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STATE OF WISCONSIN
BEFORE THE PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
PAUL M. ZEROVEC, D.P.M., RESPONDENT.	:	FINAL DECISION AND ORDER ORDER 0000661

Division of Enforcement Case No. 06POD005

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

Paul M. Zerovec, D.P.M.
Respondent
1442 N. Farwell Ave., Suite 605
Milwaukee, WI 53202-2913

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

Wisconsin Podiatry Affiliated Credentialing Board
Department of Regulation and Licensing
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 Podiatry Affiliated Credentialing Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Paul M. Zerovec, D.P.M., Respondent, date of birth December 27, 1971, is licensed by the Wisconsin Podiatry Affiliated Credentialing Board to practice podiatry in the State of Wisconsin pursuant to license number 802, which was first granted December 3, 1999.

2. Respondent's last address reported to the Department of Regulation and Licensing is Dr. Paul Zerovec, 1442 N. Farwell Ave. Suite 605, Milwaukee, WI 53202-2913.

3. DK, a resident of Pleasant Prairie, Kenosha County, Wisconsin, suffered injuries in a vehicular accident on January 14, 2004.

a. She was taken to the emergency room at St. Catherine's Hospital in Kenosha via ambulance and was diagnosed by a physician with head injury with possible fracture of the nose and right ankle sprain. She first complained of ankle pain while at the emergency room when she ambulated to the rest room. An x-ray series taken of the ankle was read as negative. DK's ankle was wrapped with an ACE wrap and she was discharged in stable condition and was dispensed 12 units of Vicodin® for pain.

b. On January 15, 2004, DK's ankle x-rays were re-examined by a radiologist who identified on one x-ray "a tiny avulsion off the tip of the medial malleolus." DK was notified of the new x-ray result and that day re-examination of her ankle showed: trace swelling and tenderness at the tip of the medial malleolus, no foot tenderness, no proximal leg tenderness, and her ankle was stable. She was placed in a splint and referred to an orthopedic doctor.

c. On January 19, 2004, DK saw an orthopedic surgeon for follow-up. She complained of some pain in the medial side of her ankle with some weight bearing, and some intermittent tingling into her lesser toes. X-rays showed a small fleck avulsion at the tip of the medial malleolus. An avulsion fracture is a separation of the ligament and a piece of the bone from the rest of the bone. The physician's impression was right ankle sprain/avulsion. He advised her to advance with weight bearing as tolerated with her crutches. She was given an Air cast splint and advised to do ankle thera-tube exercises but avoid inversion/eversion for approximately 4 weeks. She was told to continue ibuprofen as needed and to return in 6 weeks for follow-up.

Respondent's Treatment of DK in 2004

4. Instead of returning to see the orthopedic surgeon the first week of March as scheduled, DK saw Respondent on April 13, 2004. She complained that her right ankle was not healing and was getting more painful. She also falsely said that she had not had treatment since the date of the accident. Respondent noted "Xrays: Avulsion fx. Medial malleolus." His assessment was: 1) fractured medial malleolus, 2) tendon/ligament sprain to the right ankle and 3) painful ambulation. Respondent advised DK to decrease activities, remain non-weight bearing at all times on the right side, to take 600 mg ibuprofen everyday for swelling and to elevate right extremity twice per day for ½ hour. Respondent applied fiberglass casting below the knee and gave her crutches and directed her to return in two weeks.

5. On April 27, 2004, DK returned to Respondent with continued pain in the right ankle. DK had been weight bearing on her right foot using the crutches. Respondent removed the fiberglass cast, cleansed the leg, and applied a fiberglass cast with ankle jerk to guard against bearing weight. DK was to continue current treatment and return in two weeks.

6. On May 14, 2004, Patient returned to Respondent for follow-up. DK reported less pain but tightness in her right foot. Respondent removed the cast; cleansed the foot; re-applied the fiberglass cast; advised that this might be last casting because pain was resolving indicated that x-rays would be ordered at the next visit DK was to return in two weeks.

7. On June 3, 2004, DK returned to Respondent and said she was able to apply weight to her right foot without pain and she had not been using her crutches for 4 days. She said her foot was "sore." Respondent noted that he told her that disuse syndrome can cause tendinitis or after accidents tendon shock can occur which could cause the soreness. Respondent prescribed Ketoprofen 20% ointment to apply to all painful areas twice daily and he applied strapping to the right foot. He noted that he highly recommended orthotics and the patient would consider them but had "money problems." Respondent ordered x-rays of the right ankle and directed her to return after the x-rays. But the patient never had the x-rays taken.

