

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

PAUL M. SMITH, D.C.,
RESPONDENT

:
:
:
:
:
:

FINAL DECISION AND ORDER
93 CHI 070

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

Paul M. Smith, D.C.
1001 South Whitney Way
Madison, WI 53711

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. Paul M. Smith, D.C. (D.O.B. 05/24/26) is duly licensed as a chiropractor in the state of Wisconsin (license #1154). This license was first granted on February 15, 1957.

2. Dr. Smith's most recent address on file with the Wisconsin Chiropractic Examining Board is 1001 South Whitney Way, Madison, WI 53711.

3. From 1984 through June 25, 1993, Respondent treated Patient D.R., a female, date of birth, 2-6-44, age 49 as of June 1993, for various problems. On June 8, 1993, Patient D.R. presented for treatment to Respondent with complaints of neck and right shoulder pain, headaches and nighttime sinus drainage. Respondent treated Patient D.R. on June 8, 9, 11, 15, 18, 21, 23, and 25, 1993.

4. On June 25, 1993, while alone in the office for an 8:30 a.m. appointment and while Patient D.R. was unclothed except for panties and a ~~short~~ gown, Respondent performed examinations or adjustments of Patient D.R.'s

(C.A. arrived 10 min into treatment time) RB
Knee length RB

To extend (Stretch)
The Spine
R16

neck, abdomen, ribs, head, and lower back. Respondent then adjusted Patient D.R.'s thoracic spine by having her place her arms around his neck, and squeezing her thoracic vertebrae. Upon hearing audible vertebral movement, Respondent kissed Patient D.R. on the left cheek. Patient D.R. alleges that while Respondent was massaging her abdomen, he stated that he had been thinking of her ~~and~~ ~~for~~ the previous day while trimming the hedges. Respondent acknowledges that he was thinking of her, but that he was wondering how he could help her with her problem. Respondent denies that he had any sexual motive or intent in having kissed Patient D.R.

5. Respondent acknowledges that having kissed Patient D.R. was unprofessional, and I explained to patient D.R. that extension of the spine made it easier to move the thoracic vertebra involved. R16

6. In resolution of this matter, Dr. Smith consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Chiropractic Examining Board has jurisdiction over this matter and authority to take disciplinary action against the Respondent pursuant to Wis. Stats. sec. 446.03, and Wis. Adm. Code Ch. Chir 1 and 6.
2. The Wisconsin Chiropractic Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stats. sec. 227.44(5).
3. Respondent's conduct described above violated sec. 446.03(5), Wis. Stats., and sec. Chir 6.02(6), Wis. Adm. Code, and subjects Respondent to disciplinary under sec. 446.03, Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

That the STIPULATION of the parties, attached hereto, is ACCEPTED.

IT IS FURTHER ORDERED that Paul M. Smith, D.C. shall undertake and complete and pass within 6 months from the date of this Order a course of instruction in boundary training qualifying for a minimum of 12 credit hours of continuing education.

1. Respondent shall notify the Board in writing of the proposed coursework for satisfaction of this requirement, which shall be subject to approval in advance by the Board.
2. Respondent's enrollment, attendance and completion of the continuing education ordered herein shall be verified and confirmed in writing to the Board directly by the sponsor of such continuing education program(s) not later than 6 months from the date of this Order.

3. Respondent shall not receive credit for the continuing education credits ordered herein against the requirements for continuing education under Ch. Chir 5, Wis. Adm. Code.

4. Respondent shall be responsible for all costs and expenses of complying with this Order.

5. Failure to complete and report the continuing education as required herein shall result in automatic suspension of Respondent's license to practice chiropractic until such requirements are fulfilled. The suspension shall take effect without further action by the Board on the 5th day following written notice to Respondent by the Department, by certified mail, of failure of the Department to have received written verification of completion of the continuing education as required herein. Respondent's license may be reinstated automatically without further order of the Board upon receipt by the Department of written verification of completion of the continuing education as required herein.

IT IS FURTHER ORDERED that Respondent shall pay to the Department costs of this investigation and proceeding pursuant to sec 440.22 Wis. Stats., in the amount of \$190.50, not later than 30 days following the date of this Order.

WISCONSIN CHIROPRACTIC EXAMINING BOARD

6-9-94
Date

By: [Signature]
A Member of the Board

I, Paul M. Smith, D.C., have read and understood all parts of this Order and attached Stipulation, and pursuant to the attached Stipulation, hereby consent to the entry of the foregoing Final Decision and Order by the Wisconsin Chiropractic Examining Board.

4-19-94
Date

[Signature]
Paul M. Smith, Respondent

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
PAUL M. SMITH, D.C.,	:	93 CHI 070
RESPONDENT	:	
	:	

It is hereby stipulated between Paul M. Smith, personally on his own behalf and Robert T. Ganch, 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 Dr. Smith's licensure by the Division of Enforcement (93 CHI 070). Dr. Smith consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Dr. Smith 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. Dr. Smith 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. Dr. Smith 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 Dr. Smith in recommending the Chiropractic Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Paul M. Smith, D.C.
Paul M. Smith, D.C.
Respondent

4-19-94
Date

Robert T. Ganch
Robert T. Ganch, Attorney
Division of Enforcement

4-22-94
Date

Meredith Bakke, DC /cp
Wisconsin Chiropractic
Examining Board, by a member
of the Board

6-9-94
Date