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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE	:	
LICENSURE OF	:	FINAL DECISION
	:	AND ORDER
RICHARD H. GOLDE, D.C.,	:	LS0702154CHI
PETITIONER.	:	

Division of Enforcement Case No. 07CHI002

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 12th day of February, 2008.

Steven Silverman, D.C.
Member of the Board
Chiropractic Examining Board

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF : PROPOSED DECISION
LICENSURE OF RICHARD H. GOLDE, D.C., : AND ORDER
: :
: : LS 0702154 CHI
PETITIONER. :

(Division of Enforcement Case # 07 CHI 002)

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PROCEDURAL HISTORY

On June 13, 2007, a Class 1 Hearing as defined in Wis. Stat. s 227. 01(3) (a) was held in the matter of the November 30, 2006, Order by the Chiropractic Examining Board (hereafter "Board") denying the petition for reinstatement of the license to practice chiropractic of Richard H. Golde, D.C. The transcript of the proceeding was received on May 22, 2007. The submission of post-hearing proposed findings was completed by August 21, 2007.

The Notice of Hearing identified two issues to be adjudicated.

Issue 1. Whether the petitioner failed to prove that the cause for the Board's revocation of his license to practice chiropractic no longer exists.

Issue 2. Whether the Board's decision not to reinstate the petitioner's license was the result of an erroneous exercise of discretion.

FINDINGS OF FACT

1. Richard H. Golde, D.C., was granted a license to practice chiropractic (lic. # 1568) on July 30, 1980.
2. The latest address for Dr. Golde on file with the Department of Regulation and Licensing is 2403 London Road, Eau Claire, WI 54701.
3. On September 7, 2000, the Board revoked Dr. Golde's license to practice chiropractic, pursuant to its *Final Decision and Order* (LS9810302CHI). The Board's decision, which included an explanation of variance, was based on numerous findings of statutory and rule violations by Dr. Golde involving false, deceptive and misleading advertisements and misrepresentations, sexual contact with a patient in his chiropractic office, physical and psychological abuse of a patient, conviction for battery involving a patient who was also an employee in his chiropractic office, failure to report the battery conviction to the Board, fraudulent multiple billing for chiropractic services, and failure to keep clinical notes of patient care related to insurance billing. [\[1\]](#) The Board's decision did not specify the conditions that Dr. Golde would need to meet should he ever petition for reinstatement of his license.
4. Dr. Golde appealed the Board's decision to revoke his license to the Wisconsin Circuit Court. On August 6, 2001, the Circuit Court remanded Dr. Golde's case to the Board with instructions for consultation with the Administrative Law Judge (ALJ) Wayne R. Austin regarding Dr. Golde's credibility on the issue of insurance fraud and billing multiple parties. The court also instructed the Board to reconsider its determination as to the appropriate discipline from those findings and either adopt the ALJ findings or explain its basis for varying from those findings.
5. On December 17, 2001, the Board issued a *Final Decision and Order Following Remand*, (LS9810302CHI) which addressed the directives of the Circuit Court and affirmed the prior Final Decision and Order. The Board's decision reflects that the Board had consulted with the ALJ since it did not have the benefit of the hearing officer's observations and impressions regarding the demeanor of witnesses when it issued the Final Decision and Order dated September 7, 2000. The ALJ confirmed to the Board that his findings of fact were based upon the consistency of the testimony with the documentary evidence and not on the credibility of Dr. Golde or the witnesses.
6. On March 26, 2002, in response to a request by the parties to provide another more focused inquiry of the ALJ regarding Dr. Golde's credibility, the Board issued a *Second Final Decision and Order Following Remand* (LS9810302CHI). By this decision, the Board further clarified that the findings with respect to billing fraud and billing multiple parties were not based upon determinations by the ALJ of Dr. Golde's credibility and that Dr. Golde's denials of the charges had the legal effect of requiring the prosecution to prove its case, and that he found that the prosecution did not meet its burden with respect to certain of the billing charges; no finding was made that Dr. Golde's denials were credible or incredible. The Board again reaffirmed its prior decision to revoke Dr. Golde's license.
7. On February 23, 2006, Dr. Golde appeared with his attorney before the Board seeking reinstatement of his license.
8. On March 7, 2006, the Board issued a decision denying Dr. Golde's request for reinstatement of his license on the basis that Dr. Golde had not submitted evidence satisfactory to the Board that the circumstances giving rise to the limitations no longer existed and that Dr. Golde had not demonstrated sufficient rehabilitation, such as engaging in anger management or similar counseling, such that his license to practice as chiropractor should be reinstated.
9. On April 27, 2006, the Board was presented with additional documents and statements submitted by Dr. Golde in support of his request for reconsideration of the decision to reinstate his license. The Board issued its decision dated May 8, 2006, stating that Dr. Golde's approach to addressing the issue of anger management was inadequate and that his lack of candor to the Board indicated inadequate rehabilitation. The Board reaffirmed its denial of Dr. Golde's request for reinstatement of license.
10. On July 25, 2006, Dr. Golde again petitioned the Board to reinstate his license. The Board issued a decision on November 30, 2006, indicating that it would decline to exercise its discretion in favor of granting the request for reinstatement based on the review of the record. The Board decision stated that the revocation of Dr. Golde's license was based upon a determination that his conduct was sufficiently egregious to require his removal from the profession of

