

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov



Before the
State Of Wisconsin
Chiropractic Examining Board

In the Matter of the Disciplinary Proceedings
Against Karl Naujock, D.C.

FINAL DECISION AND ORDER

Order No. 0004119

Division of Legal Services and Compliance Case No. 13 CHI 013

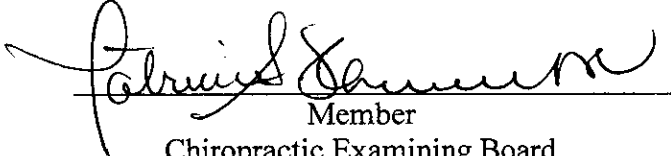
The State of Wisconsin, Chiropractic Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Chiropractic Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 2nd day of July, 2015.


Member
Chiropractic Examining Board



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings
Against Karl Naujock, D.C.

DHA Case No. SPS-15-0004
DLSC Case No. 13 CHI 013

PROPOSED DECISION AND ORDER

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Karl Naujock, D.C.
9140 W. Elm Circle, Unit D
Franklin, WI 53132

Wisconsin Chiropractic Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Department of Safety and Professional Services,
Division of Legal Services and Compliance, by

Attorney Aloysius Rohmeyer
Department of Safety and Professional Services
Division of Legal Services and Compliance
P. O. Box 7190
Madison, WI 53707-7190

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services, Division of Legal Services and Compliance (Division), served a formal Complaint against Respondent alleging, among other things, that Respondent engaged in or offered to practice chiropractic without a current license, in violation of Wis. Stat. § 446.02(1). The Division served Respondent on January 12, 2015, by sending a copy of the Notice of Hearing and Complaint to Respondent's last known address. Respondent failed to file an Answer to the Complaint, as required by Wis. Admin. Code § SPS 2.09, and failed to appear at the telephone prehearing conference held before the Division of Hearings and Appeals on Thursday, February 12, 2015.

The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondent's failure to file an Answer to the Complaint and failure to appear at the prehearing conference, the undersigned Administrative Law Judge (ALJ) found Respondent to be in default. On February 12, 2015, the ALJ issued a Notice of Default and Order against Respondent. Consistent with the Notice, the Division filed its recommended proposed decision on February 26, 2015.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Fact 1-12 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Karl Naujock, D.C., was licensed in the State of Wisconsin to practice chiropractic, having license number 3759-12, first issued on April 10, 2001. This license expired on December 14, 2010, and has not been renewed. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until December 13, 2015.

2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 9140 West Elm Circle, Unit D, Franklin, Wisconsin 53132.

3. Between March 29, 2011 and December 31, 2012, while his license was expired, Respondent billed for and provided chiropractic services to patients.

4. In 2011, Respondent billed an insurance company for 96 patient visits; in 2012 he billed an insurance company for 63 patient visits.

5. During 2011 and 2012, Respondent billed the same insurance company \$9,635.00, of which the insurance company paid Respondent \$3,865.10.

6. As of January 9, 2015, Respondent failed to respond to a December 13, 2013 Division request for proof of the continuing education he completed from December 14, 2010 through December 13, 2013.¹

7. As of January 9, 2015, Respondent failed to respond to a December 13, 2013 Division request for proof of the liability insurance policy he carried between December 14, 2010 and December 13, 2013.

8. There is at least a reasonable inference to believe that Respondent failed to provide proof of a liability insurance policy because he did not have such a policy.

¹ With respect to this failure to respond, the Complaint further alleges: "There is at least a reasonable inference to believe that Respondent failed to respond to the Division's request for information because he did not have the requested information." Because the Division has not alleged that Respondent's alleged failure to complete continuing education requirements constituted any violation, this language is omitted from the Findings of Fact.

