

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
STEPHEN C. MISKY, D.C., : FINAL DECISION AND ORDER
RESPONDENT. : LS0608032CHI

Division of Enforcement Case # 05 CHI 008

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

Stephen C. Misky, D.C.
912 S. School Street
Cuba City, WI 53807

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. Stephen C. Misky, D.C., (DOB 04/18/1966) is duly licensed as a chiropractor in the State of Wisconsin (license # 12-2690). This license was first granted on March 12, 1991.
2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 912 S. School Street, Cuba City, Wisconsin.
3. On or about April 17, 1998, Respondent treated patient L.B. for neck pain associated with migraines.
4. About an hour after her adjustment, patient L.B. called Respondent complaining of numbness in an arm and blurred vision in her right eye. She was told to monitor the symptoms and to see a physician if the symptoms did not clear up within twenty-four hours.

5. Patient L.B. was later diagnosed with a stroke due to dissection of her left vertebral artery. Dissection of the left vertebral artery is a known complication associated with cervical chiropractic adjustments.

6. Patient L.B.'s patient records do not contain any documentation of informed consent.

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 paragraphs 3-5 above constitutes a violation of Wisconsin Administrative Code § Chir 6.02(3) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

3. The conduct described in paragraph 6 above constitutes a violation of Wisconsin Administrative Code § Chir 11.02(5) and Chir 6.02(25) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

IT IS ORDERED:

1. Stephen C. Misky, D.C. is REPRIMANDED.

2. The license of Stephen C. Misky, D.C., to practice chiropractic in the State of Wisconsin is LIMITED as follows:

- (a) Respondent shall, within thirty days of the date of this order, submit to the Department Monitor for board approval a copy of an informed consent form, along with a sworn affidavit stating that he uses that form in his practice.
- (b) Respondent shall, within six months of the date of this Order, complete 6 hours of continuing education in Risk Management for chiropractors.
- (c) Each course attended in satisfaction of this Order must be approved by the Chiropractic Examining Board or its designee. Respondent will be responsible for locating courses satisfactory to the Chiropractic Examining Board and for obtaining the required approval of the courses from the Chiropractic Examining Board or its designee.
- (d) Respondent will, within 60 days of completion of this educational requirement, file an affidavit with the Chiropractic Examining Board stating under oath that he has attended in its entirety each of the courses approved for satisfaction of this requirement, along with supporting documentation of attendance from the sponsoring organizations. This affidavit and the supporting documentation of attendance will be filed with:

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

All certifications, affidavits or other documents required to be filed with the Chiropractic Examining Board will be deemed filed upon receipt by the Department Monitor.

(e) Respondent will be responsible for paying the full cost of attendance at these courses.

(f) Respondent will not apply any of the continuing education credits earned in satisfaction of this Order

toward satisfaction of his Wis. Admin. Code Ch. Chir. 5 biennial training requirements.

- (g) Upon approval of Respondent's proof of completion of the above continuing education and approval of his informed consent form, Respondent will return to full licensure.

3. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of Eight Hundred Dollars (\$800.00). 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, fails to submit the required affidavit and consent form, or fails to comply with the ordered continuing education, the Respondent's license(#12-2690) 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

8/3/06
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : STIPULATION
STEPHEN C. MISKY, D.C., : LS# _____
RESPONDENT. :

Division of Enforcement Case # 05 CHI 008

Stephen C. Misky, D.C., personally on his 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 # 05 CHI 008). 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 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 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 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.

Stephen C. Misky, D.C.
912 S. School Street
Cuba City, WI 53807

Date

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

Date