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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

GENE E. VRADENBURG, D.C.

Respondent

FINAL DECISION AND ORDER

LS0108311CHI

The parties to this proceeding, for the purposes of sec. 227.53, Stats., are:

Gene E. Vradenburg, D.C.

800 Wisconsin Street, MB 84

Eau Claire, WI 54703

Department of Regulation & Licensing

Division of Enforcement

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708

State of Wisconsin Chiropractic Examining Board

1400 East Washington Avenue

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Madison, WI 53708

A Class II hearing was conducted in the above-captioned matter on October 16, 2000, at 1400 East Washington Avenue, Madison, Wisconsin. The Division of Enforcement appeared by Attorney John R. Zwieg. Dr. Vradenburg did not appear, nor did anyone appear to represent him.

Based upon the entire record in this case, the Chiropractic Examining Board adopts as its final decision in the matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Gene E. Vradenburg, D.C. (Dr. Vradenburg), 800 Wisconsin Street, MB 84, Eau Claire, WI 54703, is licensed to practice chiropractic in Wisconsin by license # 2704, Granted on March 12, 1991.
2. Dr. Vradenburg practiced chiropractic at the following locations during the periods indicated:
 - a. Bircher-Vradenburg Chiropractic Clinic, Chippewa Falls, from April, 1991, until approximately March, 1995. He was a partner in the clinic.
 - b. Mill Run Chiropractic Clinic, Eau Claire, Wisconsin, from April, 1995, until May, 1997. He was the sole proprietor of the clinic.

c. Vradenburg Chiropractic Clinic, Eau Claire, Wisconsin, from May, 1997 until the time of the proceedings herein. He is the sole proprietor of the clinic.

3. In April, 1992, Ms. A (DOB: 3/28/55) began receiving chiropractic treatment for chronic health problems, primarily chronic fatigue, from Dr. Bircher at the Bircher-Vradenburg Chiropractic Clinic.
4. In September 1993, Ms. A applied for a position as a chiropractic assistant at the clinic and was hired by Dr. Bircher to be Dr. Vradenburg's assistant at the clinic. At that time, Ms. A also began receiving her chiropractic treatment from Dr. Vradenburg.
5. Dr. Vradenburg provided treatment on a regular basis to Ms. A at the Bircher-Vradenburg Chiropractic Clinic, until they both left the clinic in March of 1995. Records of the treatment provided to Ms. A were kept until April 29, 1994. Although no records were maintained after that date, treatment continued there until they left employment at the clinic.
6. In the summer of 1994, Dr. Vradenburg and Ms. A developed a personal/sexual relationship, while she was his patient.
7. When Dr. Vradenburg left the Bircher-Vradenburg Chiropractic Clinic to begin his own practice in April, 1995, Ms. A worked as Dr. Vradenburg's assistant at the Mill Run Chiropractic Clinic. While there, Dr. Vradenburg continued to provide Ms. A with chiropractic services as part of her employment benefits.
8. In October, 1995, Dr. Vradenburg and Ms. A began residing together. Their personal/sexual relationship and chiropractor-patient relationship ended in May 1996.
9. Ms. B (DOB: 6/8/71) received chiropractic services from Dr. Vradenburg on a regular basis as follows:
 - a. At the Bircher-Vradenburg Chiropractic Clinic, in 1994-1995.
 - b. At the Mill Run Chiropractic Clinic, from 1996 to July 3, 1997.
 - c. At the Vradenburg Chiropractic Clinic, from July 8, 1997, through the end of 1997.
10. Records show that Ms. B also received chiropractic services from Dr. Vradenburg on January 8, 16 and 24, and February 2, 1998.
11. In May, 1996, after Dr. Vradenburg terminated his relationships with Ms. A, Ms. B began providing Dr. Vradenburg with office assistance.
12. Ms. B separated from her husband in late 1996, and at that time, Dr. Vradenburg offered Ms. B a room in his home. After a brief time, while Ms. B was still his patient, they began a personal/sexual relationship which continued until January 31, 1999.
13. Ms. C (DOB: 1/22/66) received chiropractic treatment from Dr. Vradenburg at various times from 1991 until November 25, 1998. Dr. Vradenburg's services to Ms. C related primarily to pain management.
14. On November 24, 1998, Ms. C called Dr. Vradenburg's office to reschedule the time of an appointment the next day. Dr. Vradenburg answered the phone and during the conversation, used profanity for reasons unknown to Ms. C. According to Ms. C, Dr. Vradenburg seemed to be thinking out loud and said strange things during the conversation.
15. On November 25, 1998, Ms. C presented to Dr. Vradenburg with neck pain, low back pain, upper back pain, and a general achy feeling. Dr. Vradenburg tested leg length and found a positive Derefield test on the right side. Dr. Vradenburg then adjusted Ms. C's right sacral-iliac joint, sacrum, L-5, T-7, C-1, C-2, C-4, TMJ, and did cranial release work.
16. While Ms. C was in the adjustment room, Dr. Vradenburg was acting strangely. Dr. Vradenburg was swearing and talking to himself, looking around the room and acting agitated over things he said were in the room. Following the adjustments, Dr. Vradenburg sat down on the other table in the adjustment room and began swearing, saying things like "God dam it, what the hell is this? What is coming over me? This is weird. I bet you think I'm crazy." Dr. Vradenburg then told Ms. C that she was beautiful and sexy and that he wanted to make love to her. Dr. Vradenburg apologized to Ms. C several times and asked her if she was okay. A telephone call interrupted the session and Ms. C left the room.
17. Ms. C was frightened by Dr. Vradenburg's conduct and comments, and did not return to Dr. Vradenburg for treatment following the November 25, 1998 appointment.
18. Dr. Vradenburg, in responding to an investigative subpoena on July 25, 2000, has provided statements to the Division under oath that:

