

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
MELISSA V. NELSON, D.C., : LS0811203CHI
RESPONDENT. :

[Division of Enforcement Case # 06 CHI 002]

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

Melissa V. Nelson, D.C.
1034 Memorial Drive
Sturgeon Bay, WI 54235

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

Wisconsin Chiropractic Examining Board
Department of Regulation and 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 this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Melissa V. Nelson, D.C., Respondent, date of birth August 10, 1953, is licensed by the Wisconsin Chiropractic Examining Board to practice chiropractic in the state of Wisconsin pursuant to license number 1479, which was first granted February 7, 1979.

2. Respondent's address of record with the Department of Regulation and Licensing is 1034 Memorial Drive, Sturgeon Bay, WI 54235.

3. At all times relevant to this matter, Respondent practiced chiropractic at Staudenmaier Chiropractic Wellness Center, S.C., in Sturgeon Bay, Wisconsin.

4. On April 23, 2003, Ms. A, who was diabetic, saw Respondent for treatment of a chronic left ankle tendonitis condition. Respondent adjusted Ms. A's spine and ankle and determined that Ms. A could benefit from treatment with the Dynatron Electric Muscle Stimulation machine.

5. Respondent delegated application of the muscle stimulation treatment to a massage therapist who worked in Respondent's office, but who had not yet completed training on the machine.

6. Respondent did not observe the massage therapist as the massage therapist administered the muscle

stimulation treatment. During the treatment, Ms. A could not feel the current and received a burn on her left ankle.

7. Wis. Admin. Code § Chir 10.02 permits delegation of adjunctive services to unlicensed persons only if the unlicensed person has successfully completed an applicable training program with demonstrated proficiency.

CONCLUSIONS OF LAW

1. The Wisconsin Chiropractic Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 446.03 and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct set out above, has engaged in unprofessional conduct as defined by Wis. Admin. Code § CHI 6.02(17). Respondent is therefore subject to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of Melissa V. Nelson, D.C., Respondent, to practice chiropractic in the State of Wisconsin is hereby **SUSPENDED** for thirty (30) days.

2. Respondent's license is **LIMITED** as follows:

a. Within 180 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of four (4) hours of continuing education in the delegation and supervision of paraprofessionals/subordinate staff and therapeutic modalities, which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board, or its designee, that she has completed the education, the Board shall issue an Order removing this limitation of Respondent's license.

3. 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 \$380.00 pursuant to Wis. Stat. § 440.22(2).

4. Requests for approval, notification of completion of educational programs and payment shall be faxed, mailed or delivered to:

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

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license **SHALL BE SUSPENDED**, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

By: Steven Silverman D.C.
A Member of the Board

11/20/08
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
MELISSA V. NELSON, D.C., : STIPULATION
RESPONDENT. : LS _____ CHI

[Division of Enforcement Case # 06 CHI 002]

It is hereby stipulated and agreed, by and between Melissa V. Nelson, D.C., Respondent; and Sandra L. Nowack, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case 06 CHI 002). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

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 been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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 the 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 Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, if any, 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 case 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. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Melissa V. Nelson, D.C.
Respondent
1034 Memorial Drive
Sturgeon Bay, WI 54235

Date

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date