

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
HANS JEROSCH, D.C., : LS# 0808203 CHI
RESPONDENT. :

Division of Enforcement Case # 07 CHI 055

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

Hans Jerosch, D.C.
2430 E. Washington Ave.
Madison, WI 53704

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

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Chiropractic Examining Board on August 20, 2008. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the 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. Hans Jerosch, D.C., (DOB 09/07/1945) was formerly licensed as a chiropractor in the State of Wisconsin (license #12-1294). This license was first granted on August 1, 1974, and expired at the end of December, 2006. Pursuant to Wis. Stat. § 440.08(3), Respondent may reinstate his license upon payment of a fee until December 31, 2011.
2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 2430 E. Washington Avenue, Madison, Wisconsin, 53704.
3. In or about November, 2007, the Division of Enforcement received an informal complaint alleging that

repeated requests for patient records from Respondent had been ignored. The requested records were for treatment from injuries sustained in an April 24, 2007 accident.

4. A Division of Enforcement intake staff person noticed that Respondent's license had expired. She called him and asked if he was currently practicing chiropractic, and he said that he was.

5. In response to the informal complaint, the Division of Enforcement requested the records from Respondent. The Division's requests were ignored as well.

6. On or about April 3, 2008, A Division of Enforcement investigator appeared at Respondent's office unannounced. It appeared that the office was open for business and Respondent was the only chiropractor there. The investigator served a subpoena for the requested medical records, and notified Respondent that he was practicing after his license had expired.

7. On or about April 9, 2008, Respondent called the Division of Enforcement investigator and told him that: (1) he had been unable to renew his license because he had not completed the CPR requirement; (2) he had been unable to locate the subpoenaed patient file; and (3) he stated that he had a medical condition, hydrocephalus, that affected his memory.

8. On or about April 23, 2008, Respondent informed the investigator that he had found the patient file. Those records consisted of one page of x-ray findings and analysis, and a list of treatment dates.

9. On or about May 18, 2008, Respondent submitted documentation of CPR certification and completion of 12 continuing education credits. Twenty-eight additional continuing education credits were required before Respondent could renew his license.

10. On or about May 28, 2008, the Division of Enforcement investigator visited Respondent's office. It appeared that he was still working as a chiropractor. The investigator explained to Respondent what he needed to do to be re-licensed, and informed him that he must stop working until his license was renewed.

11. On or about June 18, 2008, a different Division of Enforcement investigator called Respondent and asked to make an appointment. She was given an appointment with Respondent for June 19, 2008.

12. On or about June 23, 2008, the Division of Enforcement received Respondent's medical records. The records indicate that as of November, 2006, Respondent was having difficulties at work and was unable to complete paperwork. His physician stated "his neuropsych testing showed significant cognitive problems." Respondent has been resistant to treatment of his medical condition.

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, 6, 7 and 8 above constitutes a violation of Wis. Admin. Code § Chir 6.02(28) and subjects Respondent to discipline pursuant to Wis. Stat. 446.03(5).

3. The conduct described in paragraph 8 above constitutes a violation of Wis. Admin. Code §§ Chir 6.02(25) and (27) and Chir 11.02, and subjects Respondent to discipline pursuant to Wis. Stat. 446.03(5).

4. The conduct described in paragraphs 4, 6, 7, 9, 10 and 11 above constitutes a violation of Wis. Stat. § 446.02(1) and Wis. Admin. Code § Chir 6.02(25), and subjects Respondent to discipline pursuant to Wis. Stat. 446.03(5).

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

ORDER

IT IS ORDERED:

1. Respondent's right to renew his chiropractor license upon payment of a fee pursuant to Wis. Stat. § 440.08 is REVOKED. This revocation shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a) and Respondent shall not have a right to any further proceedings on this revocation.

2. In the event that Respondent applies for a license to practice chiropractic in the future, in addition to any other requirements for licensure, the following requirements will apply:

(a) Prior to licensure, Respondent must have undergone, at his own expense, a thorough medical examination and a neuropsychological examination to assess his medical condition and its potential effects on his functioning as a chiropractor.

i. The evaluating physician and the evaluating neuropsychologist must not have treated Respondent at any time and shall have been approved by the Board, with an opportunity for the Division to make its recommendation, prior to the evaluation being performed.

ii. The Division shall provide the evaluating physician and the evaluating neuropsychologist and Respondent with those portions of the investigative file which the Division believes may be of assistance in performing the evaluation. Respondent may provide the evaluating physician and the evaluating neuropsychologist with any information Respondent believes will be of assistance in performing the evaluations and shall immediately provide copies of that information to the Division.

iii. Respondent shall authorize the evaluating physician and the evaluating neuropsychologist to provide the Board, or its designee, and the Division with the evaluation reports and all materials used in performing the evaluation, and shall provide the Board, or its designee, and the Division with the opportunity to discuss the evaluation and findings with the evaluators.

iv. If the Board grants a license, the Board may limit that license in any manner it sees fit to address any recommendations resulting from these assessments. In the event that either the evaluating physician or the evaluating neuropsychologist is of the opinion that Respondent cannot safely practice chiropractic, the board may deny Respondent's application for a license until such time as Respondent proves he is capable of safely practicing chiropractic.

(b) Respondent, at his own expense, shall have completed 12 hours of pre-approved continuing education in patient recordkeeping for chiropractors. Respondent is responsible for all costs associated with this continuing education. Respondent will not apply any of the continuing education credits earned in satisfaction of this Order toward satisfaction of his Wis. Stat. § 446.02(1)(b) biennial training requirements.

(c) Respondent shall have paid 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. This Order is effective on the date of its signing.

Chiropractic Examining Board

By: Steven Silverman
A Member of the Board

10/16/08

Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 :
HANS JEROSCH, D.C., :
RESPONDENT. :

STIPULATION
LS# 0808203 CHI

Division of Enforcement Case # 07 CHI 055

Hans Jerosch, 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 # 07 CHI 055). 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.

Hans Jerosch, D.C.
2430 E. Washington Ave.
Madison, WI 53704

Date

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

Date