- He has not used alcohol for a couple of years and does not believe that he ever had a problem with alcohol.
- He believes that his former chiropractic associate is performing some form of witchcraft against Dr. Vradenburg in an effort to destroy Dr. Vradenburg.
- Dr. Vradenburg holds this belief because he can feel the witchcraft within his chest cavity.
- He believes that his former chiropractic associate was sending telepathic satanic messages to Dr. Vradenburg's current patients, who had been the former chiropractic associate's patients, in an attempt to get the patients to return to the former chiropractic associate for their care.
- Dr. Vradenburg may have told Ms. C about the satanic messages during her treatment sessions.

CONCLUSIONS OF LAW

1. The Chiropractic Examining Board has jurisdiction in this matter pursuant to § 446.03, Stats.
2. Dr. Vradenburg, by engaging in sexual contact with Ms. A while she was his patient, as set out in Findings of Fact 3 through 8, above, has committed unprofessional conduct as defined by Wis. Admin. Code § CHIR 6.02(7) and is subject to discipline pursuant to § 446.03(5), Stats.
3. Dr. Vradenburg, by engaging in sexual contact with Ms. B while she was his patient, as set out in Findings of Fact 9 through 12, above, has committed unprofessional conduct as defined by Wis. Admin. Code § CHIR 6.02(7) and is subject to discipline pursuant to § 446.03(5), Stats.
4. Dr. Vradenburg has practiced chiropractic when unable to do so with reasonable skill and safety, thereby committing unprofessional conduct as defined by Wis. Admin. Code § CHIR 6.02(2) and he is subject to discipline pursuant to § 446.03(5), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Gene E. Vradenburg, D.C., to practice chiropractic in the State of Wisconsin be, and hereby is, revoked.

IT IS FURTHER ORDERED that, pursuant to § 440.22, Stats., the full costs of this proceeding shall be assessed against Dr. Vradenburg.

