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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

HAROLD J. DYKEMA, D.C.,
RESPONDENT

:
: ORDER GRANTING PETITION
: FOR REINSTATEMENT AND
: IMPOSING LIMITATIONS
: LS 0105071-CHI/ LS 0403292-CHI

TO: Harold J. Dykema, D.C.
1620 South Hastings Way
Eau Claire, WI 54701

Attorney Raymond M. Roder
P.O. Box 2018
22 E. Mifflin Street, Suite 600
Madison, WI 53703

On June 23, 2005, the State of Wisconsin Chiropractic Examining Board heard testimony and reviewed the documentation presented in support of the request by Harold J. Dykema, D.C., [Respondent] for termination of the suspension in effect against his license.

In the petition currently before the Board, Respondent indicates that “he prefers to be able to employ NET [neural emotional technique] in his practice but will not practice NET if the CEB so limits his licensure, subject to his option to exercise appeal rights pursuant to §227.52, et seq, Wis. Stats.”

The Conclusions of Law relevant to termination of Respondent’s suspension of licensure are as follows^[1]:

- a. Respondent’s use of the “sensometer” to alert him to the presence of vertebral subluxations constitutes the use of an instrument which is unsafe or ineffective, in violation of § Chir 4.05(2) and s. Chir 4.05(2)(e), Wis. Admin. Code, and thereby constitutes unprofessional conduct in violation of § 446.03(5), Stats.
- b. There is sufficient evidence to establish that the manner in which Dr. Dykema used Neuro Emotional Technique rendered it ineffective, in violation of § Chir 4.05(2), Code, and thereby constitutes unprofessional conduct in violation of § 446.03(5), Stats.
- c. Dr. Dykema’s use of a laser to perform therapy based on the theories and the practice of acupuncture constitutes practice beyond the scope of chiropractic, is a prohibited practice under § Chir 4.05(1)(b)(3), Wis. Admin. Code, and thereby constitutes unprofessional conduct in violation of § 446.03(5), Stats.

In conjunction with its review of the Respondent’s petition, the Board “may make such inquiry of Dr. Dykema as may be necessary to determine his current ability to safely and competently engage in the practice of chiropractic, and may impose such reasonable limitations on his practice as the board deems appropriate to ensure that his future practice is consistent with accepted chiropractic standards.”^[2]

The Respondent previously appeared before the Board on February 24, 2005 and April 28, 2005 on requests for reinstatement. In conjunction with the instant petition, Respondent was unable to appear; his attorney, however, read a prepared statement on his behalf. Respondent has offered the Board assurances that he intends to practice within the appropriate scope of practice, but Respondent has continually refused to acknowledge that this Board had previously determined and a Circuit Court agreed that Respondent had violated the scope of practice and standard of care in at least three separate and distinct ways.

Based upon the Board's review; it is appropriate to require a period of supervised practice in part to assure that the Respondent's assurances are true and will be followed through with. It is necessary to protect the public that the supervisor has frequent and in depth contact with the Respondent. The Order is designed to best assure that the Respondent's future practice is consistent with accepted chiropractic standards.

The legal bases for this Order are Wis. Stat. §§ 446.03(5) and 446.05(2) and Wis. Admin. Code §§ Chir 4.05 (2), Chir 4.05 (2)(e), and Chir 4.05(1)(b)3.

ORDER

IT IS HEREBY ORDERED that the petition of Respondent Harold J. Dykema for reinstatement of his license to practice chiropractic in the State of Wisconsin is GRANTED, subject to the following TERMS, CONDITIONS AND LIMITATIONS.

1. Prior to resumption of chiropractic practice, Respondent shall obtain a Professional Mentor acceptable to the Board. Respondent's license shall remain suspended until the Board's approval of a Professional Mentor for Respondent. Thereafter and until otherwise ordered by the Board, Respondent shall practice only under the supervision of a Board-approved Professional Mentor.
2. Respondent shall practice chiropractic in compliance with the requirements of the Wisconsin Statutes and Wisconsin Administrative Code. Until otherwise ordered by the Board, Respondent shall refrain from the following:
 - a. The use of a "sensometer" in his practice;
 - b. The use of a laser to perform therapy based on the theories and the practice of acupuncture; and
 - c. The use Neuro Emotional Technique in his practice.
3. The Professional Mentor shall be the individual responsible for supervision of Respondent's practice of chiropractic. Supervision shall include bi-weekly review of charts selected by the Professional Mentor, monthly meetings, and any other actions deemed appropriate by the Professional Mentor to determine that Respondent is practicing in a professional and competent manner.
 - a. The Professional Mentor may designate another qualified chiropractor or other health care provider acceptable to the Board to exercise the duties and responsibilities of the Professional Mentor in an absence of more than three weeks.
 - b. In the event that the Professional Mentor is unable or unwilling to continue to serve as Respondent's professional mentor, Respondent shall immediately notify the Board, so that a successor Professional Mentor may be selected.
 - c. The Professional Mentor shall have no duty or liability to any patient or third party, and the Mentor's sole duty is to the Board.
4. Respondent shall arrange for his Professional Mentor to provide formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall evaluate Respondent's compliance with the limitations established by this Order, as well as with in general the standards of chiropractic practice in Wisconsin.
5. Respondent's Professional Mentor shall immediately report to the Department Monitor any conduct or condition of the Respondent which may constitute unprofessional conduct, a violation of this Order, or a danger to the public or a patient.
6. 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 Professional Mentor to conform to the terms and conditions of this Order.
7. Respondent shall be responsible for all costs he incurs in his compliance with the terms of this Order.

8. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.
9. At any time following three [3] years of continuous compliance with the terms of this Order, Respondent may petition for termination of the requirement for a professional mentor or for modification of any other limitations, terms and conditions of this Order. Respondent shall personally appear before the Board to answer any questions that the Board may have in conjunction with its consideration of a petition submitted by Respondent under this paragraph.
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 reports and coordinating all requests or other petitions. The Department Monitor may be reached as follows:
- Department Monitor
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL (608) 267-3817
11. Violation of any of the other terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license pursuant to the procedures set forth in Wis. Admin. Code RL Ch. 6. The Board in its discretion may in the alternative pursue imposition of additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.
12. This Order shall become effective upon the date of its signing.

Dated this 28th day of June, 2005

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

WENDY M. HENRICHS, D.C.,
Vice Chairperson

^[1] Respondent's disciplinary history is complicated. The legal bases for suspension discussed above stem from proceedings initiated in 2001. The original order of suspension was issued in October, 2003. However, a subsequent (2004) action by the board in effect extended Respondent's suspension until at least September 15, 2004, based upon Respondent's violation of the prior suspension order.

^[2] October 20, 2003 Order