

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	:	
	:	FINAL DECISION AND ORDER
ROBERT W. BLUE, D.C.,	:	LS0608031CHI
RESPONDENT.	:	

[Division of Enforcement Case # 02 CHI 026]

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

Robert W. Blue, D.C.
W2654 County Trk KK
Appleton, WI 54915

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

Wisconsin Chiropractic Examining Board
Department of Regulation and 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 this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Robert W. Blue, D.C., Respondent, date of birth September 27, 1959, is licensed by the Wisconsin Chiropractic Examining Board to practice chiropractic medicine in the state of Wisconsin pursuant to license number 2991, which was first granted July 8, 1993.
2. Respondent's last address reported to the Department of Regulation and Licensing is W2654 County Trk KK Appleton, WI 54915.
3. During the events of this matter, Respondent practiced at Darboy Family Chiropractic in Appleton, Wisconsin.
4. On April 13, 2005, the Wisconsin Labor and Industry Review Commission issued a Fair Employment Decision in ERD Case No. 2000103689 against Respondent, Robert W. Blue. The Decision found:
 - a. On July 8, 2000, Ms. A, who was then 15 years of age, became a patient of Respondent and received chiropractic services from him for treatment of neck and back pain.
 - b. In February 2001, when she was 16, Ms. A became employed as a part-time receptionist at Respondent's clinic.
 - c. After becoming an employee, Ms. A continued to receive chiropractic treatment from Respondent until April 16, 2001, but was no longer charged for the services.
 - d. Ms. A complained:
 - 1) Respondent regularly made comments to her on her appearance and on the clothing she wore,

- including that they were sexy.
- 2) Respondent regularly hugged her without invitation.
 - 3) Respondent approached her from behind and massaged her shoulders when she was working at her desk and one time also kissed her on the neck.
 - 4) While she was lying on her front during a lower back treatment, Respondent had her remove her pants, which left her in only her thong underwear. Without alerting her, he lowered her thong underwear to apply the gel for the electrodes and her entire buttocks were exposed for 15 minutes of treatment.
- e. Respondent's responses to the complaints were:
- 1) He massaged Ms. A to alleviate back symptoms.
 - 2) One time Ms. A came in the office crying after breaking up with her boyfriend and he hugged her and kissed her on the head.
 - 3) He denied telling Ms. A she was sexy or trying to kiss her.
 - 4) He denied ever tugging or moving her thong underwear during treatment visits.
- f. Respondent engaged in sexually harassing conduct towards Ms. A, while she was his employee.
- g. Respondent discriminated against Ms. A based on sex in regards to the terms or conditions of her employment.
- h. Respondent's conduct violated the Wisconsin Fair Employment Act, Wis. Stats. §§ 111.31 - .395.

5. The Wisconsin Fair Employment Act, Wis. Stats. §§ 111.31 - .395 is a law substantially related to the practice of chiropractic.

6. In February 2004, after the events set out above, Respondent took and completed "Boundary Training and Ethics," a 4 credit continuing education program sponsored by the Wisconsin Chiropractic Association. The boundary portion of the program addressed inappropriate patient communication, touching, exam procedures and sexual contact.

CONCLUSIONS OF LAW

1. The Wisconsin Chiropractic Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 446.03 and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct set out above, violated a law substantially related to the practice of chiropractic, which is unprofessional conduct as defined by Wis. Adm. Code § Chir 6.02(26) and is subject to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Robert W. Blue, D.C., is hereby Reprimanded for the above conduct.
2. The boundary training Respondent received in February 2004, is accepted and approved by the Board in lieu of ordering additional training on the subject of professional-patient boundaries.
3. Within 180 days of the date of this Order, Respondent shall take and complete 3 hours of continuing education on the subject of sexual harassment in the workplace, which program shall first be approved by the Board, or its designee.
4. Respondent is prohibited from applying the credits required by this Order toward satisfaction of the continuing education required during the January 1, 2005 through December 31, 2006 registration biennium.
5. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of \$2,725.00 pursuant to Wis. Stat. § 440.22(2).
6. All requests, notifications and payment shall be sent to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement

1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

7. In the event Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

8. This Order is effective upon the date of its signing.

Wisconsin Chiropractic Examining Board

By: Steven Silverman
A Member of the Board

8/3/06
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
ROBERT W. BLUE, D.C.,	:	LS _____ CHI
RESPONDENT.	:	

[Division of Enforcement Case # 02 CHI 026]

It is hereby stipulated and agreed, by and between Robert W. Blue, D.C., Respondent; Drew J. Cochrane of Stafford Rosenbaum LLP, attorneys for Respondent; and John R. Zwieg, 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's licensure by the Division of Enforcement (file 02 CHI 026). 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, 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 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 any other provisions of state or federal law.
3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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 or other agent for the Division of Enforcement and any member of the 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 his 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.

Robert W. Blue, D.C. Respondent W2654 County Trk KK Appleton WI 54915	Date
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Drew J. Cochrane Stafford Rosenbaum LLP Attorneys for Respondent P.O. Box 1784 Madison, WI 53701-1784	Date
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John R. Zwieg Attorney for Complainant Division of Enforcement Department of Regulation and Licensing P.O. Box 8935 Madison, WI 53708-8935	Date
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[02 CHI 026: Costs \$2,725.00]