9. As of April 15, 2014, Respondent maintained a profile on the professional networking website LinkedIn.

10. Respondent's LinkedIn profile identifies him as "Owner, Taylor Chiropractic, September 2004 – Present (9 years 8 months)," and states the following:

Using traditional hands on chiropractic protocol, diagnose and treat musculoskeletal conditions with a subluxation base. My focus is on family care and personal injury. Examine and treat patients individually with a care plan suited specifically for their health care needs. I use the five pillars of health approach: 1) Proper rest 2) Exercise 3) Nutrition 4) Positive Mental Attitude 5) Chiropractic Adjustments. With the use of specific chiropractic adjustments, x-ray, myofascial release, and intersegmental traction, in order to diagnose and treat subluxations of the spine and to help the body perform at its optimal efficiency.

11. On April 15, 2014, Respondent maintained a profile on the website, <http://www.wellness.com>.

12. Respondent's www.wellness.com profile identified Respondent as "Karl Naujock, D.C." The profile also contained several statements that Respondent practices chiropractic and further identifies the name, address, and contact information for Taylor Chiropractic.

Facts Related to Default

13. The Complaint and Notice of Hearing in this matter were served on Respondent on January 12, 2015, by both certified and regular mail, at his last address on file with the Department, the West Elm Circle address listed above, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing informed Respondent: "If you do not provide a proper Answer within twenty (20) days, you will be found to be in default, and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Board may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing." The Division received a signed Returned Receipt for Certified Mail indicating that the Complaint and Notice of Hearing were received by Respondent at the West Elm Circle address on January 13, 2015.

14. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

15. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for Thursday, February 12, 2015. Notice of the prehearing conference was sent to both parties on February 2, 2015, with instructions that Respondent provide the ALJ with a telephone number at which he could be reached for the conference no later than February 9, 2015. The Notice further informed Respondent: "A respondent's failure to appear at a scheduled conference or hearing may result in default judgment being entered against the respondent."

16. Respondent failed to provide a telephone number. At the prehearing conference held on Thursday, February 12, 2015, the Division provided a telephone number for Respondent, whereupon the ALJ left a voicemail for Respondent indicating that he should contact the ALJ at the telephone number provided, failing which the ALJ would proceed with the conference without him. However, as of the date of this decision, Respondent has not contacted the ALJ at the telephone number provided by the ALJ.

17. The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

18. On February 12, 2015, the ALJ issued a Notice of Default and Order which concluded that Respondent was in default and required the Division to serve no later than February 26, 2015, a recommended proposed decision and order.

19. On February 26, 2015, the Division filed its recommended proposed decision and order.

20. On February 27, 2015, the Division of Hearings and Appeals received from the U.S. Postal Service the Notice of Prehearing Conference and Notice of Default and Order which it had sent to Respondent at the West Elm Circle address. These documents were returned as undeliverable, with notations that Respondent had moved and left no forwarding address. On March 3, 2015, the ALJ contacted counsel for the Division, inquiring whether the Department had a more recent address for Respondent than the West Elm Circle address and was informed that the Division had no such address.

DISCUSSION AND CONCLUSIONS OF LAW

Default

As stated in the February 12, 2015 Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint and failing to appear at the prehearing conference held on January 20, 2015. *See* Wis. Admin. Code §§ SPS § 2.09(4) and 2.14; Wis. Admin. Code § HA 1.07(3). Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3).

Violations of Wisconsin Statute and Administrative Code

The Wisconsin Chiropractic Examining Board (Board) has jurisdiction in this matter pursuant to Wis. Stat. § 446.03. Wisconsin Stat. § 446.03(4) and (5) state that, following an investigation and hearing, the Board may: “reprimand a licensee . . . and may deny, limit, suspend or revoke any license . . . if the licensee . . . does any of the following: (4) Has obtained or sought to obtain anything of value by fraudulent representation in the practice of chiropractic; (5) Is guilty of unprofessional conduct.”

