

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 :  
STEVEN D. BIRCHER, D.C., : FINAL DECISION AND ORDER  
RESPONDENT. :  
 :  
 : **ORDER 0001147**

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[Division of Enforcement Case #07 CHI 024]

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

Steven D. Bircher, D.C.  
3321A Golf Road  
Eau Claire, WI 54701

Division of Enforcement  
Department of Safety and Professional Services  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Wisconsin Chiropractic Examining Board  
Department of Safety and Professional Services  
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 (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. Steven D. Bircher, D.C. ("Respondent"), was born on March 19, 1952 and is licensed to practice as a chiropractor in the State of Wisconsin (license #1708-12). This license was first granted on December 16, 1981.

2. Respondent's most recent address on file with the Chiropractic Examining Board is 3321A Golf Road, Eau Claire, Wisconsin.

3. Respondent is the founder of and practices chiropractic at Optima Health and Vitality Center (Optima), located in Eau Claire, Wisconsin. At all times relevant to this proceeding, Respondent was responsible for approving content of the advertisements for Optima.

4. Optima's website listed numerous conditions under the heading "Conditions Successfully Treated," including:

- a. Acid reflux syndrome;
- b. Attention deficit hyperactivity disorder (ADD/ADHD);
- c. Allergies;
- d. Asthma;
- e. Autism;
- f. Colic;
- g. Dyslexia;
- h. Emotional difficulties;
- i. Learning disabilities;
- j. Phobias;
- k. Post-traumatic stress disorder; and
- l. Tourette's syndrome.

5. This listing, together with the heading, implies that Respondent has the ability to successfully treat these conditions, and is likely to create false or unjustified expectations of favorable results.

6. Optima's website included a profile of each of the clinic's practicing chiropractors. Respondent's profile stated that Respondent was:

"[C]ertified in Applied Kinesiology, Graston Technique and Health Coach. He has advanced training in digestive disorders, and specializes in health and vitality programs."

7. Respondent did not, and currently does not, hold a certification from the State of Wisconsin in Applied Kinesiology, Graston Technique or Health Coach Systems.

8. Stating that Respondent is certified in Applied Kinesiology, Graston Technique and Health Coach is a misuse of the term “certified” as defined by the Code and constitutes a misrepresentation of fact.

9. Wisconsin Admin. Code § Chir 6.02(15) sets out specific requirements for the usage of “advanced training” in advertising:

- a. The postgraduate training must be received in one, unified, approved program;
- b. The chiropractor must complete at least 100 hours of postgraduate training in the area in which the chiropractor claims advanced training; and
- c. The postgraduate training program includes successful completion of a written examination as a requirement for successful completion of the program.

10. Respondent did not complete at least 100 hours of postgraduate training in digestive disorders and did not have evidence of completion of a written examination.

11. Stating that Respondent has “advanced training” in digestive disorders is a misuse of the term as defined by the Code and constitutes a misrepresentation of fact.

12. Wisconsin Admin. Code § Chir 6.02(15) sets out specific requirements for the usage of “specialization” in advertising:

- a. The specialty is recognized by a counsel of the American chiropractic association or the international chiropractors association;
- b. The specialty requires at least 300 hours of postgraduate credit hours and passage of a written examination approved by the American chiropractic association or the international chiropractors association; and
- c. The title applied to the specialty by the chiropractor is the title applied by the American chiropractic association or the international chiropractors association.

13. “Health and Vitality Programs” is not a recognized specialty for which Respondent completed a written examination and requisite hours of postgraduate education.

14. Stating that Respondent “specializes in health and vitality programs” is a misuse of the term “specialize” as defined by the Code and constitutes a misrepresentation of fact.

15. At least since April 2007, Respondent used the EB Cellular Cleanse Therapy to treat clients.

16. The EB Cellular Cleanse Therapy is outside the scope of chiropractic and is not approved by the Board as safe or effective techniques.

## 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 in paragraphs 4, 6, 7, 10 and 13 constitutes unprofessional conduct as defined by Wis. Admin. Code §§ Chir 6.02(15)(a-c and e-g) and (31) and Wis. Stat. § 446.04(5) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

3. The conduct described above in paragraphs 15 and 16 constitutes unprofessional conduct as defined by Wis. Admin. Code § Chir 6.02(4) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Steven D. Bircher (license #1708-12), is REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Within 90 days of the date of this Order, Respondent shall complete and pass the Wisconsin Chiropractic Jurisprudence Examination. Evidence of satisfactory completion of the examination shall be submitted to the Department Monitor at the address below.

3. Respondent's license to practice chiropractic is LIMITED by the following conditions:

- a. For at least two (2) years from the date of this Order, Respondent shall comply with monitoring by a mentor appointed by the Board or its designee.
- b. After two years from the date of appointment of a mentor, Respondent may apply to the Board to have the Limitation lifted.
- c. At all times during which the Limitation is imposed, Respondent shall post a notification in his clinic reception area, in 72-point font, stating that the EB Cellular Cleanse Therapy is a prohibited practice outside of the scope of the practice of Chiropractic.
- d. Requests for removal of the Limitation shall be submitted to the Department Monitor at the address below.

4. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of FIVE HUNDRED DOLLARS (\$500.00). Payment shall be made payable to the Wisconsin Department of Safety and Professional Services, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Safety and Professional Services  
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 provide evidence of satisfactory completion of the examination or pay the costs as set forth above in a timely matter, the Respondent's license (#1708-12) 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 examination.

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

Wisconsin Chiropractic Examining Board

By:

  
\_\_\_\_\_

A Member of the Board

10/6/11  
\_\_\_\_\_

Date