Respondent's Treatment of DK in 2005

8. Respondent does not have any record of treating DK again until June 17, 2005, a year later. However, the Division of Enforcement was able to find pharmacy records that he issued the following prescriptions to her which were filled on these dates:

Date	Drug	Quantity
05/14/2005	Tramadol 50 mg	180
05/23/2005	Oxycodone 15 mg	130
06/9/2005	Oxycodone 15 mg	120

9. Oxycodone is an opioid analgesic and a schedule II controlled substance. Pursuant to Wis. Stat. § 961.38: 1) Prescriptions for schedule II controlled substances must be in written form. 2) Oral or electronic prescriptions are not allowed except in emergencies and even then must promptly be reduced to writing. 3) Refills are not allowed.

10. On June 17, 2005, DK returned to Respondent with complaints of continued pain and swelling in her right ankle. Respondent noted that x-rays were needed to evaluate her status, but DK declined them due to their cost. Respondent's assessment included possible mal-union right distal fibia, ankle edema and painful ambulation. He prescribed Ketoprofen 20% cream to apply twice a day to help anti-inflammatory and pain problems. DK was to pick up an ankle elastic brace for some immobilization and to return to clinic as needed. He also noted "Pain medications given as needed" but made no note of drug, dose, frequency or quantity.

11. Respondent does not have any record of treating DK again during 2005. However, the Division of Enforcement was able to find pharmacy records that he issued the following prescriptions to her which were filled on these dates during 2005:

Date filled	Drug	Units
06/22/2005	Oxycodone 15 mg	180
07/12/2005	Oxycodone 15 mg	120
07/20/2005	Oxycodone 15 mg	100
08/01/2005	Oxycodone 15 mg	80
08/05/2005	Oxycodone 15 mg	80
08/05/2005	Oxycodone 15 mg	80
08/22/2005	Oxycodone 15 mg	180
08/26/2005	Oxycodone 15 mg	180
09/02/2005	Oxycodone 15 mg	180

Date filled	Drug	Units
09/26/2005	Oxycodone 15 mg	120
10/03/2005	Oxycodone 15 mg	180
10/26/2005	Oxycodone 15 mg	180
10/30/2005	Oxycodone 15 mg	120
11/03/2005	Oxycodone 15 mg	180
11/28/2005	Oxycodone 15 mg	180
12/05/2005	Oxycodone 15 mg	180
12/23/2005	Oxycodone 15 mg	144
12/26/2005	Oxycodone 15 mg	120

Respondent's Treatment of DK in 2006

12. Respondent does not have any record of treating DK during 2006 before August 3, 2006. However, the Division of Enforcement was able to find pharmacy records that he issued the following prescriptions to her which were filled on these dates:

Date filled	Drug	Units
01/03/2006	Oxycodone 15 mg	180
01/12/2006	Oxycodone 15 mg	180
01/26/2006	Oxycodone 15 mg	90
01/26/2006	Oxycodone 15 mg	144
02/07/2006	Oxycodone 15 mg	180
02/09/2006	Oxycodone 15 mg	180
02/15/2006	Oxycodone 15 mg	180
02/25/2006	Oxycodone 15 mg	180
03/2/2006	Oxycodone 15 mg	180
03/4/2006	Oxycodone 15 mg	180
03/13/2006	Oxycodone 15 mg	120
03/23/2006	Oxycodone 15 mg	180
03/28/2006	Oxycodone 15 mg	180
04/25/2006	Oxycodone 15 mg	240

13. On August 3, 2006, 14 months after the last record of treatment, DK returned to Respondent. She complained of an extremely painful right lower extremity due to previous trauma. She described the pain as sharp shooting with hot prickling sensations, which had increased over past months and was unrelenting. She said she had not tried any treatment but couldn't stand it anymore. She said she was still waiting for settlement from insurance on the accident. Respondent noted she had increased edema on the right ankle and advised DK she was having neurological problems due to trauma and that they can take 2-3 years to end. He said they will monitor this over the next year until possible symptom invention occurs. Respondent gave DK crutches and he dispensed a pain medication prescription with ibuprofen, but made no note of drug, dose, frequency or quantity. Respondent diagnosed DK with right anterior/posterior tibia neuritis. DK was to remain non-weight bearing and return to the clinic in a month.

