

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

FILE COPY

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
GARY J. LUHMAN, D.C.,	:	91 CHI 47, 91 CHI 75
RESPONDENT.	:	

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

Gary J. Luhman, D.C.
1016 South Madison Street
Lancaster, WI 53813

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

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. Gary J. Luhman (D.O.B. May 6, 1949) is duly licensed in the state of Wisconsin as a chiropractor (license #2102). This license was first granted on January 9, 1986.

2. Gary J. Luhman's latest address on file with the Department of Regulation and Licensing is 1016 South Madison Street, Lancaster, WI 53813.

3. During the months of January and February 1987 Patient WS, a 25-year-old female, presented herself to Gary Luhman's (hereinafter the Respondent) office for chiropractic treatments.

4. On each of her visits Patient WS was instructed by the Respondent to strip to her underwear, remove her bra, prior to treatment, and put on a gown which she did.

5. On one visit, while in the process of being x-rayed, Respondent instructed Patient WS to raise her gown so as to facilitate him in taking the x-rays. At his instructions, Patient WS lifted the gown about waist high or higher. At the time she lifted the gown she was covered only by her underwear.

6. There was no female attendant present when Respondent treated Patient WS and had her lift her gown thereby exposing her in her underwear. The gown was subsequently lowered for the taking of the x-rays.

7. From on or about August 1988 to November 1989 Patient SMC, a 25-year-old female, presented herself to Respondent for chiropractic treatment for a sore back.

8. During the routine course of her adjustments, Respondent would require Patient SMC to remove her shirt and would also have her unhook her bra or he would unhook her bra for her. No gown nor other covering was normally provided Patient SMC.

9. During the course of her treatment Patient SMC's breasts would at times become fully exposed.

10. There was no female attendant present when Respondent treated Patient SMC while her breasts were exposed.

11. From on or about August 29, 1990 to March 24, 1991 Patient SPC, a 21-year-old female, presented herself to Respondent for chiropractic treatment for general back problems related to a traffic accident.

12. As a part of her routine treatment, Respondent would require Patient SPC to remove her shirt and would also have her unhook her bra or would unhook her bra for her. No gown or other covering was provided Patient SPC on most occasions.

13. During the course of her treatments Patient SPC's breasts would at times become fully exposed.

14. There was no female attendant present when Patient SPC's breasts were exposed.

15. During the course of a treatment on February 11, 1991 Respondent took x-rays of Patient SPC. For the x-rays Patient SPC was provided a gown and instructed by Respondent to remove her bra and underwear thereby leaving her completely naked under the gown.

16. After the x-rays were taken Patient SPC was directed by Respondent to lay down on a flat table at which time Respondent performed a series of leg range of motion tests while Patient SPC still had no underwear on. The nature of the leg range of motion tests caused the gown to raise over her waist thereby fully exposing Patient SPC's genital area.

17. Following the leg rotation tests, Patient SPC was instructed to stand in front of a plumb line. Respondent then directed Patient SPC to remove her gown, which she did, thereby becoming completely exposed to Respondent.

18. There was no female attendant present when Respondent administered the leg range of motion tests on Patient SPC or when Patient SPC was completely disrobed during the Respondent's use of the plumb line.

CONCLUSIONS OF LAW

1. By the conduct described above, Gary J. Luhman 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 chapter CHIR 6.

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

3. That by his conduct when treating Patient WS during January and February 1987, Respondent has practiced in a manner which substantially departs from the standard of care ordinarily exercised by a chiropractor, contrary to sec. CHIR 6.02(3), Wis. Adm. Code. Further, Respondent performed professional services inconsistent with training, education or experience contrary to CHIR 6.02(6), Wis. Adm. Code.

4. That by his conduct when treating Patient SMC on diverse occasions from August 1988 to November 1988, Respondent has practiced in a manner which substantially departs from the standard of care ordinarily exercised by a chiropractor contrary to sec. CHIR 6.02(3), Wis. Adm. Code. Further, Respondent performed professional services inconsistent with training, education or experience contrary to CHIR 6.02(6), Wis. Adm. Code.

5. That by his conduct when treating Patient SPC on diverse occasions from August 1990 to March 1991 in regarding to having her breasts becoming exposed, Respondent has practiced in a manner which substantially departs from the standard of care ordinarily exercised by a chiropractor contrary to sec. CHIR 6.02(3), Wis. Adm. Code. Further, Respondent performed professional services inconsistent with training, education or experience contrary to CHIR 6.02(6), Wis. Adm. Code.

6. That by his conduct when treating Patient SPC on February 11, 1991 in regards to performing leg rotation tests on Patient SPC in such a manner as to expose her genital area and further by having Patient SPC stand fully unclothed in front of a plumb line, Respondent has practiced in a manner which substantially departs from the standard of care ordinarily exercised by a chiropractor contrary to sec. CHIR 6.02(3), Wis. Adm. Code. Further, Respondent performed professional services inconsistent with training, education or experience contrary to CHIR 6.02(6), Wis. Adm. Code..

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent Gary J. Luhman's chiropractic license #2102 is hereby suspended for a period of thirty (30) days.

2. Respondent's license shall be limited for an indefinite period under the following terms and conditions:

- a) A female attendant/assistant must be present when any type of examination or procedure is performed by the Respondent on a female patient which requires exposure of, or contact with, the intimate parts of the patient, which shall be defined as the breasts, buttocks, anus, groin, vagina or pubic mound.
- b) That prior to any type of examination or patient procedure which requires the exposure of, or contact with, the above intimate parts of the patient an informed written disclosure and consent is required by any female patient. The disclosure and informed consent shall contain all relevant information pertaining to the procedure.
- c) That violation of the above limitations will constitute a basis for disciplinary action by the Chiropractic Examining Board.

3. The Respondent must pass a course of instruction in boundary training (12 credit hours) and also a course of instruction in ethics (12 credit hours) approved by the Board prior to attendance, and submit proof of completion to the Board within 12 months of the date of this order. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board.

4. In the event the Respondent Gary J. Luhman fails to comply with the above education requirements within 12 months of the date of this order and/or fails to verify the same to the Department of Regulation and Licensing within 13 months of the date of this order, then his license #2102 shall be indefinitely suspended until he has complied with the terms of this order.

5. It is further ordered that the Chiropractic Examining Board shall close investigative files 91 CHI 47 and 91 CHI 75.

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

10 - ~~10~~ - 72
Date

GMS:kcb
ATY-2211

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
GARY J. LUHMAN, D.C.,	:	91 CHI 47, 91 CHI 75
RESPONDENT	:	

It is hereby stipulated between Gary J. Luhman, 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 Gary J. Luhman's licensure by the Division of Enforcement. Gary J. Luhman consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Gary J. Luhman 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. Gary J. Luhman 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. Gary J. Luhman 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.

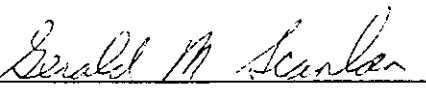
7. The Division of Enforcement joins Gary J. Luhman in recommending the Chiropractic Examining Board adopt this Stipulation and issue the attached Final Decision and Order.



Gary J. Luhman, D.C.

10-6-92

Date



Gerald M. Scanlan, Attorney
Division of Enforcement

10-8-92

Date

GMS:kcb
ATY-2210

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
th times all wed f r each, and th 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 October 9, 1992.