

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
MARC D. DITTY, D.C., : LS0905281CHI
RESPONDENT. :

[Division of Enforcement Case # 07 CHI 042]

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

Marc D. Ditty, D.C.
2331 Velp Avenue, Suite C-D
Green Bay, WI 54303

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. Marc D. Ditty, D.C., Respondent, date of birth February 14, 1982, is licensed by the Wisconsin Chiropractic Examining Board to practice chiropractic in the state of Wisconsin pursuant to license number 4204, which was first granted April 19, 2006.
2. Respondent's address of record with the Department of Regulation and Licensing is 2331 Velp Avenue, Suite C-D, Green Bay, WI 54303.
3. At all times relevant to this matter, Respondent practiced chiropractic at Planet Chiropractic in Green Bay, Wisconsin.
4. From February 28, 2007 to June 4, 2007, Patient KH received chiropractic services at Planet Chiropractic for treatment of lower back pain.
5. All three chiropractors on staff at Planet Chiropractic saw Patient KH. Respondent provided care for KH primarily during the first three weeks.
6. The Division of Enforcement (DOE) undertook an investigation of Patient KH's care, and asked Respondent

to submit all records pertaining to KH's care.

7. In response to DOE inquiries, Respondent reported that, on July 27, 2007, he and his colleagues saw KH when she requested a letter concerning her condition for an employment matter. Although KH had last seen Respondent and his colleagues on June 4, 2007, KH brought a June 12, 2007 MRI from another practitioner. Respondent explained that he and his colleagues reviewed the MRI and generated an opinion about it. However, their opinion did not support KH's objective in requesting the letter.

8. Neither the MRI, nor a report of the MRI, were present in KH's record at Planet Chiropractic. The evaluation of the MRI and the opinion Respondent and his colleagues generated were not documented in KH's record.

9. Wis. Stat. § 446.02(7m) requires that chiropractors create and maintain treatment records, including complete and comprehensive health care information.

10. Professional standards for chiropractors require that chiropractors maintain file copies of any diagnostic tools used in the evaluation of a patient. Professional standards also require documentation of evaluations and opinions offered in patient care.

11. Respondent's failure to maintain a copy of the MRI reviewed, failure to document clinical observations and failure to document the opinion offered as a result of the evaluation of KH's MRI resulted in documentation below minimal standards for the profession of chiropractic.

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, has engaged in unprofessional conduct as defined by Wis. Admin. Code § Chir 6.02(3) and is subject to discipline pursuant to Wis. Stat. § 446.03(5).

3. Respondent, by engaging in the conduct set out above, has violated Wis. Stat. § 446.02(7m) and Wis. Admin. Code § Chir 6.02(27) and is subject to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of Respondent, Marc D. Ditty, D.C., is hereby LIMITED as follows:

a. Within 180 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of 4 hours of continuing education in patient record keeping and 4 hours in case management, which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board, or its designee, that she has completed the education, the Board shall issue an Order removing this limitation of Respondent's license.

c. Respondent is prohibited from applying any of the hours completed to satisfy the terms of this Order toward satisfaction of the continuing education required during the December 15, 2008 through December 14, 2010 registration biennium.

2. 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 \$305.00 pursuant to Wis. Stat. § 440.22(2).

3. Requests for approval, notification of completion of educational programs and payment shall be faxed, mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement

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

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

Wisconsin Chiropractic Examining Board

By: Wendy Henrichs
A Member of the Board

5/28/09
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : STIPULATION
MARC D. DITTY, D.C., : LS _____ CHI
RESPONDENT. :

[Division of Enforcement Case # 07 CHI 042]

It is hereby stipulated and agreed, by and between Marc D. Ditty, D.C., Respondent; Robert J. Lightfoot II of Murphy Desmond, S.C., attorneys for Respondent; and Sandra L Nowack, 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 (case 07 CHI 042). 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 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 a case 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 case 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.

Marc D. Ditty, D.C.
Respondent
2331 Velp Avenue, Suite C-D
Green Bay, WI 54303

Date

Robert J. Lightfoot II
Murphy Desmond, S.C.
Attorneys for Respondent
P.O. Box 2038
Madison, WI 53701-2038

Date

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date