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STATE OF WISCONSIN

BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
CLIFFORD J. PRICE, D.C.,	:	LSO201182CHI
RESPONDENT	:	

The State of Wisconsin, Chiropractic Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Chiropractic Examining Board.

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

Dated this 19th day of December, 2002.

Dale Strama
Chairperson
Chiropractic Examining Board

STATE OF WISCONSIN

BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF

Respondent

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

Clifford J. Price, D.C.

2 East Fulton Street

Edgerton, WI 53534

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

P.O. Box 8935

Madison, WI 53708

A Class II hearing was held in the above-captioned matter on September 19, 2002, at 1400 East Washington Avenue, Madison, Wisconsin. Dr. Price appeared personally and was accompanied by his son, Mark Price. The Division of Enforcement appeared by Attorney James W. Harris

Based upon the entire record in this case, the administrative law judge recommends that the

Chiropractic Examining Board adopt as its final decision in the matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Clifford J. Price, D.C., whose address of record is 2 East Fulton Street, Edgerton, WI 53534, and whose date of birth is February 11, 1923, is and was at all times relevant to the facts set forth herein a chiropractor licensed in the State of Wisconsin pursuant to license #809, granted on August 14, 1948.

2. On June 27, 2000, General Motors undercover agent, DS, alias Thomas Fisher, visited the chiropractic

office of Dr. Price in an attempt to obtain a fraudulent work excuse. The agent informed Dr. Price that there was nothing wrong with him, but that he had taken June 23 and 24, 2000, off from work, and that when he appeared for work on June 26, he was notified that a work excuse was required. Mr. Fisher asked Dr. Price to write a medical excuse for him.

3. Dr. Price agreed to write the excuse and asked the agent what day he planned to return to work. Dr. Price handed the excuse to the agent and asked for \$25.00 cash, which the agent gave to him. After the transaction, Dr. Price insisted that the agent allow him to make an examination, which consisted of having the agent stand for a viewing of his posture, and then lie on an exam table while Dr. Price briefly moved the agent's feet. According to the agent, no treatment was rendered.

4. The work excuse written by Dr. Price is on Dr. Price's letterhead, is addressed to General Motors and states "Thomas Fisher missed work June 22, 23, and 26 because of a back injury. He was in for treatment June 27 and should be able to work June 28, 2000. C.J. Price, D.C."

5. On October 6, 2000, General Motors undercover agent, PK, alias Patrick Hayes, visited the chiropractic office of Dr. Price in an attempt to obtain a fraudulent work excuse. The agent informed Dr. Price he had no injury, but had taken October 2, 3 and 4, 2000, off from work along with his son who was on leave from the Navy, and needed a work excuse.

6. Dr. Price agreed but stated he had to perform an examination of the agent. Dr. Price indicated that the agent did not have to remove his jacket. The examination consisted of the agent lying face down on an examination table and Dr. Price lightly patting the agent's back. According to the agent, no treatment was rendered.

7. Dr. Price handed a written excuse to the agent and received \$25.00 cash. The work excuse written by Dr. Price is on Dr. Price's letterhead, is addressed to General Motors, and states "Patrick Hayes missed work Oct. 2, 3, and 4 because of a back injury. He was in for treatment Oct. 6 and should be able to return to work Oct. 9, 2000. C.J. Price, D.C."

8. Dr. Price failed to conduct a comprehensive, competent assessment, evaluation or diagnosis of agents Thomas Fisher or Patrick Hayes as required by Wis. Adm. Code sec. Chir 6.02(9).

9. Dr. Price's patient records for Thomas Fisher and Patrick Hayes are incomplete and not sufficiently legible to be understandable to other health care professionals. The records fail to contain the essential elements of an initial patient presentation as required by Wis. Adm. Code sec. Chir 11.03.

CONCLUSIONS OF LAW

1. The Chiropractic Examining Board has jurisdiction in this matter pursuant to §§ 446.03 through 446.05, Stats.

2. In having provided fraudulent work excuses for Fisher and Hayes; and in failing to conduct a comprehensive, competent assessment, evaluation or diagnosis of Fisher or Hayes; and in preparing incomplete and insufficiently legible patient records for Fisher and Hayes, Dr. Price has practiced in a manner which substantially departs from the standard of care ordinarily exercised by a chiropractor, in violation of § Chir 6.02(3), Code; performed professional services inconsistent with training, education or experience, in violation of § Chir 6.02(6), Code; failed to conduct a competent assessment, evaluation or diagnosis as a basis for treatment or consultation, in violation of § Chir 6.02(9), Code; obtained compensation for chiropractic services by fraud, in violation of § Chir 6.02(14), Code, and failed to create and maintain a patient record containing complete and

comprehensive health care information, in violation of § 446.02(7m), Stats. Dr. Price has thereby engaged in unprofessional conduct, within the meaning and in violation of § 446.03(5), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Clifford J. Price, D.C., to practice as a chiropractor in Wisconsin is hereby suspended for an indefinite period.

IT IS FURTHER ORDERED that Dr. Price may petition the board for a stay of the suspension of his license upon submission to the board of evidence that he has completed an extensive refresher course at an approved school of chiropractic in assessment, diagnosis, treatment planning and chiropractic record keeping. Dr. Price shall appear before the board in support of any such petition for the purpose of establishing to the board's satisfaction that he may safely and competently return to the practice of chiropractic.

OPINION

The facts set forth in the findings above were not contested by Dr. Price, and a finding that he obtained compensation fraudulently is certainly justified. Also clear are the violations relating to his failure to do a proper assessment and evaluation of these patients, and his failure to create appropriate and legible patient records.

There is some mitigation here, however. Dr. Price insisted that he evaluate these patients even though both of them resisted the requirement, and it is impossible to know whether the brevity of Dr. Price's evaluation was based in part on the undercover agents' reluctance to submit to examination and treatment. And while both patients denied back problems, Dr. Price's brief evaluation apparently led him to believe that both men had conditions susceptible to chiropractic treatment. In any event, Dr. Price charged them no more than his normal patient fee, and did at least something to earn it beyond providing them with work excuses. One is left with the impression of a genial older practitioner willing to go along with a working man's attempt to mollify his employer so long as he provided some chiropractic service to justify his normal fee. The board may wish to review a portion of the undercover tape admitted as Exhibit 7 to add some context to Dr. Price's actions.

This certainly doesn't excuse those actions, however, and the need for disciplinary action is obvious. In fashioning such discipline, it is well established that the necessary objective 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). Dr. Price has retired from the practice of chiropractic and had previously attempted to surrender his license in settlement of this matter. It is almost certain that he will never attempt to return to practice. Still, he has practiced chiropractic for over 50 years, apparently without any previous complaint. Should he decide to refresh his skills through completion of appropriate coursework, and if he is able to demonstrate to the board that he is able to competently return to practice, he should be given the opportunity to do so. In having accomplished those goals, his rehabilitation will have been demonstrated, and the public protection will have been adequately protected.

As stated above, Dr. Price made a good faith effort to settle this matter without the considerable expenditure of time and money that a full fact-finding hearing entails. That the board chose not to accept the stipulated voluntary surrender of his license is certainly not Dr. Price's fault, and he should not be required to pay the costs of the hearing. No cost assessment is therefore included in the Order.

Dated this 26th day of November, 2002.

Respectfully submitted,

Wayne R. Austin

Administrative Law Judge