

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

JOHN L. SCHUETT, DC,  
RESPONDENT

:  
: FINAL DECISION AND ORDER  
: 94 CHI 088, 94 CHI 071, 94 CHI 013,  
: 93 CHI 111, 93 CHI 049, 93 CHI 031,  
: and 92 CHI 091  
:

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

John L. Schuett, DC  
410 Genesee Street  
Delafield, WI 53018

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. John L. Schuett (D.O.B. 01/21/59) is duly licensed in the state of Wisconsin chiropractic in the state of Wisconsin (license #2109). This license was first granted on September 1, 1983.

2. Dr. Schuett's latest address on file with the Department of Regulation and Licensing is 410 Genesee Street, Delafield, WI 53018.

3. Dr. Schuett has been diagnosed as having bipolar affective disorder. Prior to his receipt of treatment, this condition adversely affected Dr. Schuett's ability to safely and reliably practice chiropractic. The Board has received multiple complaints concerning Dr. Schuett's practice prior to his receipt of treatment.

4. In resolution of this matter, Dr. Schuett consents to the entry of the following Conclusions of Law and Order as a reasonable accomodation to allow him an opportunity to continue his chiropractic career, in light of the facts

and circumstances of this case.

#### CONCLUSIONS OF LAW

By the conduct described above, John L. Schuett is subject to disciplinary action against his license to practice chiropractic in the state of Wisconsin, pursuant to Wis. Stats. §446.04(5), and Wis. Adm. Code §Chir 6.02(5).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of John L. Schuett shall be LIMITED as follows:

#### **REHABILITATION, MONITORING AND TREATMENT**

##### Treatment Required

1. Respondent shall continue successful participation in all components of a mental health treatment program at a treatment facility acceptable to the Board. As a part of treatment, Respondent must attend therapy on a schedule as recommended by his Supervising Health Care Provider. In addition, Respondent must take the medications prescribed for the management of his condition.

##### **Drug screens**

6. The Board, via its designated agent, may direct Respondent to participate in witnessed monitoring of his blood and/or urine to determine his consumption of prescribed medications in compliance with his treatment program. If the Board or the physician or therapist supervising his plan of care, or his employer deems that an individual screen or a program of random screens (on a frequency acceptable to the Board) are warranted under this Order, Respondent shall submit to such screen(s). Respondent shall have on file with the Department Monitor a monitoring and reporting plan, to ensure that screening is available on a contingency basis.

In the event that a screen or screens are required pursuant to this order:

- a. Respondent shall be responsible for obtaining a monitoring facility and reporting system acceptable to the Board, as well as for all costs incurred in conjunction with the monitoring and reporting required and any other expenses associated with compliance with this Order.
- b. Respondent shall keep his Supervising Health Care Provider and monitoring facility informed of Respondent's location and shall be available for contact by his Supervising Health Care Provider at all times.

c. All requested specimens shall be provided by Respondent within five (5) hours of the request for the specimen. All urine specimen collections shall be a split sample accomplished by dividing urine from a single void into two specimen bottles. The total volume of the split sample shall be at least 45 ml. of urine. All breath, split sample urine specimens, blood specimens and hair specimens shall be collected, monitored and chain of custody maintained in conformity with the collection, monitoring and chain of custody procedures set forth in 49 CFR Part 40. Urine specimen collections shall be by direct observation if:

- i. The Respondent must provide an additional specimen because Respondent's initial specimen was outside of the normal temperature range (32.5 - 37.7°C/90.5 - 99.8°F) and he refuses to have an oral body temperature measurement; or he does provide an oral body temperature measurement, and the reading varies by more than 1°C/1.8°F from the temperature of the urine specimen;
- ii. Respondent's last provided specimen was determined by the laboratory to have a specific gravity of less than 1.003 and creatinine concentration below 0.2 g/l;
- iii. The collection site person observes Respondent acting in such a manner to provide reason to believe that Respondent may have attempted or may attempt to substitute or adulterate the specimen. The collection site person, if he or she believes that the initial urine specimen may have been adulterated or a substitution made, shall direct Respondent to provide an additional observed urine specimen;
- iv. The last provided specimen resulted in a negative or suspected negative test result for the presence of prescribed medications [hereinafter "negative test result"] for the presence of prescribed medications; or
- v. The Chiropractic Examining Board (or any member of the Board), the Department Monitor, or Respondent's Supervising Health Care Provider directs that the urine specimen collection be by direct observation.