chiropractic. The Board indicated that it could not predict a future time when it would look favorably upon a petition for reinstatement of his license.

11. Pursuant to the Board's November 30, 2006, *Decision Denying Licensure*, Dr. Golde was advised of his right to request a Class 1 license denial hearing. Dr. Golde made a timely request for a hearing.

Conduct Subsequent to License Revocation

12. After Dr. Golde's chiropractic license was revoked, he began to search for a chiropractor to take over his chiropractic practice. Dr. Golde became acquainted with Dr. James Caulder, an unemployed chiropractor living in Minnesota.
13. At the time Dr. Caulder became known to Dr. Golde, he was working as a gym manager after having unsuccessfully operated a solo practice.
14. Dr. Caulder agreed to become an employee of Golde Chiropractic Center, Inc., and is the president of the company. Dr. Caulder receives a salary from the corporation; he does not have an ownership interest in the business.
15. Dr. Caulder accepted Dr. Golde's patients but was not required to purchase the business or pay any money to Dr. Golde for the referrals. According to Dr. Caulder "no money changed hands."
16. Under the terms of their employment arrangement, Dr. Caulder leases office space from Golde Properties, which is solely owned by Dr. Golde. The parties did not have a written lease, just a verbal agreement. Dr. Caulder paid rent on an irregular basis based upon the revenue generated by the chiropractic business and had the option to defer payment of rent if his income for a particular month was inadequate.
17. In May 2007, the parties entered into a written lease agreement, according to Dr. Caulder, for purposes of the hearing. The terms of this agreement provide for an express monthly rental payment.
18. Dr. Golde maintains a desk within the Golde Chiropractic Center, Inc. office near the reception area where he is in full view of patients and their interactions with staff. According to Dr. Golde, his presence and desk in the chiropractic office is for the operation of his rental property business.
19. Dr. Caulder admitted that he occasionally asks Dr. Golde for advice about the care and treatment of patients based on patient x-rays and information from the patient records without the patient's consent.
20. Dr. Golde proposes that if his license were reinstated, he would be employed as a chiropractor by, and under the supervision of, Dr. Caulder. Dr. Golde maintains that Dr. Caulder would monitor his record-keeping and that Dr. Caulder or his clinical assistant would monitor Dr. Golde's patient billing.
21. Dr. Golde further proposes that Dr. Caulder would be responsible for enforcing a sexual harassment policy to protect the patients should Dr. Golde be granted reinstatement of license and allowed to practice chiropractic.

