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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
KEITH J. OUDENHOVEN, D.C.,	:	
RESPONDENT.	:	ORDER 00000013

Division of Enforcement Case # 09 CHI 027, 09 CHI 038

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

Keith J. Oudenhoven, D.C.
3020 E. College Avenue Suite F
Appleton, WI 54915

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. Keith J. Oudenhoven, D.C., (DOB 08/22/1958) is duly licensed as a chiropractor in the State of Wisconsin (license #12-2420). This license was first granted on February 23, 1989.

2. Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 3020 East College Avenue Suite F, Appleton, Wisconsin, 54915

09 CHI 027

3. Patient C.F., who suffers from multiple sclerosis, contacted Respondent on May 11, 2009 requesting a massage treatment that same day for back pain. Respondent employs a massage therapist, but elected to perform the massage himself as the massage therapist was not scheduled to work that day.

4. The room in which the massage was occurring was unusually hot. At some point during the massage, Respondent left the room to change into shorts. When he returned, he was wearing only shorts and flip-flops. He had no shirt on. Patient C.F. reports that she saw Respondent's underwear inside his jeans, which were on the floor.

5. During the massage, Respondent touched Patient C.F. on the breasts and labia, despite her telling him "we are not going there." Respondent admits touching these areas but states it was incidental to the massaging of nearby muscle groups.

6. Several times during the massage, Respondent told Patient C.F. that he was "very happy" and asked if he could "show her how happy she made him."

7. Later, Patient C.F. saw that Respondent had an erection.

8. After the massage, Respondent left a voice mail on Patient C.F.'s phone, stating: "I just want to let you know that I'm always happy to take care of you. And, I can do that without you know flirting and being a problem that way..."

9. Patient C.F. also reported that Respondent told her that he had bought her a gift and he wanted to send it to her.

10. In a later telephone conversation, Patient C.F. asked Respondent why had had touched her breasts and vaginal area. Respondent said that he did not have a great answer for working in those areas.

11. As part of this investigation, the Division of Enforcement requested Patient C.F.'s records. The records sent in response were inadequate.

09 CHI 038

12. As a result of public disclosure of events relating to case number 09 CHI 027, Patient D.A. reported in August 2009 her concerns about Respondent's chiropractic treatment provided in February 2001, when D.A. saw Respondent for treatment of injuries sustained in an automobile accident. Patient D.A. alleged inadequate gowning for pre-x-ray measurements, touching of Patient D.A.'s breasts by Respondent while

measurements were taken, and touching of Patient D.A. on the buttocks while placing electrodes for electric stimulation therapy.

13. Respondent states that he took four measurements using x-ray calipers to determine the appropriate setting for x-ray equipment, and that the caliper measurements would have been in proximity to patient D.A.'s breasts, for the purpose of calibrating equipment for thoracic x-rays. Respondent state it would have been appropriate to touch patient D.A. in the lower back or top of the buttocks when applying electrodes for electric stimulation therapy in the lumbar region.

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 – 10 above constitutes a violation of Wisconsin Administrative Code §§ Chir 6.02(1), (3), (6) and (7), and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

3. The conduct described in paragraph 11 above constitutes a violation of Wisconsin Administrative § Chir 11.03 and § Chir 6.02(25), and subjects Respondent to discipline pursuant to Wis. Stat. 446.03(5).

ORDER

IT IS ORDERED:

1. The license of Keith J. Oudenhoven, D.C., to practice chiropractic in the State of Wisconsin is **SUSPENDED** for an indefinite period of no less than eighteen months, retroactive to November 11, 2009.

2. After eighteen months, Respondent may petition the Board for termination of the suspension, and the suspension of Respondent's license may be removed upon proof to the satisfaction of the Chiropractic Examining Board of all of the following:

(a) Respondent shall have, at Respondent's own expense, undergone an assessment by a therapist with experience in the diagnosis and treatment of sex offenders. The assessor 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 assessment being performed.

a. The Division shall provide the assessor and Respondent with those portions of the investigative file which the Division believes may be of assistance in performing the assessment.

Respondent may provide the assessor with any information Respondent believes will be of assistance in performing the assessment and shall immediately provide copies of that information to the Division.

- b. Respondent shall authorize the assessor to provide the Board, or its designee, and the Division with the assessment report and all materials used in performing the assessment and shall provide the Board, or its designee, and the Division with the opportunity to discuss the assessment and findings with the assessor.
- c. The assessor shall have provided an opinion to a reasonable degree of professional certainty that Respondent is able to practice chiropractic with reasonable skill and safety of patients and public and does not suffer from any condition which prevents him from practicing in that manner. This opinion must be accompanied by the assessor's reasoning, articulated to the Board's satisfaction. If the assessor has rendered the opinion required above and supported that opinion to the Board's satisfaction, then the Board may remove the suspension.

- (b) Within one year of the date of this Order, Respondent will have taken and completed six (6) hours of continuing education in recordkeeping for chiropractors. Each course attended in satisfaction of this Order must be pre-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. Respondent will within 30 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.

3. In the event that the suspension is removed, the Board may LIMIT Respondent's license in any manner to address any concerns the Board has as a result of the conduct set out in the findings of fact or the period of time Respondent has not practiced chiropractic and to address any recommendations resulting from the assessment

4. Upon the recommendation of his therapist, Respondent may petition the Board to eliminate any limitations on his license.

5. If Respondent believes that the Board's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board is inappropriate, Respondent may seek a class 1 hearing pursuant to Wis. Stat. § 227.01(3)(a), in which the

burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

6. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of One Thousand Dollars (\$1,000.00). 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

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to pay costs as ordered, or fails to take the continuing education as ordered, the Respondent's license (#12-2420) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Chiropractic Examining Board

By: 

A Member of the Board

1/20/10
Date