

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES J. FINK, D.C.,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0001596

[Division of Enforcement Case No. 11 CHI 032]

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

James J. Fink, D.C.
1128 Valley View Road
Green Bay, WI 54304

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. James J. Fink, D.C., ("Respondent") was born on June 10, 1968 and is licensed to practice as a chiropractor in the State of Wisconsin (license #3339-12). This license was first granted on April 12, 1996. Respondent is also licensed as a professional nurse in the State of Wisconsin (license #151642-30). This license was first granted on June 24, 2005.

2. Respondent's most recent address on file with the Chiropractic Examining Board is 1128 Valley View Road, Green Bay, WI 54304.

3. On October 12, 2011, Respondent was questioned by Ashwaubenon Public Safety about Nubain, a prescription drug he had in his home.

4. During the interview, Respondent admitted the following:

- a. He had two bottles of Nubain in his dresser drawer and a partial vial in his basement;
- b. Respondent did not have a prescription for Nubain;
- c. Respondent's late wife obtained the Nubain through the internet without a prescription. She used it to help with pain associated with brain cancer;
- d. Respondent sporadically injected himself with Nubain to help with his colitis and knee pain;
- e. Respondent last injected himself with Nubain the night before;
- f. Respondent injected his 12-year-old daughter with Nubain to help her with stomach pain and pain associated with an ATV accident;
- g. Over the last six weeks, Respondent injected his daughter a minimum of six times ranging from one to two times per week; and
- h. On one occasion, Respondent injected his girlfriend with Nubain to help with menstrual pain.

5. On October 14, 2011, Respondent was charged in Brown County with five counts of Manufacture or Deliver Prescription Drug, a class H felony, and one count of Possess/Illegally Obtained Prescription, a class U misdemeanor.

6. Respondent neither admits nor denies the above allegations, but agrees that the facts as set forth above are legally sufficient to support the Conclusions of Law and Order below. Respondent has fully cooperated with the Department's investigation of this matter, and his cooperation and stipulation to this Order are evidence of his good faith and commitment to ensure that his practice and judgment will comply with acceptable professional standards.

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 as defined by Wis. Admin. Code § Chir 6.02(26) and subjects Respondent to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of James J. Fink, D.C., (license #3339-12), is indefinitely **SUSPENDED**. During this period of suspension, Respondent is prohibited from practicing chiropractic.

IT IS FURTHER ORDERED that:

2. Respondent may petition for termination of the suspension after completing the following:

a. Satisfactory Fitness for Duty evaluation:

- i. The evaluator must not have treated Respondent at any time and shall have been approved by the Board, with an opportunity for the Division to make its recommendation, prior to the evaluation being performed.
- ii. The Division shall provide the evaluator and Respondent with those portions of the investigative file which the Division believes may be of assistance in performing the evaluation. Respondent may provide the evaluator with any information Respondent believes will be of assistance in performing the evaluation and shall immediately provide copies of that information to the Division.
- iii. Respondent shall authorize the evaluator to provide the Board, or its designee, and the Division with the evaluation report and all materials used in performing the evaluation and shall provide the Board, or its designee, and the Division with the opportunity to discuss the evaluation and findings with the evaluator.
- iv. If the evaluator shows, to the Board's satisfaction, that Respondent is safe to practice chiropractic, the Board shall lift the suspension. However, the Board may limit Respondent's license in any manner it sees fit to address the facts above and any recommendations resulting from the assessment, including but not limited to direct supervision and quarterly employer work reports.
- v. Respondent is responsible for all costs of compliance with this Order.

- b. Within one hundred twenty (120) days from the date of this Order, Respondent must obtain **eight (8) hours** of education in ethics relating to chiropractic practice.
 - i. Respondent shall locate and have the Board or its designee pre-approve the educational program(s) prior to Respondent completing them.
 - ii. Within 30 days after Respondent has completed the educational program(s), Respondent shall submit to the Department Monitor proof of his attendance and that he has successfully completed each educational program.
 - iii. Respondent cannot apply these eight hours of education to the biennial continuing education requirements. If Respondent obtains more than eight hours of education to fulfill the requirements of this Order, then Respondent can use any of the hours of education obtained in excess of eight hours towards the biennial continuing education requirements.
 - iv. Respondent is responsible for all costs of compliance with this Order.
- c. Within one hundred twenty (120) days from the date of this Order, Respondent shall take and successfully pass the NBCE Ethics and Boundaries SPEC Examination. Evidence of satisfactory completion of the examination shall be submitted to the Department Monitor at the address below.
- d. Within one hundred twenty (120) days from the date of this Order, Respondent shall take and successfully pass the Wisconsin Jurisprudence Examination. Evidence of satisfactory completion of the examination shall be submitted to the Department Monitor at the address below.
- e. Within one hundred twenty (120) days from the date of this Order, Respondent shall pay costs of this proceeding in the amount of FOUR HUNDRED DOLLARS (\$400.00). Payment shall be made payable to Wisconsin Department of Safety and Professional Services.

3. All petitions, payments, reports and other correspondence shall be directed to the Department Monitor, at:

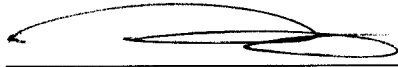
Department Monitor
Department of Safety and Professional Services
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

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.

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

Wisconsin Chiropractic Examining Board

By:



A member of the Board

5/24/12
Date