

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

EDWARD A. KURES III, D.C. :  
RESPONDENT. :

Case No. LS9810224CHI

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

Edward A. Kures III, D.C.  
448 Knowlton Street  
Waterloo WI 53594

Wisconsin 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 Chiropractic Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

On October 22, 1998, the Board heard the argument of counsel for the parties regarding the length of the suspension to be ordered and the commencement date of the suspension, the only issues not resolved by the stipulated resolution

Accordingly, the Board in this matter adopts the attached Stipulation and the Board having considered the record in this matter and having heard the argument of counsel makes the following:

FINDINGS OF FACT

1. Edward A. Kures III, D.C., Respondent, date of birth March 25, 1950, is licensed by the Wisconsin Chiropractic Examining Board to practice chiropractic in the state of Wisconsin, pursuant to license number 1572, which was first granted July 30, 1980.

2. Respondent's last address reported to the Department of Regulation and Licensing is 448 Knowlton Street, Waterloo, WI 53594.

3. In September of 1986, Ms. A, who was then 25 years of age, first received chiropractic services from Respondent for treatment of injuries sustained in an automobile accident. The services were provided at Kures Chiropractic Office, which was then located in Milton, Wisconsin.

4. Following the initial treatment, Ms. A saw Respondent approximately once per month for maintenance checkups. Respondent continued to be Ms. A's chiropractor and Ms. A saw Respondent for chiropractic treatment from September of 1986 until December 1996 when their professional relationship ended due to a change in Ms. A's health insurance coverage.

5. From September, 1986 to April 27, 1994, the professional services were provided to Ms. A by Respondent at Hammer Chiropractic at its two locations in Milton, Wisconsin.

6. From August 9, 1996 to December 20, 1996, the professional services were provided to Ms. A by Respondent at Anderson Chiropractic Office in Waterloo, Wisconsin.

7. Beginning in 1989 and continuing until 1996, during the time Ms. A was Respondent's patient, Respondent and Ms. A had a personal relationship. Ms. A., her spouse, Respondent, and Respondent's spouse became social friends during that time. Respondent and Ms. A each had marital problems. Over the course of time, their personal feelings grew into affection and love, and each expressed an interest in terminating their unhappy marital relationships and marrying one another. A wedding ring was exchanged, and plans were made to marry. Respondent and his spouse divorced.

8. From 1989 through June 30, 1993, the personal relationship included engaging in sexual intimacies.

9. From prior to 1989 through June 30, 1993, Wis. Adm. Code § CHIR 6.02(7) defined unprofessional conduct by a chiropractor to include: "engaging in sexual intimacies with patients in the office." (Emphasis added.)

10. From 1989 through June 30, 1993, Respondent and Ms. A met at Respondent's office for non-professional purposes after regular office hours with no one else present, but the Division of Enforcement has no evidence in its possession that they engaged in sexual intimacies in Respondent's office during that time period.

11. From July 1, 1993, through the end of the relationship in 1996, the personal relationship included sexual contact, gratification and other sexual behavior.

12. The parents of Ms. A objected to any effort by Ms. A to divorce and marry Respondent. Ms. A's parents threatened to report the Respondent to the Chiropractic Examining Board if their daughter and Respondent did not end their relationship. When they were not advised of the termination of the relationship, Ms. A's parents completed and filed a complaint form with the Department of Regulation and Licensing, Division of Enforcement (DOE). Because of these circumstances, Respondent and Ms. A terminated their relationship. Ms. A did not join in or agree to

the filing of the complaint form and has asked DOE not to pursue this matter. During the pendency of this matter, the Ms. A's parents contacted DOE, after being contacted by Ms. A, and requested to withdraw their complaint.

13. From July 1, 1993 through the present, Wis. Adm. Code § CHIR 6.02(7) has defined unprofessional conduct by a chiropractor to include: "engaging in sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient."

#### CONCLUSIONS OF LAW

1. The Wisconsin Chiropractic Examining Board has jurisdiction over this matter pursuant to § 446.03, Stats.

2. The Wisconsin Chiropractic Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent, by engaging in sexual contact, gratification, or other sexual behavior with a patient, subsequent to June 30, 1993, has committed unprofessional conduct as defined by Wis. Admin. Code § CHIR 6.02(7) and is subject to discipline pursuant to § 446.03(5), Stats.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the license of Edward A. Kures III, D.C., to practice chiropractic in the state of Wisconsin is hereby **SUSPENDED** for a period of at least one year, commencing the date of this order.

2. That Respondent may petition the Chiropractic Examining Board for the termination of the suspension, after one year, under the following terms and conditions:

a. Respondent shall, at his own expense, have undergone an assessment by a mental health care provider experienced in assessing health care providers who have become involved sexually with patients.

b. The practitioner performing the assessment must have been approved by the Board, with an opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed.

c. Respondent must provide proof sufficient to the Board that Respondent can practice with reasonable skill and safety of patients and public.

d. If the Board determines to end the suspension, Respondent's license shall be limited in a manner to address any recommendations resulting from the assessment, including, but not limited to:

i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board, to address specific treatment goals, with periodic reports to the Board by the therapist.

ii. Additional professional education in any identified areas of deficiency.

iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.