If either of the above conditions (i) or (iii) requires collection of an additional observed urine specimen, the collection of the subsequent specimen shall be accomplished within the required five (5) hours of the request for the initial specimen; the collection of the initial specimen shall not satisfy the requirement that the urine specimen be collected within five (5) hours of the request for the initial specimen.

e. Respondent's monitoring plan shall name a screening facility which at all times utilizes a United States Department of Health and Human Services certified laboratory for the analysis of all specimens collected from Respondent.

f. Respondent's monitoring plan shall utilize only those specimen collection sites for collection of Respondent's urine, blood and hair specimens as comply with the United States Department of Transportation collection and chain of custody procedures set forth in 49 CFR Part 40.

g. The Supervising Health Care Provider, treatment facility, laboratory and collection site shall maintain a complete and fully documented chain of custody for each specimen collected from Respondent.

h. Every urine specimen collected from Respondent shall be analyzed at the time of collection for tampering by measurement of the temperature of the specimen and the oral temperature of Respondent. Every urine specimen collected from Respondent shall be further analyzed at the laboratory for tampering by measuring the creatinine concentration and the specific gravity of the specimen. The laboratory may at its discretion or at the direction of a Supervising Health Care Provider or the Chiropractic Examining Board or any member thereof conduct additional tests to evaluate the urine specimen for tampering including, but not limited to, pH, color and odor.

i. Unless otherwise directed by the Board, all specimens collected from Respondent shall be analyzed for the presence of medications prescribed to Respondent for the treatment of bipolar disorder.

The laboratory shall conduct confirmatory tests of negative or suspected negative test results by appropriate scientific methods and instruments including, but not limited to, gas chromatography and mass spectrometry.

j. All specimens remaining after testing shall be maintained in a manner necessary to preserve the integrity of the specimens for at least seven (7) days; and all negative or suspected negative specimens remaining after testing shall be so maintained for a period of at least one (1) year. The Supervising Health Care Provider or the Chiropractic Examining Board or any member thereof may direct that the specimens be maintained for a longer period of time.

k. For the purpose of further actions affecting Respondent's license under this Order, it shall be presumed that all confirmed negative reports are valid. Respondent shall have the burden of proof to establish that the negative report was erroneous and that the Respondent's specimen sample did contain his prescribed medications or their metabolites.

l. If any specimen is negative or suspected negative for any of Respondent's prescribed medications, Respondent shall promptly submit to additional tests or examinations as the Supervising Health Care Provider shall determine to be appropriate to clarify or confirm the

negative or suspected negative specimen test results.

#### Required reporting

m. The Supervising Health Care Provider and Monitoring Facility shall report **immediately** to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or telephonic communication: any failure of Respondent to provide a specimen within five (5) hours from the time it was requested; or of any inability to locate Respondent to request a specimen. The laboratory shall **immediately** report all urine specimens suspected to have been tampered with and all specimens which are negative or suspected negative for Respondent's prescribed medications to the Department Monitor, and to the Supervising Health Care Provider.

n. The laboratory shall within 48 hours of completion of each specimen analysis mail the report from **all** specimens requested of Respondent under this Order to the Department Monitor (regardless of whether the laboratory analysis of the specimen was positive or negative for Respondent's prescribed medications. Each report shall state the date and time the specimen was requested; the date and time the specimen was collected; the results of the tests performed to detect tampering; and the results of the laboratory analysis for the presence of prescribed medications.

o. The Monitoring Facility shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall summarize the results of the specimen analyses. The Monitoring Facility shall report **immediately** to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)267-7139] any violation or suspected violation of the Chiropractic Examining Board's Final Decision and Order.

7. The Supervising Health Care Provider shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in his mental health treatment program and (if applicable) summarize the results of the specimen analyses.

The Supervising Health Care Provider shall report **immediately** to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)267-7139]: 1) any change in Respondent's condition which would impair his ability to safely and competently practice his profession; or 2) any violation or suspected violation of the Chiropractic Examining Board's Final Decision and Order.