14. DK returned to Respondent complaining of pain in her right ankle on September 3, October 1, November 12 and December 26, 2006. At each appointment, Respondent made a

note that they would continue current medication treatment, but made no note of drug, dose, frequency or quantity. On December 26, 2006, Respondent also noted they would start Transcutaneous Electrical Nerve Stimulation (TENS) at her next appointment.

Respondent's Treatment of DK in 2007

15. On January 25, February 25, March 23, April 16, May 9, June 11, July 14, August 5, September 6, October 5 and December 20, 2007, Respondent treated DK with TENS. At each appointment, Respondent made a note that they would continue current medication treatment, but made no note of drug, dose, frequency or quantity.

a. On March 23, 2007, DK reported pain is better after treatment for 3-5 days.

b. On May 9, 2007, DK reported she was unable to walk with the pain.

c. On July 14, 2007, DK said surgery was not possible yet because they had not reached a settlement on the 2004 accident.

d. On September 6, 2007, DK reported she had fallen down the stairs four days earlier and had immense pain in her right ankle, knee and hip. Respondent noted bruising, edema and pain with active and passive range of motion in the right lower extremity. Respondent applied a Jones Compression Cast above her knee for immobility and recommended x-rays, which DK declined due to financial issues.

e. On October 5, 2007, DK complained of an extremely painful right ankle. Respondent diagnosed a lateral right ankle sprain and contusion lateral right knee. He took no x-ray, but ruled out fracture of right ankle. He gave her a CAM walker and advised her to wear it at all times.

f. On December 20, 2007, DK reported the pain in her right lower extremity as horrible, stabbing and shooting and prevents sleep. She was still wearing the CAM and using crutches. DK reported that sometimes the pain medications and ibuprofen and Tylenol only take the edge off for a short time. Respondent noted the right ankle still had edema and bruising and pain on palpitation. He advised DK to continue use of the CAM walker at all times; and ordered ICE compression.

Respondent's Treatment of DK in 2008

16. September 24, 2008, was DK's only appointment with Respondent that year. She said she had been doing well until she had a crush injury to her right foot and ankle caused by a horse three days prior. Respondent told DK it is hard to diagnose her problem without x-rays, which she declined for financial reasons and requested conservative care. Respondent advised DK to use the CAM walker at all times, not to bear any weight and to reapply Jones Compression cast. Respondent noted: "Continue current med tx oxycodone 15 mg every four hours for pain and increase Ibuprofen to 800 mg daily." Although the notes say to continue oxycodone, it is the first time oxycodone is mentioned in her treatment record.

Respondent's Treatment of DK in 2009

17. On January 18, February 15 and March 14, 2009, DK returned to Respondent for follow-up to her right lower extremity injury. On each date, Respondent ordered her to continue her current medication treatment, but made no note of drug, dose, frequency or quantity.

a. On January 18, 2009, Respondent advised DK to continue use of the CAM walker, to use crutches, to elevate, to ice and not to bear weight as possible. Respondent also advised her that chronic pain problems could be permanent.

b. On February 15, 2009, DK said she was able to do weight bearing walking more and was using only the CAM walker. Respondent noted that on exam she had decreased edema and erythema entire ankle, but still with pain on palpation and moderate pain with active and passive range of motion. Respondent noted "no fx's appear at this exam" but no x-rays were taken. He advised DK that "chronic pain/problems is probably 100% and a pain management clinic is the next step."

c. On March 14, 2009, DK said pain was still difficult for her. She was still wearing the CAM walker, however she was able to bear some weight on her right side and she stopped using the crutches. He advised her of the importance of continuing the current medication treatment and that conservative methods help including ice, elevation and compression. DK received an elastic ankle and knee brace. Respondent recommended a pain management clinic and said the problems will probably be chronic with boney and soft tissue abnormalities and arthritis.

Violation of Practice Standards

18. Respondent's failure to record in DK's medical records the drug, dose, frequency and quantity of pain medications he prescribed to DK for years fell below the minimal level of competence for a podiatrist and exposed DK and the public to unreasonable risks of harm.

19. Respondent's continued prescribing of opioid analgesics to DK without performing appropriate diagnostic procedures and without providing appropriate treatment fell below the minimal level of competence for a podiatrist and exposed DK and the public to unreasonable risks of harm.

