

## 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 DISCIPLINARY  
PROCEEDINGS AGAINST

JEROD J. BERGMAN, D.C.  
RESPONDENT.

:  
:  
: FINAL DECISION AND ORDER  
:  
:

0002964

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Division of Legal Services and Compliance<sup>1</sup> Case No. 11 CHI 052

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

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

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 7190  
Madison, WI 53707-7190

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 Chiropractic Examining Board (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.

FINDINGS OF FACT

1. Respondent Jerod J. Bergman, D.C., (dob June 5, 1975) is licensed in the State of Wisconsin as a chiropractor, having license (no. 3888-12), first granted on December 30, 2002, and current through December 14, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 401 South Pelham Street, Rhineland, Wisconsin 54501.

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<sup>1</sup> The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

2. On August 11, 2011, in Case Nos. 08 CHI 040 and 10 CHI044, the Board reprimanded Respondent and ordered him to pass a post-licensure exam on ethics and boundaries.

3. The Board, in its Final Decision and Order, found that Respondent had advertised that an unlicensed employee, AS, was a "Nutritional Response Testing Practitioner and a member of the [r]espondent's 'team'." The Board further found, "Respondent delegated adjunctive services to Practitioner AS by referring Respondent's patients to Practitioner AS for nutritional testing, counseling and nutrition sales... The delegation of adjunctive services deviates from the minimal standards of the practice of chiropractic." Respondent had stipulated to the Findings of Fact and the Order.

4. According to the 2011 Final Decision and Order, Respondent represented to the Board that he had removed references to A.S. as a member of the practice's "team". Respondent further represented that:

[Respondent has] ceased and desisted 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 her clinic.

5. Contrary to Respondent's 2011 representations to the Board, at that time and continuing through May 15, 2012, Respondents referred to A.S. as part of the professional staff of Respondent's chiropractic practice.

6. Contrary to Respondent's 2011 representations to the Board that A.S. practiced legally and financially as a "distinct separate entity from Respondent's clinic", when the Order was issued and after that date, Respondent owned the website for A.S.'s practice.

7. Contrary to Respondent's 2011 representations to the Board that A.S. had a physically and legally independent practice, on that date and continuing through May 15, 2012, all telephone calls to A.S.'s nutritional practice were answered in Respondents' chiropractic clinic by Respondent's staff.

8. As of January 16, 2013, Respondent's website did not include any link or referral to the nutritional practice of A.S.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### 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. Based on Findings of Fact paragraph nos. 5, 6, and 7 above, on August 11, 2011, Respondent made false or misleading statements to the Board.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Chir 6.02(20) by knowingly providing false information to the Board.

4. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 446.03(5).

ORDER

1. The attached Stipulation is accepted.


2. Respondent Jerod J. Bergman, D.C. is REPRIMANDED.

3. 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 (number 3888-12). 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.

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

WISCONSIN CHIROPRACTIC EXAMINING BOARD

by:

  
A Member of the Board

1-23-14  
Date

STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JEROD J. BERGMAN, D.C.,  
RESPONDENT.

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:  
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STIPULATION

0002964

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Division of Legal Services and Compliance Case No. 11 CHI 052

Respondent Jerod J. Bergman, D.C., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Richard Cayo.

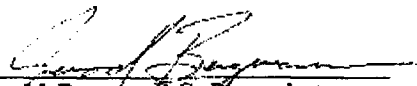
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Chiropractic Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

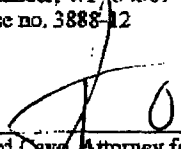
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

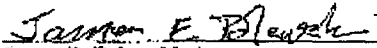
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Jerod J. Bergman, D.C., Respondent  
401 S. Polham Street  
Rhinelander, WI 54501  
License no. 3888-12

1/9/2014  
Date

  
Richard Cays, Attorney for Respondent  
Halling & Cays, S.C.  
320 E. Burnett Street, Ste 700  
Milwaukee, WI 53202

1/9/14  
Date

  
James E. Polewski, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

Jan 2, 2014  
Date