

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
ROY S. ANDERSON, D.C., :
 : LS0712062CHI
RESPONDENT. :

Division of Enforcement Case # 04 CHI 018

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

Roy S. Anderson, D.C.
239 New Pinery Road
Portage, WI 53901

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. Roy S. Anderson, D.C., (DOB 06/11/1963) is duly licensed as a chiropractor in the State of Wisconsin (license # 12-2830). This license was first granted on March 19, 1992.
2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 239 New Pinery Road, Portage, Wisconsin, 53901.
3. On or about July 2, 2002, patient B.K. was involved in a motor vehicle accident. She began receiving treatment from Respondent on July 3, 2002.
4. On or about November 12, 2002, Attorney K.M. requested health care records and an itemized billing statement from Respondent on behalf of patient B.K., for purposes of prosecuting a civil lawsuit related to her accident. He enclosed an authorization for the release of that information, signed by B.K.

5. Respondent did not respond to Attorney K.M.'s request for records.

6. Thereafter, Attorney K.M. wrote letters to Respondent reiterating his request for B.K.'s health care records on November 27, 2002; January 8, 2003; May 16, 2003; July 31, 2003; and January 21, 2004. Respondent did not respond in any way to any of these letters.

7. On or about April 2, 2004, Attorney K.M. and B.K. filed a complaint with the Department of Regulation and Licensing regarding Respondent's failure to provide health care records.

8. Division of Enforcement staff sent a letter to Respondent on May 4, 2004, requesting, within ten days, certified copies of the health care records for B.K. and a statement detailing the treatment provided to her. Respondent did not respond to that request.

9. Division of Enforcement staff sent a second request for records and a statement to Respondent on June 8, 2004, again requesting a response within ten days. Respondent did not respond to that request.

10. In or about June, 2005, Attorney K.M. settled patient B.K.'s lawsuit without the benefit of having her chiropractic treatment records.

11. On or about October 10, 2005, approximately three years after the original request for records, Respondent forwarded his office notes regarding B.K. to Attorney K.M. He stated that his office policy was to have the patient obtain their records directly, but since he no longer had a current address for the patient, he was making an exception to the policy and providing the records. He did not provide any billing records.

12. On or about February 2, 2007, an investigator with the Division of Enforcement went, unannounced, to Respondent's clinic and requested B.K.'s records. Respondent provided copies of his office visit notes, which he printed from his computer, at that time. The paper files were stored offsite, and he provided those records on February 16, 2007.

13. Respondent voluntarily completed a seven hour seminar on medical records law in Wisconsin.

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 4-6 and 10-11 above constitutes a violation of Wisconsin Statute § 146.83 and Wisconsin Administrative Code §§ Chir 6.02(26) and (28), and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

3. The conduct described in paragraphs 7-9 and 12 above constitutes a violation of Wisconsin Administrative Code §§ Chir 6.02(19), and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

IT IS ORDERED:

1. Roy S. Anderson, D.C., is REPRIMANDED.

2. Within ninety days of the date of this Order, Respondent must pay the costs of this proceeding in the amount of Seven Hundred Dollars (\$700.00). 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

3. In the event Respondent fails to pay costs as ordered, the Respondent's license (# 12-2830) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Chiropractic Examining Board

By: Steven Silverman
A Member of the Board

12/6/07
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : STIPULATION
ROY S. ANDERSON, D.C., :
RESPONDENT. : LS# _____

Division of Enforcement Case # 04 CHI 018

Roy S. Anderson, 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 # 04 CHI 018). Respondent consents to the resolution of this investigation by stipulation.

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.

Roy S. Anderson, D.C.
239 New Pinery Road
Portage, WI 53901

Date

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

Date