

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE OPTOMETRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DARWIN W. CHENTNIK, O.D.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004996

Division of Legal Services and Compliance Case No. 15 OPT 005

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

Darwin W. Chentnik, O.D.
3800 South 27th Street
Milwaukee, WI 53221

Wisconsin Optometry 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 Optometry 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 Darwin W. Chentnik, O.D., DOB March 10, 1971, is licensed in the state of Wisconsin to practice optometry, having license number 2896-35, first issued on March 6, 2002 and current through December 14, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3800 South 27th Street, Milwaukee, Wisconsin 53221.

2. At all times relevant to this proceeding, Respondent practiced optometry in a clinic he operates as a solo practitioner. The clinic is located in Milwaukee, Wisconsin.

3. On June 2, 2015, Respondent's former patient alleged that Respondent had unwanted sexual contact with her during an office visit.

4. On June 2, 2015, Milwaukee police interviewed Respondent about alleged sexual contact with a patient on May 8, 2015. Respondent denied that any sexual contact occurred. He also denied that he had ever been accused of having unwanted sexual contact with a patient. The county prosecutor declined to prosecute the case.

5. Contrary to Respondent's June 2, 2015 statements to police, on December 14, 2010, a former patient had reported to police that Respondent had unwanted sexual contact with her. The allegations did not result in criminal charges.

6. On September 8, 2015, a Division attorney spoke with Respondent about the 2015 allegations. The attorney asked Respondent if he had ever been accused of having sexual contact with a patient.

7. In response to repeated direct questions, Respondent repeatedly told the attorney that only one patient had ever accused him of improperly touching her.

8. The attorney, acting on behalf of the Board, asked Respondent the name of the only patient who had made an allegation of a sexual nature against him.

9. Although Respondent knew the attorney was the Board's representative, Respondent refused to answer. Respondent said he would identify the patient who made the complaint against him only after the attorney disclosed the name of the complainant in the current case.

10. The underlying allegation of sexual misconduct has not been proven.

11. In resolution of this matter, Respondent denies any wrong-doing and consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Optometry Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 449.07(1), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. When Respondent untruthfully denied to police and to the Board's representative that he had twice been accused of sexual contact with a patient, Respondent Darwin W. Chentnik, O.D., engaged in unprofessional conduct as defined by Wis. Stat. § 449.08(1)(e), by engaging in conduct unbecoming a person licensed to practice.

3. As a result of the above violation, Darwin W. Chentnik, O.D., is subject to disciplinary action pursuant to Wis. Stat. § 449.07(1)(f).

ORDER

1. The attached Stipulation is accepted.
2. The license to practice optometry in the state of Wisconsin issued to Darwin W. Chentnik, O.D., (license no. 2896-35) is LIMITED as follows: Commencing on the date of this Order, Respondent shall have an adult chaperone present at all times in any exam room where Respondent is performing examinations of female patients whenever a chaperone is available.
 - a. Respondent shall document in every patient's treatment record whether a chaperone was available and/or present.
 - b. If a chaperone is present, Respondent shall indicate in the patient's treatment record the identity of the chaperone.
 - c. During any time Respondent practices as a sole practitioner, he shall permit representatives of the Board to inspect his premises and patient records upon request, without advance notice.
 - d. This limitation shall be permanent.
3. Within 180 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$2,678.00.
4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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 have a chaperone present in the exam room while treating a female patient or fails to record each visit as set out above, fails to document the presence or absence of a chaperone as identified above, fails to permit representatives from the Board to inspect his practice or patient records, or fails to timely submit payment of costs as ordered, Respondent's license (no. 2896-35) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, has complied with payment of costs or as the Board or its designee deems appropriate.

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

WISCONSIN OPTOMETRY EXAMINING BOARD

by: Alan Meris Carli, OD
A Member of the Board

10/27/2016
Date

STATE OF WISCONSIN
BEFORE THE OPTOMETRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DARWIN W. CHENTNIK, O.D.,
RESPONDENT.

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:
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:
:

STIPULATION

0004996

Division of Legal Services and Compliance Case No. 15 OPT 005

Respondent Darwin W. Chentnik, O.D., 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 Patrick Knight.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Optometry 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.

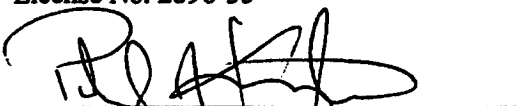
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



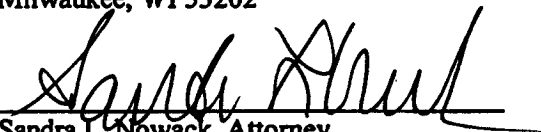
Darwin W. Chentnik, O.D., Respondent
3800 South 27th Street
Milwaukee, WI 53221
License No. 2896-35

08/29/2016
Date



Patrick Knight, Attorney for Respondent
Gimbel Reilly Guerin & Brown LLP
Two Plaza E., Ste. 1170
330 E. Kilbourn Ave.
Milwaukee, WI 53202

8/29/2016.
Date



Sandra L. Nowack, Attorney
State Bar No. 1025643
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sandra.nowack@wisconsin.gov

8/01/16
Date