Therapeutic Treatment Subsequent to License Revocation

22. On March 29, 2006, Dr. Golde participated in a one-hour interview with Dr. Ronald Potter-Efron and completed a self-report questionnaire. On the basis of that interview and questionnaire, Dr. Potter-Efron determined that Dr. Golde needed a refresher course in anger management consisting of 3 sessions with Dr. Potter-Efron.
23. Following the interview and the three sessions, Dr. Potter-Efron opined that Dr. Golde did not present a threat for verbal or physical aggression in general or toward any future employee or patient.
24. Dr. Potter-Efron utilized assessment techniques that relied on client self-report, which he conceded were subject to taint based on the honesty of the person making the self-report.
25. Dr. Potter-Efron acknowledged that if a client was not forthcoming in giving him full information, he could not make an accurate diagnostic impression.
26. Dr. Potter-Efron indicated that Dr. Golde is a man of above-average intelligence and it is possible that during the assessment Dr. Golde may have told Dr. Potter-Efron what he wanted to hear.
27. Dr. Potter-Efron was familiar with the RAZOR, an actuarial tool which psychologists use that relies on statistics rather than self-report to predict aggression and the likelihood for violence. Dr. Potter-Efron is not a psychologist and did not administer the RAZOR test to Dr. Golde.
28. Through Dr. Golde's self-report, Dr. Potter-Efron was aware of only one victim of domestic violence involving Dr. Golde.
29. According to Dr. Potter-Efron, the number of victims that a client has abused physically or psychologically is a factor in his determination of whether or not the individual has an anger management problem. Dr. Potter-Efron had no knowledge of the number of domestic partners with whom Dr. Golde had been violent.
30. In Dr. Potter-Efron's opinion a client no longer has an independent anger problem if he does not engage in further acts of aggression, violence or inappropriate anger.
31. Dr. Potter-Efron saw Dr. Golde for one additional session in May of 2007.
32. Dr. Golde reported to Dr. Potter-Efron that in 1993 he completed NOVUS, a 12-week educational program on anger management. NOVUS is an educational program that neither results in a diagnosis nor provides any objective evaluation of the individual's likelihood of success.
33. Dr. Golde offered no evidence, other than self-report, that he had participated in and/or completed the NOVUS program.
34. Dr. Potter-Efron confirmed that the success of one's participation in the NOVUS program would be whether the participant engaged in irrational anger against anyone, however, there was no objective measurement of the success of one's participation in the NOVUS program.
35. Between May 1994 and November 1995, approximately one year after Dr. Golde stated that he had completed the NOVUS program, Dr. Golde physically and psychologically assaulted and battered Ms. Gail Smith, with whom he had cohabitated and had a social and sexual relationship.

Conduct Prior To and After Revocation

36. On February 10, 1994, Dr. Golde was convicted of battery on his plea of no contest to charges stemming from his physical abuse of Gail Schmidt, an employee and former patient, who had co-habitated with Dr. Golde. This conviction, which was not reported to the Board, was found to be substantially related to practice of chiropractics and was among the factors which led to the revocation of Dr. Golde's chiropractic license.
37. On October 14, 1997, Judge Gregory A. Peterson awarded \$800,000 in punitive damages to Ms. Margaret Smith in a civil action for multiple injuries she sustained between May 1994 and November 1995, from Dr. Golde's physical and psychological abuse. Eau Claire County Circuit Court, Case No. 95CV764, October 14, 1997.
38. Judge Peterson found that Dr. Golde "purposely, intentionally and with planning" assaulted Ms. Smith "30 to 40 times." Ms. Smith had multiple injuries to her facial area; she was slapped, spit on, choked, kicked, gagged by sticking his fingers down her throat and, on at least one occasion, her head was slammed against a wall until she was rendered unconscious. Dr. Golde's psychological abuse of Ms. Smith included regularly berating her for taking anxiety medication, insulting her appearance and her intelligence.
39. In May 1997, prior to the revocation of his license, and after Dr. Golde purportedly completed the NOVUS program, he threw a can cooler at his former girlfriend, Cindy Hoff, striking her in the head. Ms. Hoff obtained a domestic restraining order against Dr. Golde.
40. The domestic restraining order involving Ms. Hoff was extended from two years to four years based upon her concerns.
41. In 2004, Dr. Golde was convicted of violating Wis. Stat. § 100.26(3), Marketing; Trade Practices in Eau Claire County Circuit Court, Case No. 2004CF681. This conviction resulted from Dr. Golde had added his name as co-tenant to a previously executed lease and then entered the property without the tenants' permission in an effort to collect delinquent rents. The court records indicate that charges of forgery and criminal trespass to a dwelling were dismissed, but read-in for sentencing purposes. Dr. Golde served three days in jail as a result of the conviction.
42. Since the revocation of his chiropractic license, Dr. Golde has not received regular and on-going counseling or treatment for anger management or fulfilled his continuing education credits or CPR certification required for chiropractic licensure.