EXPLANATION OF VARIANCE

The Chiropractic Examining Board adopts the administrative law judge's Findings of Fact and Conclusions of Law in their entirety. The Board revokes Dr. Vradenburg's license to practice chiropractic in the State of Wisconsin, varying from the disciplinary order recommended by the ALJ, which was a two-year suspension of Dr. Vradenburg's license with conditions upon any application for reinstatement after two years. The seriousness and severity of Dr. Vradenburg's violations require no less than revocation, for the protection of the public and to deter other licensees from engaging in similar conduct. As for Dr. Vradenburg's rehabilitation, there is no indication in the record that he is interested, willing or capable of rehabilitation. The rest of the ALJ's opinion, including his discussion of reasons for recommending a suspension, is included below for the purpose of explaining the case.

OPINION

That Dr. Vradenburg carried on sexual relationships with Patients A and B while they were under his chiropractic care is not in issue, for he has admitted it. Exhibit 1 is Dr. Vradenburg's sworn deposition taken on July 25, 2000, in which he freely admits these violations. See pages 20-24 relating to Mrs. A; and pages 53-55 relating to Mrs. B.

It is also clear that Dr. Vradenburg is currently psychologically impaired to an extent which interferes with his ability to practice chiropractic with reasonable skill and safety to his patients.

Patient C was respondent's patient for a number of years, beginning in the early 1990's at the Bircher-Vradenburg Chiropractic Clinic, Chippewa Falls, and continuing until the end of 1998 at the Vradenburg Chiropractic Clinic, also in Chippewa Falls. She saw him professionally for the last time on November 25, 1998 when she appeared for a 9:00 a.m. appointment. Her testimony regarding respondent's conduct may be found at page 14 *et seq* of the hearing transcript:

Q. (by Mr. Zwieg) You stopped seeing him for chiropractic services rather abruptly, didn't you?

A. Yes.

Q. And do you remember approximately when that was?

A. It was in November of '98.

* * * *

Q. All right. Can -- can you -- can you tell me what happened on November 24th, 1998?

A. Yes. I had an appointment with him and I needed to cancel and reschedule with him for the following day.

Q. All right. So were you able to actually speak with Dr. Vradenburg?

A. Yes.

Q. What was your conversation like with him?

A. It was weird. He was not his normal self.

Q. Okay. Now, weird is kind of a conclusion. Can you tell us what it was about the conversation that . . . leads you to call it a weird conversation.

A. Because he was swearing as if there was something in the room. He asked me if I trusted him. He asked -- told me he needed to ask me three questions.

Q. And did he ask you three questions?

A. No. Because it was like something was in the room that interrupted him.

Q. Okay. What was he saying that led you to believe there was something that interrupted him?

A. "God dammit, what the hell is in here."

Q. Okay. And he asked you whether you trusted him. Did you understand what context he was asking that in?

A. I thought as his doctor -- or as my doctor.

Q. All right. And -- and did you respond to that?

A. I said yes.

Q. All right. And then he asked -- he said he had three questions to ask of you.

A. Right.

Q. Do you know why he -- did you have any indication as to why he never asked them of you?

A. Just that something was interrupting him and he couldn't ask them. And he said he would call me back later.

Q. All right. Did he do so?

A. No.

Q. But you had already scheduled the appointment?

A. Yep. Yes, Uh-huh.

Q. Thank you. And was that scheduled for the next day?

A. Yes.

Q. And so that would be November 25th, 1998?

A. Yes.

* * * *

Q. Okay. What did you find when you arrived?

A. There was another patient there ahead of me.

Q. All right. Was that unusual?

A. Yes.

Q. All right. And why was that unusual?

A. Because he usually didn't start his practice until 9:00.

Q. Okay. While that patient was still there, I assume you were in the reception area?

A. Yes.

Q. And the patient was in a treatment room?

A. Yes.

Q. Did Dr. Vradenburg have more than one treatment room at that location?

A. No.

Q. All right. While that patient was in the treatment room and you were in the waiting area, did you have any contact with Dr. Vradenburg?

