

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

MICHAEL M. HAMILTON, D.C.,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0001035

[Division of Enforcement Case #10 CHI 027]

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

Michael M. Hamilton, D.C.
2331 Velp Avenue, Suite C/D
Green Bay, WI 54313

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 & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

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. Michael M. Hamilton, D.C. ("Respondent"), was born on November 11, 1976 and is licensed to practice as a chiropractor in the State of Wisconsin (license #4164-12). This license was first granted on November 10, 2005.

2. Respondent's most recent address on file with the Chiropractic Examining Board is 2331 Velp Avenue, Suite C/D, Green Bay, Wisconsin.

3. Respondent was previously disciplined, in 2009, for an advertisement violation in 2007, in which he misled patients to believe he could treat their cardiac conditions. Respondent was reprimanded, ordered to complete eight hours of continuing education and assessed costs of \$570.00.

4. Respondent is the owner of and practices chiropractic at Planet Chiropractic, located in Green Bay, Wisconsin. At all times relevant to this proceeding, Respondent was responsible for approving content of the advertisements for Planet Chiropractic.

5. Respondent published an advertisement in the Appleton Post-Crescent Newspaper on May 23, 2010. The advertisement is a print ad that states:

“Type II Diabetes?

Free Diabetes Guide Reveals Why Your Current Method Of
Treatment May Be Dangerous To Your Health

A new free guide has just been released that reveals why Type II Diabetes continues to increase at an alarming rate. Discover why current therapy may make your condition worse. To receive your free guide entitled ‘Type II Diabetes: The untold Truth Behind Current Treatment’ call toll free 1-888-539-7756 or go to www.endtype2wisconsin.com
Dr. Michael Hamilton D.C.”

6. The 16 page free guide (the “Guide”) referred to in the ad was available at Respondent’s clinic. The Guide contains statements such as:

- a. “Inside This Diabetes Guide You’ll Discover... Why Your Current Method of Treatment May Be Dangerous You (sic) Your Health!”
- b. “This may be the one thing you read about your disease that may change your life forever.”
- c. “The secrets I will reveal to you in this guide will shock and anger you. When you are done you will be wondering why your doctor never revealed this information to you.”
- d. “...you need to read this report. ALL OF IT. I honestly, don’t know where else you can get this vital information.”
- e. “After reading the next 16 pages, you will feel that giant weight being lifted off your chest as you get the possible answers to that huge, debilitating life altering monster that cripples your enthusiasm for life...”

- f. “And What I’ve Discovered Is Like The ‘Fountain Of Youth’ For Diabetic Sufferers!”
- g. “Why The Eventual Prescription Of Insulin Therapy May Prove To Be Your Ultimate Downfall...”
- h. “High levels of insulin floating around in your body is potentially dangerous to your health and ultimately to your life!!

All of the diabetic drugs are just treating the symptom of high blood sugar, while your disease continues to progress to the ultimate reality of insulin therapy. When this reality hits and your doctor says “well I think we need to start giving you insulin to control your blood sugar” you are in big trouble...a world of hurt.”

7. The “secret” that the Guide reveals is that the Respondent can treat Type II Diabetes through a program of diet and exercise.

8. The Guide, read as a whole, implies that medically managed diabetics are mistreated by their medical physicians.

9. The suggestion that medically managed diabetics are mistreated by their medical physician is a misrepresentation of fact or is likely to mislead or deceive because of a failure to disclose material facts.

10. The Guide suggests that medication is ineffective and dangerous to the patients’ health and lives.

11. The Guide’s statements regarding the ineffectiveness of diabetes medication can, in reasonable probability, cause an ordinarily prudent person to misunderstand or be deceived and possibly to stop his or her medication, which can be dangerous to his or her health.

12. Despite the disclaimers located within the Guide, the Guide implies that Respondent’s program will cure diabetes. The Guide’s suggestion that Respondent’s program holds the key to “the solution to...type II diabetes” is likely to create false or unjustified expectations of favorable results.

13. The Guide also contains a page of testimonials from five individuals who state they have significantly reduced their blood sugar, gotten off insulin, and lost significant weight while on the Respondent’s Type II Diabetes program. Respondent admits the individuals are not actually his clients, and that his name was accidentally inserted to replace the treating doctor’s name.

14. The Guide is misleading in that the testimonials testify to the effectiveness of Respondent’s treatment, when in fact the Respondent did not treat these patients. Such

misrepresentation is likely to deceive and create an unjustified expectation about the results of the program.

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 above constitutes unprofessional conduct pursuant to Wis. Admin. Code §§ Chir 6.02(15)(a-e) and (31) and Wis. Stat. § 446.04(5) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Michael M. Hamilton (license #4164-12), is hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Respondent's license to practice chiropractic is LIMITED by the condition that, within one hundred eighty (180) days from the date of this Order, Respondent shall obtain and successfully complete a minimum of six (6) hours of education in the area of healthcare ethics pertaining to ethical advertising or patient management.
 - a. Respondent shall locate and have the Board or its designee pre-approve each educational program prior to Respondent completing it.
 - b. Within 30 days after Respondent has completed each educational program, Respondent shall submit to the Department Monitor proof of his attendance and that he has successfully completed each educational program.
 - c. Respondent cannot apply these six hours of education to the biennial continuing education requirements. If Respondent obtains more than six hours of education to fulfill the requirements of this Order, then Respondent can use any of the hours of education obtained in excess of six hours towards the biennial continuing education requirements.
 - d. The Limitation shall be removed from Respondent's license after he has satisfied the Board or its designee that he has successfully completed all of the ordered education.
 - e. Requests for pre-approval of education and proof of successful completion shall be submitted to the Department Monitor at the address below.

f. Respondent is responsible for all costs of compliance with this Order.

3. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of NINE HUNDRED DOLLARS (\$900.00). 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

4. 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 provide evidence of satisfactory completion of the education or pay the costs as set forth above in a timely matter, the Respondent's license (#4164-12) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has paid costs and submitted evidence of satisfactory completion of the education.

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

Wisconsin Chiropractic Examining Board

By:



A Member of the Board

8/11/11

Date