

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

FINAL DECISION AND ORDER

CASIMIR KOBYLINSKI, D.C.,
RESPONDENT.

0004639

Division of Legal Services and Compliance Case No. 13 CHI 012

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

Casimir Kobylinski, D.C.
934 Michigan Avenue
Sheboygan, WI 53081

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

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 Wisconsin 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 Casimir Kobylinski, D.C., (dob April 17, 1955) is licensed to practice chiropractic in the state of Wisconsin, having license number 2190-12, first issued on November 17, 1986 and current through December 14, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 934 Michigan Avenue, Sheboygan Wisconsin 53081.

2. At all times relevant to this proceeding, Respondent was self-employed as a chiropractor in solo practice at his clinic located in Sheboygan, Wisconsin.

Prior Discipline

3. On November 12, 2009, the Wisconsin Chiropractic Examining Board issued a Final Decision and Order on facts and law agreed to by Respondent, his attorney, and a prosecuting attorney for the Department of Regulation and Licensing, in resolution of four investigations of Respondent pending at the time.

4. Respondent was ordered to complete six hours of remedial education in the topic of CPT (current procedural terminology) code billing for chiropractors.

5. Respondent was further required to have an independent audit performed of his records, 10 files per quarter, for a period of two years, with quarterly reports regarding potential violations of Wis. Admin. Code § Chir 6.02(12) or (14).

6. Respondent successfully completed all requirements of the Order and his unlimited license was restored on November 14, 2011.

Current Allegations

7. Patient A is a man born in 1957.

8. Patient A has been one of Respondent's patients since May 7, 1996.

9. Respondent recorded his notes for Patient A's office on a pre-printed form which allotted a space measuring three-eighths of an inch high by eight inches long for each office visit. The daily record consists of hand-written abbreviations and codes in varying degrees of legibility. This kind of record is used and known in the profession as a "travel card."

10. Respondent represents that when he is called upon to do so, Respondent is able to use his travel card notes to produce a patient health care record which accurately includes all the elements required by Wis. Admin. Code §§ Chir 11.02 and 11.04.

11. In partial resolution of this matter, Respondent has successfully completed an 8 credit-hour seminar entitled "Documentation for Chiropractic" which was presented in Madison on November 19, 2015, by the Wisconsin Chiropractic Association.

12. Respondent has retained Meredith Bakke, D.C., as a consultant on current standards of chiropractic documentation and coding.

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

CONCLUSION 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 the Findings of Fact, Casimir Kobylinski, D.C., violated Wis. Admin. Code § Chir 6.02(25) by failing to meet the documentation requirements of Wis. Admin. Code ch. Chir 11.

ORDER

1. The attached Stipulation is accepted.

2. The license to practice chiropractic in the state of Wisconsin issued to Casimir Kobylinski, D.C., (license number 2190-12) is LIMITED for an indefinite period of not less than three (3) months from the date of this Order, and until the Board has granted Respondent's petition for an unlimited license to practice chiropractic in Wisconsin.

a. Respondent may petition the Board to grant an unlimited license at any time on or after the date of this Order.

b. Respondent shall conform his patient care documentation records, including his daily care notes, to a standard which describes the patient's condition clearly enough to permit a chiropractor who is not familiar with Respondent's practice to understand the patient's condition on each day the patient was treated by Respondent or any member of his staff. Respondent's records shall permit a chiropractor who is not familiar with Respondent's practice to understand all material aspects of the Respondent's treatment and plan for each patient without reference to any code or abbreviation system not generally available to health care practitioners. Respondent's records shall clearly describe the rationale for any treatment provided by Respondent or any of his staff, except when that rationale is clearly implied by the documented results of examinations. This shall not be deemed to require a higher or different standard than that set forth in Wis. Admin. Code ch. Chir 11.

c. Respondent shall permit any agent of the Board or the Department of Safety and Professional Services to enter and inspect his clinic and records at any time during his normal business hours, for the purpose of determining his compliance with the terms of any license granted to him by the Board, and for the purpose determining his compliance with the statutes, regulations, and standards of care governing the practice of chiropractic

3. Within 160 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$4,000.00.

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 7190, Madison, WI 53707-7190
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 for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs as ordered, Respondent's license (no. 2190-12) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

WISCONSIN CHIROPRACTIC EXAMINING BOARD

by: Patricia A. Schumacher, D.C.
A Member of the Board

April 12, 2016
Date

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

CASIMIR KOBYLINSKI, D.C.,
RESPONDENT.

STIPULATION

0004639

Division of Legal Services and Compliance Case No. 13 CHI 012

Respondent Casimir Kobylinski, 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 Gimbel, Reilly, Guerin & Brown, LLP.

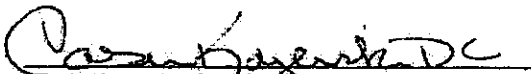
4. Respondent neither admits nor denies having failed to meet a professional standard with respect to any patient at any time, but agrees to the attached Final Decision and Order solely to resolve this investigation and avoid the expenses and uncertainties of litigation. Respondent waives all rights 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.


Casimir Kobylinski, D.C., Respondent
934 Michigan Avenue
Sheboygan, WI 53081
License No. 2190-12

01/26/2016
Date


Arthur K. Thexton, Attorney for Respondent
Gimbel, Reilly, Guerin & Brown, LLP
330 East Kilbourn Avenue, Suite 1170
Milwaukee, WI 53202

1/25/16
Date


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

Jan 27, 2016
Date