A. Yes. He came out three different times.

Q. Okay. And if you know, why did he come out?

A. To tell me that it wasn't, you know, going to be much longer. He seemed nervous, agitated. And he gave me a book.

Q. Okay. Do you happen to know what that book is?

A. I don't remember. I -- I still have it.

Q. Did he tell you why he gave you the book?

A. No.

Q. Did he give you anything else?

A. Some herbs in a little bottle.

Q. Okay. At this time, do you remember what the herbs were?

A. No.

Q. Did he tell you why he gave you the herbs?

A. No.

Q. Okay. At some point he finished with the other patient?

A. Yeah. Yes. He -- it seemed to take him quite a while, and so it was like a -- it was like a half an hour.

Q. And -- and the other patient came out and eventually left; is that correct?

A. Correct.

Q. All right. What did you do then?

A. I was taken into the adjustment -- adjustment room.

Q. All right. And did Dr. Vradenburg say anything to you?

A. He told me to lay, you know, flat on my stomach on the adjusting table.

Q. All right. Did you do that?

A. Yes.

Q. And did he do some adjustments on you?

A. Yes. He started out by touching my back and telling me my tail bone was off.

Q. All right. Now, the adjustments he did up to that point, were those adjustments that he had done on you before?

A. No.

Q. Okay. He told you that your tail bone was off --

A. Uh-huh.

Q. -- is that correct?

A. Uh-huh.

Q. All right. Did he indicate that he would do anything about that?

A. He told me to turn over and he would adjust me from the front side, an adjustment that he had never done before.

Q. Okay. So you did turn over and lay on your back?

A. Yes.

Q. Did he have you move your feet into any specific position?

A. Yes. He had me bring my feet up near my -- near my rear-end.

Q. All right. And then what did he do?

A. He had been swearing and saying that there was something in the room.

Q. Well, let me ask about that then before we go to what he did. What was Dr. Vradenburg saying at that point?

A. He was all -- saying like he said in the reception room, God dammit, what the hell's in here.

Q. All right. Did you look around the room?

A. Yes.

Q. Was there anything in the room?

A. No. And he asked me if I trusted him.

Q. All right. Again he asked you whether you trusted him?

A. Uh-huh.

Q. And --

A. Yes.

Q. -- what did you say?

A. I said yes.

Q. Did he ask you any questions about your sexual history?

A. Yes.

Q. What did he ask?

A. He asked me if I had pain with intercourse.

Q. All right. And you indicated that you had in the past?

A. Yes.

Q. Was it at that point that he then performed some kind of adjustment while you were on your back?

A. Yes.

Q. And what did he do?

A. He did an adjustment where he pushed down just right at my pubic bone really hard, and it caused me a lot of pain.

Q. Did you say anything?

A. I told him -- yeah. I started to cry.

Q. Okay.

A. And I said it hurt, and he apologized.

Q. Okay. At that point, did Dr. Vradenburg say anything else to you?

A. Yes.

Q. And what was that?

A. That I was sexy and beautiful and that he wanted to make love to me.

Q. How did you respond to that?

A. I didn't.

Q. All right. Did he make further comments in that area?

A. Yeah. Well, he asked me if I trusted him again. And then he started that swearing stuff, you know, like there was something in the room.

Q. And ag --

A. And he was -- his face was sweaty and he was like red in the face.

Q. It is accurate to say that he did not usually look that way after doing adjustments, correct?

A. Right.

Q. Did he ask you anything about what you thought of his mental status?

A. Yes. He asked me if I thought he was crazy.

Q. What did you say to him?

A. I said no.

Q. What did you really think?

A. Yes.

These disjointed and apparently delusional thought patterns are consistent with those manifested by Dr. Vradenburg in his testimony at deposition, where he discussed at length his belief that others were using witchcraft against him (Exhibit 1; pp. 37-53).