CONCLUSIONS OF LAW

1. The Wisconsin Chiropractic Examining Board has jurisdiction in this matter pursuant to Wis. Stat. §§ 446.03 and 227.01(3)(a).
2. Due to the serious and egregious nature of the conduct underlying the revocation of Dr. Golde's license to practice chiropractic, and his continued lack of candor, along with his failure to prove that he has undergone accurate and successful treatment for anger management and aggression, Dr. Golde has not established that the causes of his revocation of licensure no longer exist.
3. Due to the serious and egregious nature of the conduct underlying the revocation of Dr. Golde's license to practice chiropractic and his continued lack of candor, he has failed to establish that the objectives of general and specific deterrence and protection of the public no longer warrant revocation of his license to practice chiropractic, especially with regard to: conduct intended to deceive or defraud; anger management and aggression; compliance with the legal requirement of patient record keeping; and falsifying records so as to compromise patient care.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the petition for reinstatement of licensure of RICHARD H. GOLDE, D.C., to practice chiropractic in the state of Wisconsin is hereby DENIED.

OPINION

The record in this proceeding shows that the petitioner, Dr. Golde, has unsuccessfully sought the reinstatement of his chiropractic license on a number of prior occasions. His previous requests for reinstatement of his license have been denied by the Board based on the evidence presented. At this juncture, Dr. Golde has been given opportunity for a fact-finding hearing on the issue of his reinstatement of his licensure. At the hearing, Dr. Golde testified that he wants to be reinstated to practice chiropractic because he really enjoyed the practice, he found it “fulfilling” and he would like to be a “part of the community again in that respect.” Dr. Golde indicated that he would also like to make a statement that the problems that he had with the Board in the past are “no longer an issue” and to make others understand that “if they don’t stay within the rules and regulations that the penalties will be harsh.” While these sentiments are laudable, the crucial issues in this proceeding are whether the objectives of general and specific deterrence and protection of the public no longer warrant revocation of Dr. Golde’s license to practice chiropractic. Dr. Golde’s prior conduct included a history of deceptive and dishonest conduct, anger management, aggression and violence toward women; lack of compliance with patient record keeping; and falsification of patient records so as to compromise patient care. The Board must now determine whether the reasons that led to the revocation of Dr. Golde’s license have been satisfactorily resolved.

The evidence presented at the hearing in this proceeding failed to convincingly establish that Dr. Golde has been rehabilitated such that he no longer poses a threat to public safety. The evidence presented at hearing shows that Dr. Golde still continues to engage in conduct that is deceptive, intimidating and unlawful. This conclusion is evident in a number of areas. The first is the arrangement by which Dr. Golde brought Dr. Caulder into his chiropractic business. This arrangement leads to the inescapable conclusion that Dr. Caulder, who was not required to make any financial investment in the business and who has no ownership interest in it, would find himself indebted to Dr. Golde to the degree that he would allow Dr. Golde, a chiropractor whose license has been revoked, to maintain a desk in his former chiropractic office, in full view of his former patients, and within hearing of interactions with the patients. The arrangement whereby Dr. Caulder was hired by Dr. Golde also strongly suggests that Dr. Caulder could not competently and without bias, satisfactorily monitor Dr. Golde’s professional behavior or ensure the protection of the public on behalf of the Board. The evidence further suggests that Dr. Golde may have even engaged in unlicensed activity by consulting with Dr. Caulder regarding the treatment of his former patients and by reviewing patient records and x-rays without the patient’s consent.

Dr. Golde maintains that he intends to transform the structure of his chiropractic business if his license is reinstated, and that he would become Dr. Caulder’s employee as opposed to the present situation in which Dr. Caulder is the corporation’s employee while he is the employer. Yet, Dr. Golde presented no evidence of how or when this transformation would occur. Nor was Dr. Caulder aware of how or when the transformation would occur. Dr. Caulder indicated that they were open to the Board’s suggestions, and “there are all kinds of possibilities.” It is Dr. Golde’s responsibility to offer a viable plan of practice and supervision sufficient to meet the Board’s objectives of deterrence and protection of the public. In these respects, the evidence presented at hearing not only fails to constitute an acceptable plan to transform the business or provide supervision of his practice, but raise genuine concerns about Dr. Golde’s willingness to abide by the standards of the profession.

