

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 :  
 : FINAL DECISION AND ORDER  
NICHOLE PANKOW, D.C., :  
RESPONDENT. : LS0808141CHI

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Division of Enforcement Case # 07 CHI 046

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

Nichole Pankow, D.C.  
855 Hillside 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. Nichole Pankow, D.C., (DOB 06/16/1972) is duly licensed as a chiropractor in the State of Wisconsin (license # 12-4014). This license was first granted on January 29, 2004.
2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 855 Hillside Drive, Jefferson, Wisconsin 53549.
3. Respondent and patient R.B. had a social relationship prior to January 23, 2007.
4. Respondent was aware that patient R.B. was depressed and that he was taking medication for depression in February of 2007.
5. Patient R.B. began receiving chiropractic treatment from Respondent on January 23, 2007. His intake forms

indicated that he was taking antidepressants.

6. Respondent and patient R.B. began having sexual contact on March 26, 2007. They had sexual intercourse approximately five times, outside the office setting. On one of those occasions, Respondent's husband observed.

7. Patient R.B. continued to receive chiropractic services from Respondent during the time that they were having sexual contact. Sexual contact occurred, at times, during patient R.B.'s treatment sessions.

8. Respondent admitted in writing that she was aware that patients often develop attractions for their doctors and intentionally "played into" patient R.B.'s attraction for her.

### 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 paragraphs 4 - 8 above constitutes a violation of Wisconsin Administrative Code § Chir 6.02(7) 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. Subject to paragraph 4, below, the license of Nichole Pankow, D.C. to practice as a chiropractor in the State of Wisconsin is **SUSPENDED** for a minimum of twelve (12) months, effective 30 days from the date of this Order.

3. During the period that Respondent's license is suspended, the provisions of Wis. Admin. Code § CHIR 4.07 shall apply and Respondent shall not do any of the following:

- a. Perform any of the functions in Wis. Admin. Code § CHIR 4.03.
- b. Have any professional contact with patients
- c. Be present in any chiropractic office, other than to receive care.

4. The suspension of Respondent's license shall end after the twelve month period, upon Respondent providing proof sufficient to satisfy the Board that:

a. Respondent has undergone, at Respondent's own expense, an assessment by a mental health care provider ("the assessor") experienced in evaluating health care practitioners who have become sexually involved with patients.

i. The assessor must not have treated Respondent and shall have been approved by the Board, or its designee, with an opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed. Patricia Coffey, Ph.D., is an approved assessor for purposes of this agreement.

ii. The Division of Enforcement shall provide the assessor with those portions of the investigative file with the Division believes may be of assistance in performing the assessment. Respondent may provide the assessor with any information Respondent believes will be of assistance in performing the assessment.

iii. Respondent shall authorize the assessor to provide the Board, or its designee, with the assessment report and all materials used in performing the assessment and shall provide the Board, or its designee, and the Division with the opportunity to discuss the assessment and findings with the assessor.

b. The assessor provides evidence sufficient to convince the Board that Respondent can practice with reasonable skill and safety to patients and public and does not suffer from any condition which prevents her from practicing in that manner.

5. If the Board determines to end the suspension, the Board may limit Respondent's license in a manner to address any concerns the Board has as a result of the conduct set out in the findings of fact and to address any recommendations resulting from the assessment, including, but not limited to:

- a. Psychotherapy, at Respondent's expense, by a therapist approved by the Board, to address specific treatment goals, with periodic reports to the Board by the therapist.
- b. Additional professional education in any identified areas of deficiency.
- c. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.
- d. Requiring Respondent to appear before the Board on an annual basis, if requested by the Board, to review the progress of any treatment and rehabilitation.

6. Following nine months of suspension, Respondent may provide the Board with proof of compliance with the requirements of the preceding paragraphs. If Respondent has provided the Board with the necessary materials within a reasonable period before a meeting of the Board, the Board shall consider the materials and determine at that meeting whether to end the suspension after twelve months and what, if any, limitations to place on the license. The parties shall be given notice and an opportunity to be heard at that meeting.

7. If Respondent believes that the Board's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board under paragraph 3d is inappropriate, Respondent may seek a class 1 hearing pursuant to §227.01(3)(a), Stats., in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor or the issue.

8. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of One Thousand, Two Hundred Dollars (\$1,200.00) pursuant to § 440.22(2), Stats.

9. All requests, notifications and payment shall be mailed, faxed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

10. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 5 above, may constitute grounds for revocation of Respondent's license as a chiropractor in Wisconsin. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, or any limitation imposed under paragraph 3d above, the Board may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

11. In the event Respondent fails to pay costs as ordered the Respondent's license (#12-4014) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Chiropractic Examining Board

By: Steven Silverman

8/14/08

A Member of the Board

Date

STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 :  
NICHOLE PANKOW, D.C., : STIPULATION  
 : LS# \_\_\_\_\_  
RESPONDENT. :

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Division of Enforcement Case # 07 CHI 046

Nichole Pankow, D.C., personally and by her attorney Hal Harlowe; 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 # 07 CHI 046). Respondent consents to the resolution of this investigation by stipulation.

2. Respondent understands that by signing this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her 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 obtained the advice of legal counsel prior to signing this stipulation.

4. 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.

5. 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.

6. 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 her 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.

7. 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.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHFS-licensed facility, she will need to pass a Rehabilitation Review through DHFS prior to commencement of such employment.

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

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Nichole Pankow, D.C.  
855 Hillside Drive  
Jefferson, WI 53549

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Date

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Hal Harlowe  
Attorney for Nichole Pankow, D.C.  
519 N. Pinckney Street  
Madison, WI 53703

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Date

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

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Date