with:
  - Axis 1: Major Depressive Disorder, Recurrent.
  - Axis 2: Passive and Dependent Personality Trait.

6. Beginning March 23, 1991, Ms. A's primary psychotherapist began performing hypnotherapy and "age regression therapy" with Ms. A to "go back to some childhood issues she had blocked."

7. Ms. A was hospitalized by Respondent in May 1991 because of severe depression and suicidality. While Ms. A was hospitalized, her primary psychotherapist continued to perform hypnotherapy and age regression therapy. As a result of that therapy, on May 21, 1991, Ms. A began to question whether she had been the victim of childhood sexual abuse committed by her father. After further sessions, she became convinced that the sexual abuse had occurred and later brought a civil action against her father, which was dismissed.

8. As Ms. A's condition deteriorated, the primary psychotherapist requested that Respondent assume a more active role in providing psychotherapy. In a hospitalization of May 1992, Respondent diagnosed Ms. A as having a dissociative disorder, not otherwise specified. Ms. A was manifesting behavior which led her treaters to conclude that she had "alters" and Respondent diagnosed multiple personality disorder during a hospitalization of June 1992.

9. By July 14, 1992, after Respondent began using hypnotherapy and guided imagery in Ms. A's treatment, Ms. A came to believe that she had been the victim of satanic ritualistic abuse as a child and that she was being pursued by a multi-generational satanic cult.

10. There is no evidence to support any of Ms. A's beliefs, which she held while receiving treatment from Respondent, that Ms. A had been the victim of childhood sexual abuse by her father, had been the victim of ritualistic abuse and was being pursued by a multi-generational satanic cult.

11. During the time Respondent provided treatment to Ms. A, her condition worsened. She threatened suicide on many occasions and had many inpatient psychiatric hospitalizations.

12. In July 1994, Ms. A began to receive therapy from a psychotherapist in Eau Claire and stopped receiving treatment from Respondent.

13. On March 10, 1995, Ms. A, her husband and her daughters commenced a civil action against Respondent in Marathon County Wisconsin (Case number 95 CV 138), alleging that Respondent was negligent in the care he rendered to Ms. A. The amended complaint in that matter alleged Respondent was negligent in:

- a. Not properly diagnosing and treating the problems with which Ms. A presented;
- b. Misdirecting the focus of Ms. A's therapy to recover false memories of childhood sexual abuse and satanic ritual abuse;
- c. Negligently using hypnosis and failing to recognize the problems of using hypnosis in the treatment of Ms. A;
- d. Misdiagnosing Ms. A as multiple personality disorder and a victim of childhood sexual abuse and satanic ritual abuse;
- e. Implanting false memories in Ms. A and failing to recognize that the memories which were being created in Ms. A were false memories;
- f. Handling the transference and countertransference phenomenon existing in the therapeutic relationship with Ms. A.

14. Respondent filed an answer in the civil matter asserting that he was not negligent in any manner in providing care to Ms. A.

15. A trial was held in the civil matter, during which expert witnesses testified in support of the plaintiffs' position and other expert witnesses testified in support of Respondent's position. On September 2, 1999, the jury rendered a verdict that Respondent was negligent in his diagnosis and treatment of Ms. A and in obtaining her informed consent and that the negligence caused Ms. A's injuries.

16. Judgment was entered on January 21, 2000, by which:

- a. Ms. A's husband was awarded \$31,538.46 plus interest and costs.
- b. Ms. A was awarded \$450,000 plus interest and costs.
- c. Each of Ms. A's two daughters was awarded \$190,000 plus interest and costs.

17. § 448.02(3)(b), Stats., provides that a finding by a court that a physician has acted negligently in treating a patient is conclusive evidence that the physician is guilty of negligence in treatment.

18. Respondent's current practice primarily consists of the evaluation and treatment of children and adolescents

(70-80%). Respondent is providing care to only three patients with dissociative disorder diagnoses. All are adults, and:

- a. They have other primary psychotherapists.
- b. They see Respondent for medication management and some supportive psychotherapy.
- c. Respondent does not use hypnosis, guided imagery, "trauma work," or insight oriented therapy in their care.

19. Neither the Board nor the Division of Enforcement has ever received any other complaint against Respondent.

#### CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction over this matter pursuant to § 448.02(3), Stats.
2. The Wisconsin Medical Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.
3. The Respondent having been found to be negligent in treating a patient, as described above, is subject to discipline pursuant to § 448.02(3)(c), Stats.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Effective immediately, Respondent shall not use hypnotherapy or guided imagery in the treatment or evaluation of any patient.
2. Effective immediately, except as provided in paragraph 3 below, Respondent shall not evaluate or treat any person diagnosed as having a dissociative disorder, as defined by the Diagnostic and Statistical Manual, Fourth Edition and subsequent editions as they are published.
3. Respondent may prescribe, including monitoring and managing, medications for anxiety or depression to persons diagnosed with dissociative disorders, whose dissociative disorders are being treated by other practitioners.
4. These limitations on Respondent's license shall be removed upon Respondent providing proof sufficient to the Board that Respondent has obtained the training and experience necessary to:
  - a. Provide effective hypnotherapy and guided imagery to patients.
  - b. Provide effective evaluation and treatment of patients with dissociative disorders.
5. If Respondent desires to enter into a program to obtain training and experience in hypnotherapy and guided imagery or the evaluation and treatment of patients with dissociative disorders, Respondent shall petition the Board for modifications of these limitations, which will allow Respondent to engage in the training program. With the petition, Respondent shall provide the Board with sufficient information about the program and the supervision Respondent will receive in the program, so that the Board may determine whether to grant the petition, and what, if any, requirements to impose regarding Respondent's participation in the program.
6. Any petition or request for modification of removal of the limitations and any proof of training or experience shall be mailed, faxed or delivered to:

Department Monitor  
Department of Regulation And Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax: (608) 266-2264

7. Violation of any term or condition of this Order may constitute grounds for revocation of Respondent's license

to practice medicine and surgery in Wisconsin. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, the Board may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

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

Dated at Madison, Wisconsin this 20<sup>th</sup> day of September, 2001.

Sidney Johnson, M.D. Wanda Roever

Secretary

Medical Examining Board