The second major deficiency in the request for reinstatement is that Dr. Golde has not shown that he has undergone an accurate assessment of his potential for future violence, aggression and anger management. The opinion of Dr. Potter-Efron that Dr. Golde posed no threat to the public or to patients was undermined by the evidence showing that Dr. Golde had not been candid and honest with Dr. Potter-Efron about the episodes of his prior domestic violence or number of domestic partners. Dr. Potter-Efron was informed by Dr. Golde that there had been only one victim. According to Dr. Potter-Efron, if a client is not forthcoming in giving him full information, an accurate diagnostic impression cannot be made. The number of victims a client has is a factor in the determination of whether or not the individual has an anger management problem. Because Dr. Golde was not truthful in self-reporting this information to Dr. Potter-Efron, little if any weight can be given to his opinion regarding Dr. Golde’s successful potential for recidivism. In addition, Dr. Golde offered insufficient evidence that he has obtained the appropriate treatment for his problems with aggression, anger management and violence toward women. Dr. Golde offered no evidence to Dr. Potter-Efron, other than his self-report, that he had participated in and/or completed the NOVUS program successfully. Treatment records from the NOVUS program, had they been provided, may have lent some credence to the opinion that Dr. Golde has received adequate treatment to address anger management and behavioral problems.

The overall lack of candor displayed by Dr. Golde at the hearing in this proceeding was profoundly disturbing. Despite the undisputed record evidence, Dr. Golde repeatedly denied that he abused his former patients and partners. When confronted with direct questioning about his past abusive conduct, Dr. Golde attempted to minimize the extent of the victim's injuries. For example, in his testimony, Dr. Golde described his conduct toward Ms. Hoff as a "non-issue," "innocuous," and "not harmful." Not only did the Board determine in its prior disciplinary decisions that Dr. Golde did, in fact, physically and psychologically abuse Ms. Schmidt and Ms. Smith, this conduct was also the basis of a nearly half million dollar civil judgment and a criminal conviction. Yet, throughout the hearing when asked directly to admit his prior abusive conduct toward women, Dr. Golde had a convenient lapse in memory or would respond that he did not know or understand the information.

Dr. Golde's demeanor was not that of a person who has accepted responsibility for his prior conduct, has learned from it and is genuinely remorseful. Rather, Dr. Golde's demeanor at the hearing not only lacked in credibility, it was consistent with the idiosyncrasies reported by Judge Gregory A. Peterson in the Eau Claire County Circuit Court, Case No. 95CV764, in which the judge wrote:

When people testify, I try to watch them carefully and make judgments about their behavior to the best of my ability. He did strike me as being calculating in his testimony, too careful with the answers he gave. He avoided answering questions. He claimed he could not understand what I thought were some simple questions. And he gave what struck me as some very odd answers. For example, he said, "I have no knowledge, quote/unquote, of battering Gail Schmidt more than once. What an odd way of answering that question. He said, I, quote, don't recall, end quote, ever hitting anyone else. And he said, I, quote, have no knowledge, again, end quote, of hitting Kay Anderson despite being pressed to either say he did or didn't... I think Dr. Golde perjured himself, particularly when he denied ever abusing Margaret Smith.

[Ex. 9, pgs. 203]

On the second day of the hearing in this proceeding, Dr. Golde testified that he found "interesting" Judge Peterson's conclusion that he "purposefully, intentionally and with planning" beat Ms. Smith 30-40 times. Dr. Golde testified that the Judge's conclusion was interesting because, "As things went on, the number kept escalating." Upon further questioning at the hearing about the basis for the judgment in the Smith case, Dr. Golde testified as follows that he had no recollection:

Q: What did the Judge tell you what was his reason for you having to pay \$800,000 to Margaret Smith?

A: I don't really recall what the particulars were or what he said. It was, what, ten years ago.

Q: Do you recall the judge indicating in any fashion that he believed that you had physically abused Margaret Smith?

A: No. Not particularly, no.

Q: Do you recall, on that same date, the same judge, Gregory A. Peterson, saying that yours was some of the most incredible testimony that he has heard in his time as a judge?

A: No, I don't. Again, that's – I don't recall the specifics of that.

Q: Isn't it true that, on that date, Judge Gregory A. Peterson found that Margaret Smith would carry the symptoms of your abuse for the rest of her life?

A: Again, I haven't seen any of what you have there. I don't know.

