

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 :
RICHARD D. ESENBERG, D.C., : FINAL DECISION AND ORDER
RESPONDENT. : LS0712063CHI

Division of Enforcement Case # 05 CHI 016

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

Richard D. Esenberg, D.C.
106 E. Riverview Drive
Jefferson, WI 53549

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Chiropractic Examining Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Chiropractic Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Richard D. Esenberg, D.C., (DOB 09/28/1935) was formerly licensed as a chiropractor in the State of Wisconsin (license #12-1695). This license was first granted on November 12, 1981, and expired on December 31, 2006. Pursuant to Wis. Stat. § 440.08(3), Respondent has a right to renew his license upon payment of fees until December 31, 2011.

2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 106 E. Riverview Drive, Jefferson, Wisconsin, 53549.

3. On January 14, 1994, Respondent was reprimanded for practicing under an expired license.

4. Respondent's license to practice chiropractic in Wisconsin was revoked on November 14, 1996 for violations relating to criminal insurance fraud and practicing with an expired license. The Board held that it would not consider an

application for re-licensure for a minimum of one year, and that if Respondent reapplied, he must provide proof of rehabilitation from his criminal conduct as well as assurances that his mental health conditions were adequately controlled.

5. On June 19, 2001, Respondent was granted an unlimited license by the Board.

6. Respondent's license renewal was due on December 31, 2004. On January 11, 2005, Respondent's license status was changed from active to expired.

7. Respondent submitted claims to insurance for chiropractic services rendered on January 12, 2005, January 21, 2005, and January 28, 2005.

8. Respondent renewed his license on March 4, 2005.

9. Respondent's license renewal was due on December 31, 2006. He was not renewed his license, and his license status was changed from active to expired on January 9, 2007.

CONCLUSIONS OF LAW

1. The Wisconsin Chiropractic Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 446.03, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraph 6 -7 above constitutes a violation of Wisconsin Administrative Code § Chir 6.02(25) and Wis. Stat. §§ 446.02(1) and 446.04 and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

IT IS ORDERED:

1. The stipulation of the parties is approved.

2. The Chiropractic Examining Board accepts the surrender of the right to renew the license of Richard D. Esenbe D.C. (license # 12-1695), to practice as a chiropractor in the State of Wisconsin.

3. In the event that Respondent re-applies for Wisconsin licensure as a chiropractor in the future, the Board may order denying such application without further notice or hearing.

4. This Order shall become effective upon the date of its signing.

Dated at Madison, Wisconsin this 6th day of December, 2007.

Chiropractic Examining Board

By: Steven Silverman

A Member of the Board

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : STIPULATION
RICHARD D. ESENBERG, D.C., : LS# _____
RESPONDENT. :

Division of Enforcement Case # 05 CHI 016

Richard D. Esenberg, D.C., personally on his own behalf; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 05 CHI 016). Respondent consents to the resolution of this investigation by stipulation.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.
4. Respondent agrees to voluntarily surrender his right, pursuant to Wis. Stat. § 440.08(3), to renew his license to practice as a chiropractor in the State of Wisconsin. Respondent agrees that he will not reapply for Wisconsin licensure as a chiropractor at any time in the future. In the event that Respondent does in fact apply for Wisconsin licensure as a chiropractor the Board may deny that application based upon this stipulation, without further notice or hearing, and Respondent hereby expressly waives all rights to a hearing on any such denial or limitation.
5. Respondent agrees to the adoption of the attached Final Decision and Order by the Chiropractic Examining 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.
6. 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 be returned to the Division of Enforcement for further proceedings. In the event that this 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 consideration of this attempted resolution.
7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Chiropractic Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
8. 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.

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

Richard D. Esenberg, D.C.
106 E. Riverview Drive
Jefferson, WI 53549

Date

Jeanette Lytle, Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date