After dozens of patients file claims, a New Mexico neurosurgeon is deemed unfit for duty

By Colleen Heild / Journal Investigative Reporter Jan 12, 2025



After $19 million in medical malpractice payouts to settle 26 patient claims, Albuquerque neurosurgeon Mark Erasmus has lost his license to practice medicine in New Mexico.

It didn't come soon enough for Diane Jennifer Gutierrez, a 52-year-old single mother who is now partially paralyzed.

The New Mexico Medical Board concluded last April that Erasmus exhibited "manifest incapacity or incompetence," making him unfit to continue working as a doctor. A state district judge on Dec. 30 upheld the board's decision to revoke Erasmus' medical license, but he intends to appeal.

Erasmus, who was first licensed as a physician in New Mexico in 1979, is also fighting a malpractice lawsuit filed by Gutierrez against him and Lovelace Medical Center in Albuquerque, where she underwent spinal fusion in February 2022 to relieve upper back and shoulder pain that radiated down her left arm, her lawsuit stated.

"She literally walked in there and never walked again," said her attorney Lisa Curtis of Albuquerque last week. Deposition testimony in the case shows that a month before the surgery, Erasmus had some kind of medical event that forced him to stop operating on a different patient. Another surgeon had to finish the procedure.

Curtis contends he passed out, but Erasmus said he never lost consciousness and was later cleared by a cardiologist.

Gutierrez is one of four of Erasmus' former patients currently suing him for medical negligence in New Mexico state district court. Three of the four are now wheelchair users or are quadriplegic.

Since 2021, the 73-year-old physician has been sued for medical malpractice nine times — a factor cited in the license revocation order by the state medical board, which oversees licensing and discipline of physicians and physician assistants in the state.

The board also contended there was credible evidence that from 2001 to the present, more than $19 million has been paid out by insurance carriers to settle 26 malpractice claims involving Erasmus.

The board also cited the fact that Erasmus agreed to undergo a "fitness for duty evaluation and a neuropsychological evaluation to determine safety to practice." The evaluations began in December 2022, 10 months after Gutierrez's surgery.

"The results of those evaluations show respondent is not fit to practice medicine," stated a notice of contemplated action the medical board sent to Erasmus in September 2023.

His attorney, Bryan Davis, in an appeal of the board's decision, contended his client had been deemed unfit for duty specifically as a neurosurgeon but wasn't considered unfit to practice medicine generally.

Davis also contended that the $19 million in payouts was "unsubstantiated" and contended the allegation "ignored the reality that insurance companies settle medical malpractice cases that are defensible and winnable for many reasons besides whether the physician actually committed malpractice." There were also defendants other than Erasmus who were named in the lawsuits, Davis wrote.

Davis, in a phone interview on Friday, said his client didn't want to settle some of the claims but was overruled by other defendants, such as the hospitals that were sued.

In recent years, Davis said, Erasmus had some health conditions, including long COVID. At the time of Gutierrez's surgery he also was going through a bad divorce, according to board documents.

Erasmus would like to be able to teach, do insurance reviews and independent medical exams, stated the board in recounting his testimony during a 2023 hearing on his license.

"He's not intending to set foot in an operating room again," Davis told the Journal.

Several of the lawsuits fault Lovelace for permitting Erasmus to work as a neurosurgeon in its facilities despite his history of malpractice payouts.

"It can be only for monetary profit that Lovelace Medical Center and its owners and operators would hire, retain, credential and privilege such a well-known incompetent surgeon as Dr. Erasmus," stated Gutierrez's lawsuit. Erasmus was employed as a staff neurosurgeon by Southwest Medical Group at Lovelace Medical Center from 2020 to February 2023. Previously, he was affiliated with Presbyterian Hospital.

Holly Armstrong, an Albuquerque attorney representing Erasmus and Lovelace in the Gutierrez case, wrote in one court filing that the defendants "deny they provided negligent care to Ms. Gutierrez, deny they breached the appropriate standard of care, and deny there were any improper omissions in the care provided." Armstrong couldn't be reached for comment late last week.

Erasmus has blamed Gutierrez's injuries on a stroke, but her lawsuit disputes that as the cause of her permanent weakness in her arms and legs and paralysis. It alleges Erasmus permanently damaged her spinal cord and later wrote in her medical record that there were no complications in surgery.

State records show it's rare for the New Mexico Medical Board to revoke a physician's license, and even more unusual for the board to cite malpractice settlements as among the reasons to open an inquiry. Typically, revocations have occurred when physicians have sexual relations with patients, are criminally charged with crimes like drunken driving, or overprescribe opioids.

Interim Medical Board executive director Monique Parks told the Journal in an email last week that details about the board's investigations are confidential.

Asked why the board decided to take action on Erasmus' license after 26 malpractice claims, Parks said, "It is common practice for state medical boards to use malpractice data as a tool to detect unprofessional conduct that may violate the Medical Practice Act. Some boards have built-in levels of malpractice that trigger investigations, such as a certain number of malpractice settlements in a certain span of time."

Parks wouldn't say whether the New Mexico Medical Board has adopted such a "built-in level" for malpractice claims, saying only, "medical malpractice settlements and claims may be an important consideration in deciding the scope of a complaint and investigation by the board."

“The NMMB staff exercises broad discretion,” she added, “depending on the facts and circumstances, when opening an investigation and an administrative proceeding, with the oversight and expertise of our board members as mandated by the Medical Practice Act.”

The Gutierrez lawsuit faulted Lovelace officials for failing to warn Gutierrez before her surgery about the multiple other prior malpractice claims naming Erasmus.

“She’s a smart lady and she couldn’t have known this,” said Curtis. At the time of the surgery, she added, Gutierrez had been taking care of her son, now 11, after receiving a buyout from Verizon, where she had been a manager.

Curtis lauded the board’s decision.

“I think the board was trying to send a message: We’re not going to tolerate this quality of physicians for patients anymore.”