

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 SCHIAVO, D.C.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0002266

Division of Enforcement¹ Case No. 11 CHI 037

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

James Schiavo, D.C.
2308 W. Nordale Drive
Appleton, WI 54914

Wisconsin Chiropractic Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The Division of Enforcement filed the complaint that became DHA Case No. SPS 12-0011 on February 1, 2012. Administrative Law Judge Jennifer Nashold was assigned to the case. Respondent James Schiavo, D.C. timely filed an Answer. The parties reached a stipulated resolution prior to hearing, and presented it to the Chiropractic Examining Board (Board).

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

FINDINGS OF FACT

1. Respondent James Schiavo, D.C. (dob December 24, 1952) is licensed in the State of Wisconsin to practice chiropractic, having license number 12-2607, first issued on July 12, 1990 and current through December 14, 2012. James Schiavo, D.C.'s most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2308 W. Nordale Drive, Appleton, WI 54914.

2. On November 22, 2011, in connection with an investigation relating to a failure to comply with a Board Order, Division Investigator Hannah Hoff Whaley sent a letter addressed to the "Records Custodian" of Advance Chiropractic Health requesting certified copies of the patient medical records of patients B.J.B., and M.K., requesting a response by December 6, 2011. The letter stated that the Division was working on behalf of the Chiropractic Examining Board and identified the two patients by full first and last name and by date of birth. Respondent did not reply to this request.

3. On February 7, 2012, the Chiropractic Examining Board issued an "Order Suspending License 0001034", which stated that Respondent's license was suspended "immediately," based on his "failure to comply with the terms and conditions of the August 11, 2011 Order."

4. Respondent first received a copy of the February 7, 2012 "Order Suspending License 0001034" on February 10, 2012 and immediately ceased practicing chiropractic as of that date.

5. Respondent did not practice chiropractic during the period of February 10, 2012 through his receipt of notice that the suspension of his license was lifted on March 29, 2012.

6. On March 15, 2012, Respondent submitted an Affidavit to the Chiropractic Examining Board verifying that he had sent the patient and Medicare notifications and obtained the continuing education and training, required by the August 11, 2011 Order, and further explained that he had observed a thirty (30) day period in which he did not practice chiropractic from October 1 through October 31, 2011.

7. On March 29, 2012, Respondent appeared before the Chiropractic Examining Board and requested that the suspension of his license, due to his failure to comply with the August 11, 2011 Order, be lifted.

8. After reviewing the matter, the Chiropractic Examining Board restored Respondent's license to full and unrestricted status, effective that same date, resolving the original subject of the Division's investigation.

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 pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in paragraph # 2 in the Findings of Fact, above, James Schiavo, D.C. violated Wis. Admin. Code § Chir 6.02(19) by failing to respond to the Department's request for patient medical records during the Board's investigation.

3. As a result of the above violations, James Schiavo, D.C. is subject to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

1. The attached Stipulation is accepted.

2. Respondent James Schiavo, D.C.'s license to practice chiropractic (license no. 2607-012) is **SUSPENDED** for a period of one week, February 12 through February 18, 2013. Respondent shall not provide chiropractic services or treatments to patients during the time that his license is **SUSPENDED**.

3. Within 90 days from the date of this Order, James Schiavo, D.C. shall pay **COSTS** of this matter in the amount of \$2,850.00.

4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 forfeiture and costs as ordered, Respondent's license (no. 12-2607) may, in the discretion of the Board or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with payment of costs.

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

WISCONSIN CHIROPRACTIC EXAMINING BOARD

by: _____

A Member of the Board

1/24/13

Date