

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: FINAL DECISION AND ORDER  
RONALD D. FISCHER, D.C., :  
RESPONDENT. : ORDER 0000558

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[Division of Enforcement Case No. 06 CHI 076]

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

Ronald D. Fischer, D.C.  
1366 Appleton Road #A  
Menasha, WI 54952

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. Ronald D. Fischer, D.C., Respondent, date of birth July 29, 1964, is licensed by the Wisconsin Chiropractic Examining Board to practice chiropractic in the state of Wisconsin, pursuant to license number 2436, which was first granted July 13, 1989.
2. Respondent's last address reported to the Department of Regulation and Licensing is 1366 Appleton Road #A, Menasha, WI 54952.
3. At all times relevant to this matter, Respondent practiced chiropractic at NewCare Integrated Health Services, S.C., in Menasha, Wisconsin.

4. The Division received a complaint that Respondent had engaged in misleading advertisement of the “DRX9000™”, a vertebral axial decompression therapy device.

5. Respondent provided a potential patient with printed materials concerning the DRX9000™. The documents were part of pre-printed advertising and marketing materials provided to Respondent by the distributor of DRX9000™.

6. The advertising document stated, “The DRX9000™ has been approved by ‘The Food and Drug Administration’... You’ve gotten to know them as the ‘FDA.’”

7. The DRX9000™ 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.

8. When the FDA notified DRX9000™’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.”

9. As early as May 2006, a court 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. The court determined the materials were not accurate.

10. There is no evidence that Respondent knew of the misleading nature of the premarketing materials before he used them.

11. During the investigation of this matter, the Division learned that Respondent employed a non-credentialed massage therapist, who was incorrectly identified as a “massage therapist” on Respondent’s web site.

12. Respondent told a DRL investigator that the employee had worked for him for two years. Respondent admitted that he knew the employee did not have state credentials but believed she had been certified by a massage therapy school.

13. The employee has since obtained credentials consistent with Respondent’s web-site.

## 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, Ronald D. Fischer, D.C., is hereby REPRIMANDED for the conduct set out above.

2. Respondent shall, within 90 days of the date of this Order, 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].

3. 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).

4. Payment shall be mailed or delivered to:

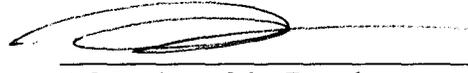
Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax: (608) 266-2264  
Telephone: (608) 267-3817

5. 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 timely submit payment of costs as set forth above, the Respondent's license (#2436) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

Wisconsin Chiropractic Examining Board

By:

A handwritten signature consisting of several overlapping loops, written in black ink over a horizontal line.

A Member of the Board

11/18/10  
Date