The phrase “unprofessional conduct” as used in Wis. Stat. § 446.03(5) is defined by Wis. Admin. Code § Chir 6.02, and includes the following:

- “Refusing upon request to cooperate in a timely manner with the board’s investigation of a complaint lodged against a licensee,” Wis. Admin. Code § Chir 6.02(19);
- “Violating any provision of ch. 446, Stats., or any rule or order of the board,” Wis. Admin. Code § Chir 6.02(25);
- “Violating a law, or aiding and abetting the violation of any law substantially related to the practice of chiropractic.” Wis. Admin. Code § Chir 6.02(26).

The Division first alleges that Respondent engaged in unprofessional conduct because he “[r]efus[ed] upon request to cooperate in a timely manner with the board’s investigation of a complaint lodged against [him].” Wis. Admin. Code § Chir 6.02(19). The Division has failed to establish this violation because there is no indication in the record that, at the time Respondent refused to cooperate with the Department’s investigation, a complaint had been lodged against him, as required by Wis. Admin. Code § Chir 6.02(19). The formal Complaint was served on Respondent on January 12, 2015, after the dates established for Respondent’s refusal to cooperate in the investigation, and there is no allegation that an informal complaint was filed prior to Respondent’s refusal to cooperate. I am therefore unable to make the requisite finding that Respondent refused to cooperate with an “investigation of a complaint lodged against [him]” and therefore cannot conclude that he violated Wis. Admin. Code § Chir 6.02(19).

The Division next alleges that Respondent violated Wis. Stat. § 446.02(1)(a), which constitutes unprofessional conduct under Wis. Admin. Code § Chir 6.02(25) because the conduct is a violation of a provision of Chapter 446 of the Wisconsin Statutes. Wisconsin Stat. § 446.02(1)(a) states that “no person may engage in the practice of chiropractic or attempt to do so or hold himself out as authorized to do so unless such person . . . [i]s licensed by the examining board.” The phrase, “practice of chiropractic,” means:

to examine into the fact, condition, or cause of departure from complete health and proper condition of the human; to treat without the use of drugs as defined in s. 450.01(10) or surgery; to counsel; to advise for the same for the restoration and preservation of health or to undertake, offer, advertise, announce or hold out in any manner to do any of the aforementioned acts, for compensation, direct or indirect or in expectation thereof; and to employ or apply chiropractic adjustments and the principles or techniques of chiropractic science in the diagnosis, treatment or prevention of any of the conditions described in s. 448.01(10).

Wis. Stat. § 446.01(2). The record unequivocally demonstrates that Respondent’s license to practice chiropractic expired on December 14, 2010 and was not renewed. The evidence also establishes that between March 29, 2011 and December 31, 2012, Respondent billed for and provided chiropractic services to patients. In 2011 and 2012, Respondent was paid \$3,865.10 by an insurance company for his services. It is also undisputed that, as of April 15, 2015, Respondent offered, advertised, announced or held himself out to perform chiropractic services

described in Wis. Stat. § 446.01(2), that he used the title, “D.C.,” after his name when doing so, that he stated that he was the owner of Taylor Chiropractic from “September 2004 - Present,” and that he advertised his services as including diagnosing and treating, “using traditional hands on chiropractic protocol.” These facts establish that Respondent violated Wis. Stat. § 446.02(1)(a) and Wis. Admin. Code § Chir 6.02(25) by engaging in the practice of chiropractic and holding himself out as one authorized to do so without a current license.

The Division further asserts that Respondent violated Wis. Stat. § 446.02(8) by engaging in the practice of chiropractic without professional liability insurance, which constitutes unprofessional conduct under Wis. Admin. Code § Chir 6.02(25) because it is a violation of a provision of Chapter of 446 of the Wisconsin Statutes. Wisconsin Stat. § 446.02(8) states, in relevant part: “Every practicing chiropractor shall have in effect professional liability insurance.” As of January 9, 2015, Respondent failed to respond to a December 13, 2013 Division request for proof of the liability insurance policy he carried between December 14, 2010 and December 13, 2013. There is at least a reasonable inference to believe that Respondent failed to provide proof of a liability insurance policy because he did not have such a policy. As a result, Respondent violated Wis. Stat. § 446.02(8) and engaged in unprofessional conduct under Wis. Admin. Code § Chir 6.02(25).