[TR. Vol. II, pgs. 153-154]

The transcript of the court decision on October 14, 1997, reflects Judge Peterson's reasons for his entry of default judgment

against Dr. Golde:

This was probably the most incredible testimony that I have heard in the time that I have presided as a judge. But as I thought about it, I realize that it's a tragedy to realize that this kind of thing goes on behind closed doors throughout our community all the time and our nation. In this case, I am perfectly satisfied that Dr. Golde's conduct was intentional, planned, was repeated 30 to 40 times. It was just mean. He used his wealth and position. He isolated Margaret Smith from her support systems. He lied about it in this courtroom, demonstrated no remorse whatsoever. And all of this is aggravated by the prior conduct, from which he's learned nothing, his attitude expressed toward the probation officer, toward the NOVUS program, not even admitting the seriousness of his striking Gail Schmidt. Just looking at the picture belies his version of that event.
[Ex. 9]

Judge Peterson also wrote, "As I look at my notes of the trial, in terms of explaining this, quite frankly, I – I felt the words almost failed how I could describe the pain and suffering that she endured. She was treated as less than an animal. The physical and mental and emotional abuse that she endured was unbelievable. Can you imagine living at any moment not knowing whether or not someone was going to strike out at you." The transcript indicates that Dr. Golde appeared in person with his attorney before Judge Peterson when judgment was rendered in the Smith case. (Ex. 9) Dr. Golde's testimony that he did not know, remember or understand why—either generally or specifically--on October 14, 1997, the judge, in Eau Claire County Circuit Court, Case No. 95CV764, ordered him to pay \$800,000.00 in punitive damages to Margaret Smith, is so lacking in credibility as to suggest a more profound problem with respect to Dr. Golde. Throughout the hearing, when asked questions about his past conduct, Dr. Golde was evasive and manipulative. When asked if he had belittled Ms. Smith for taking her anti-anxiety medication, Dr. Golde responded as follows:

A: What would be the classification of belittle be? If someone said something candidly in gest, I don't know. It's been so long. I don't even remember. [TR. Vol. II, pg. 149]

When asked by the Department of Regulation and Licensing's Division of Enforcement prosecutor during the hearing whether Judge Peterson in the Smith lawsuit had found that his conduct was "intentional, purposeful and planned, was repeated 30 to 40 times," and would he agree that it had happened, Dr. Golde again responded that he did not recall:

A: I have no knowledge of that. It's ten years ago. If you have a record of it, okay. I don't remember it.

[TR. Vol. II, 151]

In a similar line of questioning, Dr. Golde testified as follows:

Q: On October 14, 1997, isn't it true that Judge Gregory Peterson found that you had committed acts of physical abuse, verbal abuse, humiliation and stalking against Margaret Smith?

A: I don't know.

Q: Is it your testimony today that you don't remember why the judge said you were paying \$800,000 in punitive damages?

A: Ten years later, that is correct.

Q: No idea?

A: Nothing I can be specific on, no.

[Tr. Vol. II, pg. 154]

Yet, in other areas of his testimony, Dr. Golde displayed an unusually clear and detailed recollection of the details surrounding the litigation in the Smith case.

Q: Do you recall the circumstances of how that became a default judgment?

A: Yes. There were multiple errors in, I'm not a lawyer, but if you want to say judicial conduct by my attorney.

Q: Can you be a little more specific?

A: If I recall correctly, there were like two counts of ex parte, there was a violation of the ten-day rule for depositions, and there were severe sanctions because of that. There was another one that for my attorney failing to reschedule a deposition that I was to give was also another sanction.

[TR: Vol. II, pg. 193] [\[2\]](#)

Similarly, Dr. Golde was able to recall in remarkable detail the day in which a deposition was to be scheduled in the Smith case:

A: Well, what happened was that we had been trying for months to get a deposition from Margaret Smith for many months and it was always an excuse – either counsel wasn't available, Margaret Smith wasn't available – and all of a sudden I receive a subpoena for my deposition, and I said, "Look what's right is right. We have been trying to get the deposition first. That's only fair. I want you to, you know, do whatever that – "I'm talking about the attorney now" – what has to be done because we tried to get her deposition first. That's only right. Well, what happened was he delayed it, and he went in front of the judge to get I don't know if he called it a continuance or rescheduling. At approximately 8:00 a.m. the morning of the deposition, it was scheduled for 9:00, the judge refused. Harry was the attorney, calls me up and said, "You have to go to the deposition." I said, "I got a full day's work scheduled. I've got patients all day." I said, "That's not right." And he said, Well, I understand. And I said, I just can't, an hour beforehand, do it." And that's the story. And I think I had to pay a fine, and there may have been – I don't know if there were any other sanctions or not, but it was I stood on principle that, in fairness, that since we tried to get her deposition first, that's only fair that she should do it, and my attorney dropped the ball. [\[3\]](#)

[TR. Vol. II, pgs. 198-199.]

In comparison, when Dr. Golde was asked whether he recalled that Judge Peterson found that he had physically abused Margaret Smith, he responded as follows:

A: I believe that there was no evidence that presented – that was a civil trial, not a criminal trial. No. I don't have a comment on it.