Complainant's expert witness, Kenneth H. Waldron, Ph.D., a psychologist licensed in Wisconsin, reviewed a number of documents in preparation for his psychological evaluation of Dr. Vradenburg. Among these were the Vradenburg deposition (Exhibit 1); a letter prepared by Rebecca Toy to Dr. Vradenburg dated December 2, 1998, describing the events set forth in her testimony reproduced above (Exhibit 5); and various correspondence to and from Department Investigator Dan Williams relevant to the investigation of the matter. In his letter dated July 25, 2001, to Attorney Zwieg (Exhibit 8), Dr. Waldron discusses his conclusions relating to Dr. Vradenburg's psychological status. After initially discussing his conclusion that Dr. Vradenburg appears to have an unacknowledged alcohol problem, Dr. Waldron goes on to state that "There is sufficient information to warrant a tentative diagnosis of a mental health disorder." After discussing the rationale for this conclusion, he states, "All of this leads to a probable tentative diagnosis of Paranoid Personality Disorder. . . . The only doubt I have is whether or not he may be hallucinating and exhibiting symptoms of schizophrenia."

Dr. Waldron was somewhat more firm in his conclusions by the time he testified at the hearing herein. That testimony included the following:

Q. All right. In addition to the alcohol issue, did you come to any other opinions [in the July 25, 2001, letter] regarding Dr. Vradenburg?

A. Well, that -- yes, I did.

Q. And what were they?

A. That he -- that he may have a tentative diagnosis of a mental health disorder.

Q. All right. Did you have any difficulty in arriving at what specific disorder he might have?

A. Yes.

Q. And why was that, sir?

A. Well, because some of the -- this was largely from his deposition. Some of the breakdowns in his thinking are typical of both Axis 1 and Axis 2 disorders, so I wasn't sure if it was a personality-based disorder or whether he was actually having a breakdown that might suggest a thought disorder. On the whole, I was leaning in the direction of a personality disorder because of the errors in thinking or criminal thinking patterns that were present in his deposition.

Q. All right. And was there any specific personality disorder or cluster of disorders that you -- that you felt that he may possess?

A. Well, in either Axis 1 or Axis 2, it seemed fairly clear that he probably had a disorder that included paranoid ideation, so I was considered paranoid personality disorder as a -- a probable diagnosis, and I was considering the possibility of a thought disorder with paranoid features, perhaps paranoid schizophrenia.

Q. All right. Doctor, I guess we should explain a few terms here. What is Axis 1 and Axis 2?

A. Well, there are five different -- they're called Axes because they operate somewhat independently, but there are five different parts of a diagnosis for an individual. The first has to do with the presence of thought disorders, what are typically thought of as the neuroses, anxiety disorders, depression, more emotionally-based kinds of disorders. There are also some alcohol-related and -- and drug-related diagnoses that fall in that axis. Axis 2 operates independently of that first axis, and that has to do with personality-based issues, personality disorders. And then Axis -- Axes 3, 4 and 5 have to do with life stressors, medical conditions, and then Axis 5 is actually a -- it's a scale where you represent the seriousness of the disorder, a scale from zero to a hundred basically, where you're representing along that scale how serious the disorder is. So Axis 1 and Axis 2 are the two that I'm talking about now. You can have a diagnosis on just one of those or you can have multiple diagnoses, one on each of those axes. You can have a personality-based problem and an anxiety disorder, for example, or a personality disorder and a thought disorder.

Q. All right. Was it your opinion that Dr. Vradenburg did suffer from sort of psychological disorder?

A. I was pretty sure that he had some sort of disorder based on -- largely on his deposition, but also on the contradictions between his assertions in the deposition and the collateral information that I had from the other documents. I was pretty sure that there was some sort of disorder, but whether it was Axis 2, Axis 1 or potentially both, I wasn't absolutely sure.

Q. Well, would either of those types of disorders interfere with his cognitive abilities?

A. Yes, both of them would, although in very different ways.

Q. You would have been more comfortable had you had an opportunity to evaluate Dr. Vradenburg, wouldn't you?

A. In rendering a specific diagnosis, yes.

Q. Yeah. And it's your understanding that an appointment was set up for him to come and see you last month?

A. Yes.

Q. I think it was September 25th. Does that sound --

A. I believe that's correct.

Q. Did he come?

A. No.

Q. Did he call?

A. No.

Q. Were you there?

A. Yes.

Q. Now, subsequent to the time you provided this letter report, July 21st, 2001, you had the opportunity to review some additional documents, didn't you?

A. Yes.

Q. And those documents were the filings that Dr. Vradenburg had made in response to the complaint in this disciplinary proceeding?

