

# 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
JOHN T. FRIEDRICHS, D.C.,	:	LS0905282CHI
RESPONDENT.	:	

[Division of Enforcement Case # 06 CHI 054]

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

John T. Friedrichs, D.C.  
N35 W23770 Capitol Drive  
Pewaukee, WI 53072

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. John T. Friedrichs, D.C., Respondent, date of birth August 26, 1965, is licensed by the Wisconsin Chiropractic Examining Board to practice chiropractic in the state of Wisconsin pursuant to license number 3122, which was first granted June 30, 1994.
2. Respondent's address of record with the Department of Regulation and Licensing is N35 W236770 Capitol Drive, Pewaukee, WI 53072.
3. At all times relevant to this matter, Respondent practiced chiropractic at Southern Lakes Chiropractic, S.C., in Pewaukee, Wisconsin. Respondent was the individual responsible for approving content of the advertisements for Southern Lakes Chiropractic.
4. Patient JR first consulted with Respondent on August 8, 2006, due to extreme lower back pain. Respondent found that Patient JR had a bulging protruded disc at L4-5.
5. Respondent recommended Patient JR undergo treatment with the “DRX 9000”, a vertebral axial decompression therapy device.
6. Before beginning treatment, Respondent gave Patient JR printed materials concerning the DRX 9000, including a newsletter captioned, “Dr. Friedrichs DRX Success” In fact, the document was part of pre-printed advertising

and marketing materials provided to Respondent by the distributor of DRX 9000.

7. At the top of the pre-printed newsletter, immediately above the words “Dr. Friedrichs DRX Success,” the document asserted “Finally!...An FDA Approved Non-Evasive, Non-Surgical Solution for Chronic Back Pain Sufferers!” The document goes on to state:

The DRX 9000 was awarded coveted FDA approval by proving its breakthrough, patented technology not only relieves back pain, sciatica and numbness...in many cases, it actually reduces and promotes healing of the herniated and/or bulging discs!

8. Pre-printed marketing materials provided to Respondent by DRX manufacturers further stated:

There is only one FDA approved non-surgical treatment for herniated and bulging discs that has an incredible 86% success rate. The DRX 9000 non-surgical spinal decompression unit.

9. The DRX 9000 has not received premarket *approval* by the FDA. Rather, the device received “market clearance” from the FDA. Premarket clearance does not constitute premarket *approval* by the FDA; premarket clearance lacks assurances of safety and efficacy inherent in the premarket approval process. Premarket clearance means only that a device is substantially equivalent to a legally marketed device NOT subject to premarket approval.

10. When the FDA notified DRX 9000’s manufacturer of its market clearance, the FDA specified that “issuance of [market clearance] does not mean that FDA has made a determination that your device complies with other requirements of the Act or any Federal statutes and regulations administered by other Federal agencies.”

11. As early as May 2006, permanently enjoined a California chiropractor from using marketing materials substantially the same as those used by Respondent concerning the DRX9000™ and fined the California chiropractor \$25,000.00 for his use of the materials.

12. Respondent admits that he used the DRX 9000 marketing materials until early 2007, when he first learned that the DRX9000™ had not received FDA approval as represented by the manufacturer/distributor of the device. There is no evidence that Respondent knew of the misleading nature of the premarketing materials before he used them.

#### 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 advertised in a manner which is false, deceptive or misleading, which is unprofessional conduct as defined by Wis. Admin. Code § CHI 6.02(15)(a). Respondent is therefore subject to discipline pursuant to Wis. Stat. § 446.03(5).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, John T. Friedrichs, D.C., is hereby REPRIMANDED for the conduct set out above.

2. Respondent shall provide all patients with whom the DRX9000™ or other similar device is used, a written disclosure which shall be preapproved by the Board’s designee, and which includes the following statement:

The [device name] is a vertebral decompression device which has been cleared for marketing by the FDA for temporary relief of pain. The [device name] has not been approved by the FDA. The FDA has never tested the efficacy or safety of the [device name].

4. 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 \$755.00 pursuant to Wis. Stat. § 440.22(2).

5. Payment shall be mailed or delivered 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

6. 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
JOHN T. FRIEDRICHS, D.C.,	:	LS _____ CHI
RESPONDENT.	:	

[Division of Enforcement Case # 06 CHI 054]

It is hereby stipulated and agreed, by and between John T. Friedrichs, D.C., Respondent; W. Patrick Sullivan of Siesennop & Sullivan, 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 06 CHI 054). 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, if any, 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.

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John T. Friedrichs, D.C.  
Respondent  
N35 W23770 Capitol Drive  
Pewaukee, WI 53072

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Date

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W. Patrick Sullivan  
Siesennop & Sullivan  
Attorneys for Complainant  
200 North Jefferson Street  
Milwaukee, WI 53202

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Date

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

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Date