### **Reporting by Respondent**

8. Respondent shall be responsible for compliance with all of the terms and conditions of this Final Decision and Order. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order, including any failures of the Supervising Health Care Provider, treatment facility, laboratory or collection sites to conform to the terms and conditions of this Order.

### **Facility approval**

9. If the Chiropractic Examining Board determines that the Supervising Health Care Provider, treatment facility, monitoring facility, laboratory or collection sites have failed to satisfy the terms and conditions of this Final Decision and Order, the Board may, at its sole discretion, direct that Respondent continue his treatment and rehabilitation program under the direction of another Supervising Health Care Provider, treatment facility, laboratory or collection site which will conform to the terms and conditions of this Final Decision and Order.

### **Department monitor**

- 10 The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor  
Department of Regulation Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935  
FAX (608) 266-2264  
TEL. (608) 267-7139

### **Releases**

- 11 Respondent shall provide and keep on file with all treatment facilities and personnel, laboratories, and collections sites current releases which comply with state and federal laws authorizing release of all of Respondent's drug screen results and his medical and treatment records and reports. In addition, these releases shall permit his treating physicians and therapists to disclose and discuss the progress of his treatment and rehabilitation with the Chiropractic Examining Board or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Chiropractic Examining Board. Copies of these releases shall be filed simultaneously with the Department Monitor.

**SCOPE OF PRACTICE: LIMITATIONS AND CONDITIONS**

**Required reporting**

- 12 Respondent shall report to the Board any change in employment status, change of residence address or phone number, within five (5) days of any such change.

**Practice restrictions**

- 13 The Board does not at this time contemplate the imposition of any restrictions regarding the scope of Respondent's practice of chiropractic. If Respondent's Supervising Health Care Provider recommends work restrictions in the field of chiropractic in addition to the conditions included in this order, Respondent shall restrict his practice in accordance with such recommendations.

**(C) PETITIONS FOR MODIFICATION OF TERMS**

Respondent may petition the Board at any time following one year from the date of this Order to revise or eliminate any of the above conditions. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

**(D) SUMMARY SUSPENSION**

Violation of any of the terms of this Order shall 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 deny an extension of the stay of suspension or impose additional conditions and limitations other additional discipline for a violation of any of the terms of this Order.

**(E) EFFECTIVE DATE OF ORDER**

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

CHIROPRACTIC EXAMINING BOARD

By: 

On behalf of the Board

9-21-95  
Date



STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF	:	STIPULATION
DISCIPLINARY PROCEEDINGS AGAINST	:	92 CHI 09193 CHI 111, 93 CHI 049,
JOHN L. SCHUETT, DC,	:	93 CHI 031 94 CHI 088, 94 CHI 071,
RESPONDENT	:	and 94 CHI 013

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It is hereby stipulated between John L. Schuett, personally on his own behalf and Steven M. Gloe, 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. Schuett's licensure by the Division of Enforcement. Dr. Schuett consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Dr. Schuett 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, the Wisconsin Administrative Code, and the Americans with Disabilities Act of 1990.

3. Dr. Schuett is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Dr. Schuett 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 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.

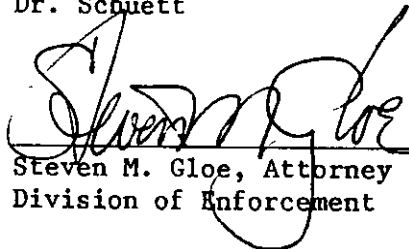
7. The Division of Enforcement joins Dr. Schuett in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
John L. Schuett, DC

08/21/95  
Date

  
Lester A. Pines, Attorney for  
Dr. Schuett

8/28/95  
Date

  
Steven M. Gloe, Attorney  
Division of Enforcement

8.31.95  
Date

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

THE STATE OF WISCONSIN CHIROPRACTIC EXAMINING BOARD.

**1400 East Washington Avenue**

**P.O. Box 8935**

**Madison, WI 53708.**

**The Date of Mailing this Decision is:**

SEPTEMBER 22, 1995.

### **1. REHEARING**

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### **2. JUDICIAL REVIEW.**

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)