A. That's -- that's what they appeared to be to me, yes.

Q. All right. Did your review of those documents change your opinion in any way?

A. Yes.

Q. And how did it change your opinion?

A. I became more firmly convinced that he at least had an Axis 1 diagnosis, schizophrenia, and neither confirmed nor disconfirmed my concerns about personality disorder, which I still have, but -- but it certainly confirmed that he was experiencing a thought disorder.

* * * *

Q. Do you have an opinion whether Dr. Vradenburg has a condition that would make him unable to practice chiropractic with reasonable skill and safety for patients?

A. Yes.

Q. And what is that opinion?

A. My opinion is that probably as a result of whatever mental health disturbance he has, whether it be Axis 1, Axis 2 or both, he has engaged in unsafe behavior. He's demonstrated some signs of a thought disorder and has engaged in conduct problems that have been against, I believe, his code of ethics. Untreated, he is likely to continue to engage in that kind of behavior.

Dr. Vradenburg did not appear, and there is therefore no mitigating or countervailing evidence appearing in this record. That he did not appear is not surprising; efforts to involve him in the prehearing activities were totally unsuccessful. A description of the proceedings, as set forth in the ALJ's memorandum of Prehearing Conference following a telephone conference conducted on September 11, 2001, adequately suggests the problem.

A prehearing conference was conducted by telephone on September 11, 2001, in the above-captioned matter. Participating were John R. Zweg, attorney for complainant; an individual who identified himself as Gene E. Vradenburg but who claimed to be a different person than the Gene E. Vradenburg named in the Complaint, . . . and the ALJ. Respondent was unresponsive to any inquiries or attempted communication concerning the matter, instead insisting that he was merely a third party intervenor in the matter. The ALJ confirmed that the hearing will go forward on October 16 & 18, 2001.

Respondent also failed to file an Answer in the matter, though he did file a number of documents which are typified by Exhibit 9, entitled "Notice by Declaration/Security Agreement." The intended purpose of this and the

other similar submissions made by Dr. Vradenburg throughout the course of these proceedings is known only to him.

It is well established that the objective of licensing discipline is the protection of the public by promoting the rehabilitation of the licensee and by deterring other licensees from engaging in similar misconduct. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*, 41 Wis. 2d 481 (1968). The rehabilitation objective is applicable here, for it is quite obvious that Dr. Vradenburg must be suspended from practice until he is able to demonstrate to the board's satisfaction that he is able to safely resume his practice, and equally obvious that the board must be permitted to impose limitations on the reinstated license designed to ensure that he continues to practice in a safe manner.

The other violation here is Dr. Vradenburg's having maintained a sexual relationship with two of his patients. At his deposition, Dr. Vradenburg expressed seemingly genuine surprise that these relationships violated the board's rules of conduct. That, of course, is not an excuse for this misconduct, and he acknowledged as much. It is therefore recommended that the interests of deterrence militate for a two year period of suspension before Dr. Vradenburg is permitted to petition for reinstatement of his license.

Section 440.22(2), Stats., provides in relevant part as follows:

In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against the respondent is a discretionary decision on the part of the Chiropractic Examining Board, and that the board's discretion extends to the decision whether to assess the full costs or only a portion of the costs. The ALJ's recommendation that the full costs of the proceeding be assessed is based primarily on fairness to other members of the profession.

The Department of Regulation and Licensing is a "program revenue" agency, which means that the costs of its operations are funded by the revenue received from its licensees. Moreover, licensing fees are calculated based upon costs attributable to the regulation of each of the licensed professions, and are proportionate to those costs. This budget structure means that the costs of prosecuting cases for a particular licensed profession will be borne by the licensed members of that profession. It is fundamentally unfair to impose the costs of prosecuting a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. Rather, to the extent that misconduct by a licensee is found to have occurred following a full evidentiary hearing, that licensee should bear the costs of the proceeding.

Signed and dated this 26th day of March, 2002.

Dale Strama, D.C., Chair

Chiropractic Examining Board