

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

FRANCIS J. PASSINEAU, D.C.,
RESPONDENT.

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FINAL DECISION AND ORDER
91 CHI 069

The parties to this action for the purposes of Wis. Stats. sec. 227.53
are:

Francis J. Passineau, D.C.
2600 Stewart Avenue
Wausau, WI 54401

Chiropractic Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

FILE COPY

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 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. Francis J. Passineau (D.O.B. December 25, 1938) is duly licensed in
the state of Wisconsin as a chiropractor (license #1249). This license was
first granted on February 4, 1966.
2. Francis J. Passineau's latest address on file with the Department
of Regulation and Licensing is 2600 Stewart Avenue, Wausau, Wisconsin 54401.
3. On or about April 9, 1990 Francis J. Passineau, hereinafter the
Respondent, entered into a stipulated settlement concerning an allegation that
he had provided services to a patient which fell below minimally acceptable
standards. A copy of that stipulation is attached as Exhibit 1 and is
incorporated herein by reference.
4. By Final Decision and Order dated April 12, 1990 Respondent was
disciplined for providing chiropractic services in a manner which fell below
minimally acceptable standards. Part of the discipline imposed was as
follows: "3. That the Respondent must present to the Board proof of

professional liability insurance coverage in the sum of \$100,000 per occurrence and \$300,000 in aggregate within 90 days of the date of this order. If the Respondent is unable to obtain coverage as required he must petition the Board for a change in this term and must supply proof of uninsurability. 4. That partial costs of the proceedings are assessed against the Respondent payable to the Department of Regulation and Licensing in the sum of \$300. The costs must be paid within 90 days of the date of this order." A copy of the April 12, 1990 Final Decision and Order is attached as Exhibit 2 and is incorporated herein by reference.

5. By letter dated February 5, 1992 Respondent provided proof of professional liability insurance coverage by providing the department with summary sheets of the policy.

6. The proof of insurance was not provided in accordance with the Board order quoted in paragraph 4 above in that it was not provided to the Board within 90 days of the date of the order.

7. By check dated September 7, 1990 Respondent paid \$150 of the \$300 assessment of costs. This check was received by the department on September 14, 1990. By undated check received by the department on October 21, 1991, Respondent paid the remaining \$150 of the \$300 assessed costs.

8. The costs were not paid in compliance with the Board order quoted in paragraph 4 above in that the costs were not paid within 90 days of the date of that order.

9. Failing to provide proof of professional liability insurance coverage within 90 days of the date of the order as required by the April 12, 1990 Final Decision and Order as quoted in paragraph 4 above, is a violation of CHIR 6.02(25), Wis. Adm. Code, i.e. a violation of an order of the Board.

10. Failing to pay the \$300 costs within 90 days of the date of the order as required by the April 12, 1990 Final Decision and Order as quoted in paragraph 4 above, is a violation of CHIR 6.02(25), Wis. Adm. Code, i.e. a violation of an order of the Board.

CONCLUSIONS OF LAW

1. By the conduct described above, Respondent is subject to disciplinary action against his license to practice as a chiropractor in the state of Wisconsin, pursuant to Wis. Stats. sec. 446.03, and Wis. Adm. Code Ch. CHIR 6.

2. That the Chiropractic Examining Board is authorized to enter into the attached stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent has violated CHIR 6.02(25), Wis. Adm. Code, in that he violated a Board order to provide proof of professional liability insurance coverage in the sum of \$100,000 per occurrence and \$300,000 in aggregate within 90 days of the date of the order.

4. Respondent has violated CHIR 6.02(25), Wis. Adm. Code, in that he violated a Board order to pay \$300 in costs within 90 days of the date of the order.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached stipulation is accepted.

2. Respondent Francis J. Passineau, D.C., license #1249, be and hereby is, reprimanded.

3. That partial costs of this action are assessed against the Respondent and payable to the Department of Regulation and Licensing in the sum of \$250. The partial costs must be paid within 10 days of the effective date of this order.

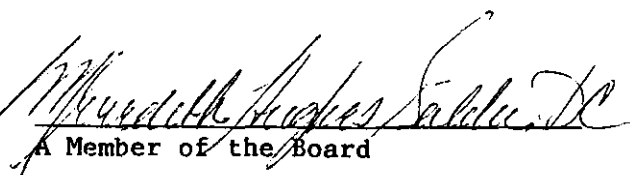
4. It is further ordered that the Chiropractic Examining Board shall close investigative file #91 CHI 069.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

This Order shall become effective ten (10) days following the date of its signing.

CHIROPRACTIC EXAMINING BOARD

By:


A Member of the Board

Date

1-14-93

GMS:kcb
ATY-2245

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FRANCIS J. PASSINEAU, D.C.,
RESPONDENT.