Unsupported Statements and Opinions

20. On approximately March 31, 2005, Respondent sent the attorney representing DK on the January 14, 2004 accident an undated letter. Respondent knew the purpose of the letter was to serve as a report on DK's condition to be used in an attempt to negotiate a settlement of payment for DK. The letter, in its entirety, said:

> The above patient has suffered a fracture of the right ankle secondary to a car accident as reported by the initial radiologist report. Now this fracture, which was serially casted for healing, has left the patient with arthritic changes that correspond to painful range of motion, pain with weather changes (pressure changes) as well as biomechanical dysfunction where this malalignment will produce soft tissue and bony abnormalities in the future. These abnormalities are insidious in nature

> and progress over many years. The likelihood for surgical intervention later in life is high and will be geared towards typical bunion, hammertoe and ankle joint arthroscopy as a few examples. Any changes with the overall biomechanical alignment of the lower extremity results in gross deformities over time and decreased ambulation all significantly affecting a persons quality of life.

21. The information available to Respondent at the time he wrote the letter was insufficient to support the stated diagnoses or the opinions he rendered regarding future conditions and care.

Fraudulent Statement on Prescription Forms

22. Respondent does not have a medical degree and is not allowed to identify himself as an M.D. From at least June 9, 2005 to March 23, 2006, Respondent knowingly used prescription forms in his practice that falsely identified him with the designation M.D.

CONCLUSIONS OF LAW

1. The Wisconsin Podiatry Affiliated Credentialing Board has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct as set out in Findings of Fact 3 through 19, above, has engaged in conduct that constitutes a danger to the health, welfare, or safety of a patient and the public, violating Wis. Admin. Code § POD 2.01(7) and is subject to discipline pursuant to Wis. Stat. § 448.675.

3. Respondent, by engaging in the conduct set out in Findings of Fact 3 through 17 and 20 through 21, above, has made false statements in practice with fraudulent intent in violation of Wis. Admin. Code § POD 2.01(12) and is subject to discipline pursuant to Wis. Stat. § 448.675.

4. Respondent, by engaging in the conduct set out in Finding of Fact 22, above, has knowingly made false statements in practice with fraudulent intent in violation of Wis. Admin. Code § POD 2.01(12) and is subject to discipline pursuant to Wis. Stat. § 448.675.

ORDER

1. Paul M. Zerovec, D.P.M. is REPRIMANDED for the above conduct.

2. The license of Paul M. Zerovec, D.P.M., to practice podiatry in the State of Wisconsin is LIMITED and restricted, as follows:

Controlled Substances Restrictions and Education

a. Respondent shall not order, prescribe, administer or dispense Schedule II Controlled Substances. Respondent may possess Schedule II Controlled Substances only if prescribed for Respondent's health care by another practitioner.

b. Respondent shall not order, prescribe, administer or dispense Schedule III, IV or V Controlled Substances, except as allowed in subparagraph c, below. Respondent may possess Schedule III, IV or V Controlled Substances only if prescribed for Respondent's health care by another practitioner.

c. During any 12 month period, Respondent may issue to any patient no more than one prescription for a one month supply of a Schedule III, IV or V Controlled Substances. The prescription shall be for an acute condition and shall not be refillable.

d. The Board or its Designee shall issue an Order removing the restriction on Schedule III, IV or V Controlled Substances upon Respondent providing proof satisfactory to the Board or its Designee that he has completed the Intensive Course in Controlled Substance Management offered by Case Western Reserve University School of Medicine or has completed another equivalent course which has first been approved by the Board or its Designee. The Case Western Reserve course shall include the pre-test, post-test, reflective essay and post reflective essay. With those elements, the course is a 39 category 1 credit program being offered next on May 3 – 6, 2011 and again December 6 – 9, 2011.

Record Keeping Education

e. Within 9 months of the date of this Order, Respondent shall complete the Intensive Course in Medical Record Keeping offered by Case Western Reserve University School of Medicine, a 17.5 category 1 credit program being offered June 2 – 3, 2011 and again November 3 – 4, 2011, or another equivalent course which has first been approved by the Board or its Designee.

f. Respondent will be responsible for paying the full cost of attendance for any courses taken in satisfaction of this Order. Respondent shall not apply any of the continuing education credits earned in satisfaction of this Order toward satisfaction of the Wis. Stat. § 448.665 biennial training requirements.

3. Within 120 days of this Order, Respondent shall pay costs of this proceeding in the amount of $1,995.00 to the Wisconsin Department of Regulation and Licensing.

4. Respondent shall send any requests, proof, notifications and payment to:

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

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 the costs as ordered or fails to comply with the ordered continuing education as set forth above, Respondent's license (No. 802) 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 Podiatry Affiliated Credentialing Board

By: Jan Jarness, DPM
A Member of the Board

2-15-11
Date

06POD005/ZEROVEC/ZWIEG/LG/2-2-11