

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
:
CASIMER S. KOBYLINSKI, D.C., : LS0911121CHI
RESPONDENT. :

Division of Enforcement Case Nos. 05 CHI 033, 06 CHI 011, 06 CHI 024 and 06 CHI 070

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

Casimer S. Kobylinski, D.C.
934 Michigan Avenue
Sheboygan, WI 53081

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. Casimer S. Kobylinski D.C., (DOB 04/17/1955), is duly licensed to practice as a chiropractor in the state of Wisconsin pursuant to license #2190-12. This license was granted on November 17, 1986.
2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 934 Michigan Avenue, Sheboygan, Wisconsin 53081.

05 CHI 033

3. A review of patient records for Patient DS and Patient DW showed that Respondent billed for treatment for accidents such as “patient wrenched back lifting furniture” or “patient slipped lifting wood in garage,” when in fact treatment was being sought by these patients for chronic conditions such as fibromyalgia and curvature of the spine.

06 CHI 011

4. On or about August 23, 2004, Patient PB was seen by a physician's assistant for injuries she received as the result of a fall at work. The physician's assistant noted in the medical record that Patient PB's symptoms were resolving with the exception of her lower back region.

5. Patient PB then sought treatment from Respondent. Respondent's records note numerous postural, orthopedic neurological, radiological and chiropractic findings in support of a diagnosis of sub-acute left shoulder sprain, cervical radiculitis, cervical subluxation and thoracic subluxation. Respondent's treatment plan included joint manipulation along with the use of modalities of interferential therapy, trigger point therapy, as needed, along with cryotherapy rehabilitation exercises, a home ice regimen, instruction in sleeping postures and activities of daily living and a lumbar belt for stabilization. This treatment plan was followed over a course of approximately 2 ½ months after which Patient PB was released from care with no permanency or work restrictions.

6. After receiving claims totaling \$10,000.00, Patient PB's insurance company hired an independent examiner to review the records. The examiner's report stated that they could find no decipherable objective data in the file that can substantiate the degree and intensity of treatment provided by Respondent.

06 CHI 024

7. A review of patient records for Patient CH showed that Respondent billed for treatment for accidents such as "lifted patio furniture" or "shoveled snow at home," when in fact treatment was being sought by for chronic conditions of neck and/or back pain.

06 CHI 070

8. Respondent submitted an insurance claim for Patient KS, dated April 9, 2004. The claim stated Patient KS slipped while moving furniture. On an injury questionnaire sent to Patient KS by her insurance company, Patient KS stated that on April 9, 2004 she was treated for recurrent migraine headaches, she had not sustained an injury. Over the next 11 months, various other injury claims were submitted by Respondent for Patient KS. However, Patient KS stated in a telephone conversation with her insurance company that she was treated for migraine headaches and sciatica pain.

9. Respondent submitted a claim for Patient JM, dated August 6, 2004. The claim stated Patient JM was moving furniture and slipped and fell, twisting his middle and lower back. On a questionnaire sent to Patient JM by his insurance company, Patient JM stated that he sought treatment for chronic back pain. Claims for September 10, 2004, September 17, 2004 and October 15, 2004 state patient had sharp back pain due to gardening. A questionnaire filled out for Patient JM's insurance company stated his treatment was not due to a specific injury or accident but was from a lifetime of using his back and bending over to pick things up without bending his knees.

CONCLUSIONS OF LAW

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

2. The conduct described in paragraph 3 thru 9, above, constitutes a violation of Wis. Adm. Code §§ Chir 6.02(12) and (14).

ORDER

IT IS ORDERED:

1. Casimer S. Kobylinski, D.C. is REPRIMANDED.

2. The license of Casimer S. Kobylinski, D.C., to practice chiropractic in the State of Wisconsin is LIMITED as follows:

(a) Within one hundred twenty (120) days of the date of this Order, Respondent shall provide proof of successful completion of 6 hours of pre-approved continuing education in CPT code billing for Chiropractors.

(1) Respondent is responsible for finding an appropriate course and submitting the course information to the Board or its designee/ liaison for approval prior to taking the course.

(2) Respondent is responsible for all costs associated with this continuing education.

(3) Respondent will not apply any of the continuing education credits earned in satisfaction of this Order toward satisfaction of his Wis. Stat. § 446.02(1)(b) biennial training requirements.

(4) Upon proof of successful completion of this continuing education, this limitation will be lifted and Respondent will return to full licensure.

(b) Within 30 days of the date of this Order, Respondent shall, at his own expense, hire an independent monitor, with no business or social ties to Respondent. On a quarterly basis, the auditor will audit ten random patient records from the preceding quarter and interview those patients regarding their care. The auditor will immediately report to the Department Monitor any violations of law or regulations relating to chiropractic, with a copy of that report to the Respondent. The Respondent may respond to the allegations within ten (10) days. The Monitor will then forward both report and response to the Board Liaison, who will determine if the reported issue constitutes a violation of Wis. Adm. Code §§ Chir 6.02(12) or (14). If a violation of Wis. Admn. Code Chir. 6.02(12) or (14) is found, Respondent will be immediately suspended for ninety days without further notice or hearing. If any other violation of any law or regulation relating to chiropractic is reported, the Division of Enforcement will investigate and prosecute those violations in the usual course of business. If, after two years, the auditor reports no violations, Respondent will return to full licensure.

3. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of two thousand six hundred (\$2,600.00) dollars. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

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

4. In the event the Respondent fails to pay the costs as ordered, or fails to comply with the ordered continuing education requirements, the Respondent's license (#2190-12) SHALL BE SUSPENDED until the Respondent has complied with the terms of this Order.

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

CHIROPRACTIC EXAMINING BOARD

By: Steven Silverman DC
A Member of the Board

11/12/09
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : STIPULATION
:
CASIMER S. KOBYLINSKI, D.C., : LS# _____
RESPONDENT. :

Division of Enforcement Case Nos. 05 CHI 033, 06 CHI 011, 06 CHI 024 and 06 CHI 070

It is hereby stipulated between Casimer S. Kobylinski, D.C., his attorney, Martin E. Kohler, and Jeanette Lytle, attorney for the 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 nos. 05 CHI 033, 06 CHI 011, 06 CHI 024 and 06 CHI 070). 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 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 is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice 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 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.
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.

Casimer S. Kobylinski, D.C.
934 Michigan Avenue
Sheboygan, WI 53081

Date

Martin E. Kohler, Attorney for Respondent
Kohler & Hart
735 N. Water Street, Suite 1212
Milwaukee, WI 53202

Date

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

Date