:
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:
:
:

STIPULATION
(87 CHI 33)

It is hereby stipulated between Francis J. Passineau, D.C., personally on his own behalf and Michael J. Berndt, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Passineau's licensure by the Division of Enforcement (Passineau, 87 CHI 33). Passineau consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Passineau understands that by the signing of 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 clear, satisfactory and convincing 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, and the Wisconsin Administrative Code.

3. Passineau neither admits nor denies the allegations in this matter, but agrees to the adoption of the attached Final Decision and Order by the Chiropractic Examining Board.

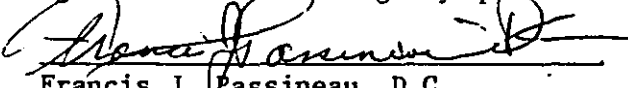
4. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings.

5. If the Board accepts the terms of this Stipulation, 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.

6. The Division of Enforcement joins Passineau in recommending the Chiropractic Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Exhibit 1

7. The attorney for the Complainant and the Board Advisor may address the Board in either open or closed session without the presence of the Respondent or his attorney, if any, for purposes of speaking in favor of this agreement or answering any questions the Board may have.


Francis J. Passineau, D.C.

4-9-90
Date


Michael J. Berndt, Attorney
Division of Enforcement

2/20/90
Date

MJB:vks
ATY-969

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
FRANCIS J. PASSINEAU, D.C.,	:	(87 CHI 33)
RESPONDENT.	:	

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Francis J. Passineau, D.C.
Stewart Center
2600 Stewart Avenue
Wausau, WI 54401

Chiropractic Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the 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. That Francis J. Passineau, hereinafter the Respondent, was at all times relevant to this action duly licensed as a chiropractor in the State of Wisconsin.
2. That the Respondent's license is #1249 and was issued on February 4, 1966.
3. That the Respondent's current address is Stewart Center, 2600 Stewart Avenue, Wausau, WI 54401.

EXHIBIT - 1

4. That an informal complaint was received in the Division of Enforcement against the Respondent alleging that the Respondent provided services to patient H.N. which fell below minimally acceptable standards.

5. That the Respondent neither admits nor denies the above allegations but consents to the entry of this Final Decision and Order, including finding of fact 6.

6. That during May, 1983, the Respondent provided chiropractic services to patient H.N. in a manner which fell below minimally acceptable standards.

CONCLUSIONS OF LAW

1. That the Board has jurisdiction to take disciplinary action in this matter pursuant to Chapter 446, Stats.

Therefore, it is hereby ORDERED:

1. That the Respondent is reprimanded.

2. That the Respondent is required to take 36 hours of continuing education within two years of the date of this Order. The continuing education must be sponsored by the ACA, WCA, ICA or a CCE Approved College. The continuing education must relate to the following areas: x-ray, diagnosis, laboratory work or the detection and differential diagnosis of carcinogenic disorders.

3. That the Respondent must present to the Board proof of professional liability insurance coverage in the sum of \$100,000 per occurrence and \$300,000 in aggregate within 90 days of the date of this Order. If the Respondent is unable to obtain coverage as required he must petition the Board for a change in this term and must supply proof of uninsurability.

4. That partial costs of the proceeding are assessed against the Respondent, payable to the Department of Regulation and Licensing, in the sum of \$300. The costs must be paid within ^{90 days} ~~60~~ days of the date of this Order.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

Chiropractic Examining Board

By: Meredith A. Baker, D.C.

A Member of the Board

Date 4.12.90

MJB:vks
ATY-970

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	'91 CHI 069
FRANCIS J. PASSINEAU, D.C.,	:	
RESPONDENT.	:	

It is hereby stipulated between Francis J. Passineau, personally on his own behalf and Gerald M. Scanlan, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Francis J. Passineau's licensure by the Division of Enforcement. Francis J. Passineau consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Francis J. Passineau understands that by the signing of 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, and the Wisconsin Administrative Code.


3. Francis J. Passineau is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this stipulation.

4. Francis J. Passineau 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 the consideration of this attempted resolution.

6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Chiropractic Examining Board assigned as an advisor in this investigation may appear before the Chiropractic Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Francis J. Passineau in recommending the Chiropractic Examining Board adopt this Stipulation and issue the attached Final Decision and Order.


Francis J. Passineau, Respondent

10-26-92
Date


Gerald M. Scanlan, Attorney
Division of Enforcement

12-4-92
Date

GMS:kcb
ATY-2244

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Chiropractic Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Chiropractic Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Chiropractic Examining Board.

The date of mailing of this decision is January 19, 1993.