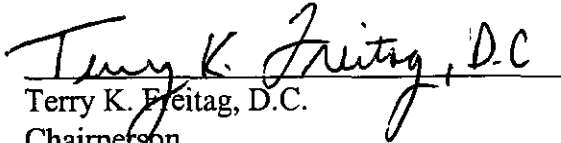
e. Respondent shall appear before the Board on an annual basis, if requested by the Board, to review the progress of any treatment and rehabilitation.

3. If Respondent believes that the Board's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board under paragraph 2 is inappropriate, Respondent may seek a class 1 hearing pursuant to sec. 227.01(3)(a), Stats., in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

4. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 2 above, may constitute grounds for revocation of Respondent's license as a chiropractor in Wisconsin. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, or any limitation imposed under paragraph 2 above, the Board may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

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

Dated at Madison, Wisconsin this 22nd day of October, 1998.

  
Terry K. Freitag, D.C.  
Chairperson  
Chiropractic Examining Board

STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

EDWARD A. KURES III, D.C. :  
RESPONDENT. :

Case No. *LS9810224CHI*

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STIPULATION  
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It is hereby stipulated and agreed, by and between Edward A. Kures III, D.C., Respondent; Robert G. Krohn of Roethe, Krohn and Pope, attorneys for Respondent; and John R. Zwieg, as attorney for the Complainant, 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 by the Department of Regulation and Licensing, Division of Enforcement on behalf of the Chiropractic Examining Board (file 96 CHI 076).

2. Respondent understands that by the signing of this Stipulation Respondent voluntarily and knowingly waives Respondent's rights, including: the right to a hearing on the allegations against Respondent, 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 Respondent; the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena; the right to testify; 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of his right to seek legal representation prior to signing this Stipulation, and has done so.

4. Respondent admits the allegations in this matter, and agrees to the adoption of the attached Final Decision and Order by the Board, with the Board, following argument by the parties, determining the length of the suspension to be imposed and the commencement date of the suspension.

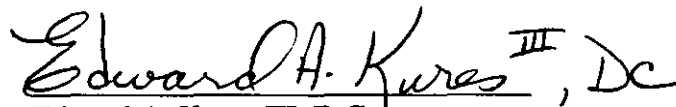
5. The parties will appear before the Board at its October 22, 1998 meeting to present argument regarding the length of the suspension to be imposed and the commencement date of the suspension. The parties to the Stipulation consent to the entry of the attached Final Decision and Order, with the addition of the length of the suspension and the commencement date of the suspension, 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, except the right to appeal the length of the suspension and the commencement date of the suspension.

6. 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.


7. The parties to this Stipulation agree that at the October 22, 1998 meeting of the Board the Respondent, Respondent's attorney, an attorney for the Division of Enforcement, and the member of the Board who has been appointed as the case advisor may speak in support of this agreement and answer questions that the members of the Board may have in connection with their deliberations on the Stipulation.

8. The parties agree to waive all costs of the investigation and this proceeding.

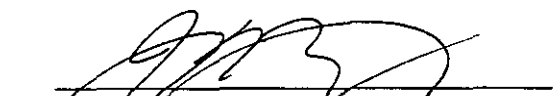
Dated this 22<sup>ND</sup> day of October, 1998.

  
Edward A. Kures III, D.C.  
Respondent

Dated this 21<sup>ST</sup> day of October, 1998.

  
Robert G. Krohn  
Roethe, Krohn and Pope  
Attorneys for Respondent

Dated this 20<sup>TH</sup> day of October, 1998.

  
John R. Zwieg  
Attorney for Complainant  
Department of Regulation & Licensing  
Division of Enforcement

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Edward A. Kures III, D.C.,

AFFIDAVIT OF MAILING

Respondent.

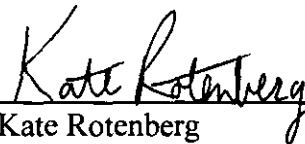
STATE OF WISCONSIN    )  
  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On October 23, 1998, I served the Final Decision and Order dated October 22, 1998, LS9810224CHI, upon the Respondent Edward A. Kures' attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 909.

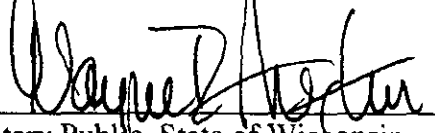
Robert G. Krohn, Attorney  
24 N. Henry Street  
P.O. Box 151  
Edgerton WI 53534-0151



Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 26<sup>th</sup> day of October, 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.



## NOTICE OF RIGHTS OF APPEAL

TO: ROBERT G KROHN ATTY

You have been issued an Order. For purposes of service the date of mailing of this Order is 10/23/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN CHIROPRACTIC EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935