Finally, the Division alleges that Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Chir 6.02(26) by violating any law, or aiding and abetting the violation of any law substantially related to the practice of chiropractic. Because this violation was not alleged in the Complaint and no Amended Complaint was filed including this violation, I do not consider it here.

Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends revocation of Respondent’s right to renew his expired license. Under the criteria in *Aldrich* and the facts of this case, such discipline is warranted.

For a very significant period of time, Respondent, without having a current license, engaged in, billed for, and received compensation for chiropractic services. In addition, Respondent has continually been uncooperative with the Board’s investigation and with these proceedings. He failed to respond to the Division’s request for important information, such as whether he had the insurance required by law to practice and whether he completed continuing education requirements. As set forth in the Complaint and adopted by virtue of Respondent’s default, the conclusion has been drawn that Respondent was practicing without the required liability insurance.

Respondent failed to participate in any way in this proceeding, not filing an Answer to the Complaint he received, not providing an updated address to the Department as required once he had moved, and not ever returning the ALJ’s telephone call when she left a message for him

at the time scheduled for the prehearing conference. Professional licenses are required, as are laws pertaining to the practice of chiropractic, in order to protect the public by ensuring that chiropractors in this state practice competently and do not present unacceptable risks of harm to patients. Respondent's actions subvert that important purpose and put patients in harm's way. Moreover, Respondent's failure to participate in these proceedings indicates that he has not taken responsibility for his actions, has not been rehabilitated, and is not likely to be rehabilitated. Due to Respondent's actions, the Board cannot assure any health care consumer that Respondent's practice is competent and safe.

Revocation of Respondent's right to renew his expired license is necessary to ensure that the public is on notice that Respondent is not authorized to practice chiropractic and that his practice may not conform to the standard of minimal competence. It also serves to deter others from engaging in such conduct.

Costs

The Division has the authority to assess costs pursuant to Wis. Stat. § 440.22. The Division requests that Respondent be ordered to pay the full costs of this investigation and of these proceedings. The factors to be considered in assessing costs are: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the Department is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz, D.C.*, Order No. LS0802183CHI (Aug. 14, 2008).

Based on the factors delineated in *Buenzli-Fritz* and the facts of this case, Respondent should be assessed the full amount of recoverable costs in this case. Respondent has not presented any evidence regarding any of the above factors that would mitigate the imposition of the full costs of this proceeding. The factual allegations were deemed admitted and proven. Although some of the specific legal violations alleged were not proven in this case, those violations stemmed almost entirely from the same factual allegations which resulted in the violations proven, and comparatively little time was spent in separately investigating and analyzing these unproven violations. Another factor weighing heavily in favor of assessing all costs on Respondent is his failure to cooperate in the investigation and in this proceeding.

Finally, I note that the Department is a "program revenue" agency, and its operating costs are funded by the revenue received from other license holders. Therefore, fairness dictates that Respondent, and not fellow members of the chiropractic profession, be held responsible for the costs of his unprofessional conduct.

ORDER

Accordingly, IT IS HEREBY ORDERED:

1. Respondent Karl Naujock's right to renew his expired license to practice chiropractic in the State of Wisconsin (license number 3759-12) is REVOKED.

2. Respondent is on notice that he may not engage in the practice of chiropractic in the State of Wisconsin, nor may he hold himself out as one authorized to do so.

3. Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

Department Monitor
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

4. The terms of this Order are effective the date the Final Decision and Order is signed by the Board.

IT IS FURTHER ORDERED that the above-captioned matter is hereby closed as to Respondent.

Dated at Madison, Wisconsin on March 4, 2015.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Tel. (608) 266-7709
Fax (608) 264-9885

By: _____

Jennifer E. Nashold
Administrative Law Judge