

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
CYNTHIA G. MICKELSON, D.C.,	:	LS0604271CHI
RESPONDENT.	:	

Division of Enforcement Case # 04 CHI 064

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Cynthia G. Mickelson, D.C.
237 W. Lincoln Avenue,
Fall Creek, WI 54742-0338

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Chiropractic Examining Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Cynthia G. Mickelson, D.C., (DOB 05/23/1954) is duly licensed as a chiropractor in the State of Wisconsin (license # 12-1583). This license was first granted on July 30, 1980.
2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 237 W. Lincoln Avenue, Fall Creek, Wisconsin.
3. At all relevant times, Respondent owned and operated a chiropractic clinic, along with her spouse who is also a chiropractor, in Fall Creek, Wisconsin.
4. From approximately September of 2004, until approximately November of 2004, Respondent had a staff member assist her with x-rays, ultrasound and muscle stimulation, who had not had the required training.

5. In a letter dated April 4, 2005, Respondent and her spouse stated that although they had staff members assisting them with x-rays, muscle stimulation and ultrasound between September 2004 and November 2004, the staff members did so only with direct supervision and in their physical presence.

6. In a letter dated September 28, 2005, Respondent and her spouse stated that from September 2004 to November 2004, they did not delegate any duties to chiropractic assistants.

7. In a letter dated November 15, 2005, Respondent's spouse stated that between September 2004 and November 2004, he did on occasion have a staff member assisting him with x-rays, ultrasound and muscle stimulation who had not had approved training.

8. From approximately September 2004 until approximately November of 2004, Respondent did not ensure that her office staff was supplying patients with required notices of their rights under HIPAA.

CONCLUSIONS OF LAW

1. The Wisconsin Chiropractic Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 446.03, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraph 4 above constitutes a violation of Wisconsin Administrative Code §§ Chir 10.02, 10.03, 10.05 and 6.02(17), and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

3. The conduct described in paragraphs 5-7 above constitutes a violation of Wis. Admin. Code § Chir 6.02(19) and (20) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

4. The conduct described in paragraph 8 above constitutes a violation of Chir 6.02(26) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

IT IS ORDERED:

1. Cynthia G. Mickelson, D.C., is REPRIMANDED.
2. Respondent's license is LIMITED as follows:
 - (a) For one year from the date of this Order, Respondent shall submit quarterly reports to the Department Monitor which provide the names of every staff member employed by her or in her chiropractic office, and which describes the duties of each staff member and the training that each staff member has had to perform his or her duties.
 - (b) For one year from the date of this Order, Respondent shall provide for no less than seven (7) random audits of his practice, which shall include a review of staff qualifications, HIPAA practices, and patient treatment and billing records, by a Monitor who has no social or business ties to the Respondent and who has been approved in advance by the Board. The Monitor will submit reports to the Department Monitor after each audit. Respondent is responsible for obtaining a Monitor who is satisfactory to the board, and for all costs associated with the Monitor.
3. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of Three Hundred Dollars (\$300.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement

Department of Regulation and Licensing

P.O. Box 8935

Madison, WI 53708-8935

Telephone (608) 267-3817

Fax (608) 266-2264

4. In the event Respondent fails to pay costs as ordered, or fails to comply with the above limitations, the Respondent's license (#12-1583) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. This Order is effective on the date of its signing.

Chiropractic Examining Board

By: Steven Silverman
A Member of the Board

4/27/06
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
CYNTHIA G. MICKELSON, D.C.,	:	LS# _____
RESPONDENT.	:	

Division of Enforcement Case # 04 CHI 064

Cynthia G. Mickelson, D.C., personally on her own behalf; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 04 CHI 064). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.
4. Respondent 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 consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Chiropractic Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Cynthia G. Mickelson, D.C.
237 W. Lincoln Avenue
Fall Creek, WI 54742

Date

Jeanette Lytle, Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date