[TR. Vol. II, pg. 151]

Given Petitioner's apparent intelligence, the significance of the events, and the fact that he was represented by counsel and present in the courtroom, Dr. Golde's testimony that he did not recall the basis for the judgment in the Smith case suggests not only a lack of candor but manifests significant problems with respect to Dr. Golde's overall rehabilitation. Additional evidence presented at hearing concerning Dr. Golde's recent altercation with tenants in one of his rental properties shows that he continues to engage in aggressive confrontational and dishonest behavior. In 2004, Dr. Golde had a dispute with his tenants

over unpaid rent, entered their apartment without permission and refused to leave when requested. Dr. Golde told the tenants that he had a right to be in their apartment because he had added his name to the lease and that he did so in order to help them. The tenants found Dr. Golde going through their personal property and were upset. Dr. Golde was convicted of violating the consumer protection laws governing marketing and trade practices by adding his name as co-tenant to a previously executed lease. The evidence showed that Dr. Golde also entered the property without the tenants' permission and against their wishes in an effort to collect delinquent rents. The charges of forgery and criminal trespass to a dwelling were dismissed, but read-in for sentencing purposes resulting in Dr. Golde serving three days in jail.

Dr. Golde bears the burden of proof in this proceeding to show that the objectives of general and specific deterrence as well as the protection of the public no longer warrant revocation of his license to practice chiropractic. Specifically, at issue is whether Dr. Golde's past tendencies to engage in deception and fraud; his problems with anger management and aggression, and his lack of compliance with the legal requirements of patient record keeping and accurate billing, have been adequately resolved so as not to compromise patient care or patient safety. Dr. Golde failed to meet his burden of proof. The evidence shows that Dr. Golde has not received adequate treatment for his anger and aggression problems. The evidence shows that he was not honest and forthcoming with the evaluator about his past conduct. As a result, the validity of the evaluation, the prognosis and treatment has been undermined. Additionally, the evidence of Dr. Golde's recent criminal conduct strongly suggests that he is still reprobate; that he still resorts to dishonesty, intimidation, aggression and unlawful behavior to further his self-interests. Nor did Dr. Golde present evidence to show that he has made any meaningful effort to improve his patient record-keeping and billing. Finally, the record evidence shows that Dr. Golde has engaged in unlawful chiropractic consultations after his license was revoked, including the review of patient records and x-rays, and facilitated by maintaining a desk at his former chiropractic office in plain view of his former patients. This latter conduct casts considerable doubt on Dr. Golde's respect for the Board's decision and his willingness to abide by the standards of the chiropractic profession.

The Board's decision to deny the reinstatement of Dr. Golde's license was not the result of an erroneous exercise of discretion. In fact, the evidence presented at the hearing in this proceeding solidly confirms that the Board's decision to deny his reinstatement was appropriate. Accordingly, it is recommended that the Board adopt the proposed Findings of Fact, Conclusions of Law and Order thereby denying the petition for reinstatement of licensure.

Dated this 17th day of December, 2007.

Colleen M. Baird
Administrative Law Judge

[1] The Board found additional violations by Dr. Golde and reached different Conclusions of Law, thereby resulting in the determination that due to seriousness of the violations the appropriate level of discipline was the revocation of Dr. Golde's chiropractic license, and not the three month suspension recommended in the Proposed Decision.

[2] Citations to the hearing transcript are abbreviated as "TR" followed by the volume and page number wherein the testimony appears.

[3] Judge Peterson held a motion hearing on October 10, 1997, wherein he stated that the "cumulative effect of what I've seen in the last several months is a wholesale, repeated, flagrant and egregious violation of procedural rules and ethics on behalf of the defense." Judge Peterson stated "I've handled murder cases, complicated products liability cases where at least huge sums of money have been sought, cases involving masses of lawyers from many geographical areas, but never has anything like this happened." The problems noted by Judge Peterson included two attempts by the defense to obtain *ex parte* orders, Dr. Golde's refusal to appear at a scheduled deposition, his refusal to turn over the NOVUS records and the filing of a motion to dismiss related to bankruptcy proceedings. In conclusion, Judge Peterson determined that the only reasonable response to these serious problems was to impose the sanction of striking the answer and all of the denials and defenses listed in the answer and to grant plaintiff a default judgment. [Ex. 10]