

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
JEROD J. BERGMAN, D.C., :
RESPONDENT. : ORDER 0001033

[Division of Enforcement Case #'s 08 CHI 040 & 10 CHI 044]

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

Jerod J. Bergman, D.C.
401 S. Pelham Street
Rhineland, WI 54501

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. Respondent Jerod J. Bergman, D.C., (D.O.B.: June 5, 1975) is duly licensed as chiropractor in the State of Wisconsin (license # 3888-12). This license was first granted on December 23, 2002.

2. The Respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 401 S. Pelham Street, Rhinelander, Wisconsin 54501.

Case No. 08 CHI 040

3. At all times relevant to this action, Respondent was a co-owner and a co-managing chiropractor of Advanced Health, LLC (chiropractic clinic), also doing business as Educating Wellness, LLC (web based business) in Rhinelander, Wisconsin.

4. On September 3, 2008, Respondent's clinic published an advertisement in the Hodag Buyer's Guide which made the following representations concerning the efficacy of the medical treatment of mental health issues:

- Up to 70% of the time, anti-depressants are no better than sugar pills;
- Suicide occurs more than twice as much on anti-depressants than on sugar pills; and
- Anti-depressants are band-aids used to cover up symptoms, not something that will heal or resolve your issues over time.

5. Respondent does not possess a medical license or any license permitting him to practice in the areas of mental or emotional health.

6. The advertisement further recommended the following treatment through his chiropractic clinic:

While exploring the emotional side to the health triangle, we have been using a wonderful tool called Emotional Freedom Technique (EFT) in our clinic. This amazing technique uses acupuncture meridians (no needles required) and is based on new discoveries regarding the connection between your body's subtle energies, your emotions and your health. EFT is very successful in handling cases covering a huge range of emotional, health and performance issues.

7. The treatment of emotional health is outside the scope of chiropractic practice.

8. The September 3, 2008 article advertised information outside the scope of Respondent's practice and implied that chiropractic treatment would result in emotional benefits. This advertisement deviated from standard practice and minimum competence in chiropractic practice. Respondent has since acknowledged that EFT is outside the scope of chiropractic practice and does not offer this service to patients.

Case No. 10 CHI 044

9. Respondent owns and operated the following website:

- <http://www.educatingwellness.com/>

10. Between October 2010 and April 2011, this website described Practitioner AS as a Nutritional Response Testing Practitioner and a member of the Respondent's "team."

11. Practitioner AS does not possess a license to practice as a chiropractor in the State of Wisconsin.

12. Nutritional testing, counseling and nutrition sales to chiropractic patients constitute services which are adjunctive to the practice of chiropractic.

13. Respondent delegated adjunctive services to Practitioner AS by referring Respondent's patients to Practitioner AS for nutritional testing, counseling and nutrition sales.

14. The delegation of adjunctive services deviates from minimal standards of the practice of chiropractic.

15. Respondent has since removed the website reference to Practitioner AS as a member of Respondent's "team," and has ceased all patient referrals to Practitioner AS. Practitioner AS operates her business as a legal and financially distinct separate entity from Respondent's clinic and physically separate from Respondent's clinic. Practitioner AS does not receive wages or salary from Respondent or his clinic.

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 the conduct described above, violated Wis. Admin. Code §§ CHI 6.02(15)(a-c, f, and i) and 10.02.

ORDER

NOW, THEREFORE, IT IS ORDERED that:

1. The attached Stipulation is hereby accepted.

2. Respondent Jerod J. Bergman, D.C., (license # 3888-12) is hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

1. The license of Respondent is hereby LIMITED as follows:

a. Respondent shall, within 200 days of the date of this Order, successfully pass the post-licensure exam for ethics and boundaries located at NBCE.org or such other continuing education deemed appropriate and pre-approved by the Board or its designee.

b. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or the Department of Regulation and Licensing.

c. The Limitations shall be removed from Respondent's license and Respondent will be granted a full, unrestricted license after satisfying the Board through its designee the Department Monitor in paragraph 4, that he has successfully completed all of the ordered continuing education.

2. Respondent shall pay the Department's COSTS of this matter in the amount of \$500.00.

3. Payment of the COSTS shall be submitted within 90 days from the date of the order payment shall be made payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor at the address referenced in paragraph 4 below.

4. Proof of successful course completion and payment of costs shall be mailed, faxed or delivered by the Respondent to the Department Monitor at this address:


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

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 to practice in the State of Wisconsin. 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 comply with payment of the forfeiture and costs, and completion of the continuing education portion of this Order, Respondent's license to practice in the State of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with all the terms and conditions of this Order.

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

Wisconsin Chiropractic Examining Board

By:


A Member of the Board

8/11/11
Date