

## 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

RICHARD D. ZAHORIK, D.C.,  
RESPONDENT.

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FINAL DECISION AND ORDER

**0005247**

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Division of Legal Services and Compliance Case No. 16 CHI 023

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

Richard D. Zahorik, D.C.  
4166 North Oakland Avenue  
Shorewood, WI 53211

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 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 Richard D. Zahorik, D.C., (dob October 14, 1955) is licensed in the state of Wisconsin to practice chiropractic, having license number 3349-12, first issued on March 14, 1996 and current through December 14, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 4166 North Oakland Avenue, Shorewood, Wisconsin 53211.

2. At all times relevant to this proceeding, Respondent was employed as a chiropractor at his clinic (Clinic), located in Shorewood, Wisconsin.

Prior Discipline – 09 CHI 020

3. On March 17, 2011, the Wisconsin Chiropractic Examining Board issued a Final Decision and Order reprimanding Respondent and requiring him to complete education on record keeping and medical coding. The discipline was based on the following conduct:

- a. From July 23, 2007 through April 25, 2008, Respondent had been treating a patient (L.W.) for numerous physical complaints, including consequences of an automobile accident.
- b. During L.W.'s chiropractic treatment, Respondent's record keeping was below minimum standards. Specifically, L.W. was billed for ultrasound treatments, CPT code 97035, when there were no treatment notes documenting the provision of ultrasound treatments.
- c. Respondent's billing shows the misuse of CPT codes 97110 and 97530, which are both timed codes for exercises. Respondent failed to note what body part was worked on and what was done to that body part.

16 CHI 023

4. In June 2000, Patient K.L began treating with Respondent for neck and back pain. Patient K.L. continued to treat with Respondent periodically until 2016.

5. During that time period, Respondent documented office visits by handwriting his notes. Significant portions of Respondent's handwritten notes in the 2015 and 2016 records were illegible.

6. 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. By the conduct described in the Findings of Fact, Richard D. Zahorik, D.C., engaged in unprofessional conduct as defined by Wis. Admin. Code Chir 11.02(4), by patient records shall be complete and sufficiently legible to be understandable to health care professionals generally familiar with chiropractic practice, procedures and nomenclature.

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent Richard D. Zahorik, D.C., is REPRIMANDED.
3. The license to practice chiropractic issued to Richard D. Zahorik, D.C., (license number 3349-12) is LIMITED as follows:
  - a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete four (4) hours of education on the topic of record keeping offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.
  - b. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
  - c. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
  - d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
4. The license to practice chiropractic issued to Richard D. Zahorik, D.C., (license number 3349-12) is also LIMITED as follows:
  - a. Within ninety days (90) days from the date of this Order, Respondent shall submit to the Department Monitor, at the address below, a written request for approval of a proposed mentor. The request for approval shall be accompanied by the mentor's current curriculum vitae and a letter from the professional mentor confirming that he or she has read this Order and agrees to undertake the duties of a professional mentor as set out in this paragraph.
  - b. Unless otherwise authorized by the Board or its designee, the professional mentor shall not have any personal or professional relationship with Respondent, past or present that could reasonably be expected to compromise the proposed mentor's ability to render fair and unbiased reports to the Department.
  - c. The Board or its designee has the full and final authority to approve or reject a proposed mentor. This decision is based on an exercise of discretion and is not reviewable. The Board or its designee may, upon request of Respondent and for good cause, approve or direct a change in the professional mentor at any time.
  - d. Respondent shall meet with the professional mentor for at least one (1) year from the date the Board or its designee approves the mentor. Every

month, the professional mentor shall meet with Respondent and shall randomly select and review the charts of at least five (5) patients that have presented to Respondent in the preceding month. The meeting and record review shall be for the purpose of determining whether or not Respondent: maintains adequate treatment records consistent with the standards of the profession and as required by rule; has accepted only clients for whom reasonable progress is expected; provides care meeting at least the standard of minimum competence; conducts and documents assessments as required by the standards of the profession and avoids conflicts of interest.

- e. The professional mentor shall offer feedback and direction to Respondent as necessary for the purposes of assisting Respondent in improving the quality of care provided to clients and record-keeping. Respondent shall follow the appropriate guidance of the professional mentor. Whether or not guidance of the professional mentor is appropriate and whether or not Respondent has complied with the guidance shall be in the sole discretion of the Board or its designee. These discretionary determinations are not reviewable.
- f. The professional mentor shall submit a written and thorough quarterly report identifying the number of charts reviewed in the previous quarter and identifying any concern with Respondent's practice, records and care of clients. It is Respondent's responsibility to ensure the quarterly reports are submitted when due.
- g. The professional mentor shall immediately report any unprofessional conduct or suspected violation of this Order to the Department Monitor.
- h. After the timely submission of four (4) consecutive satisfactory quarterly reports, and with a written recommendation from the professional mentor expressly supporting the request, Respondent may petition the Board for a modification or termination of any part of this professional mentor requirement, including termination of the requirement of the professional mentor. Whether to modify the terms of the requirement of the professional mentor under this provision, is in the sole discretion of the Board or its designee and is not reviewable.
- i. After the timely submission of four (4) consecutive satisfactory quarterly reports, and with a written recommendation from the professional mentor expressly supporting the request, the requirement of a professional mentor shall be terminated.
- j. Respondent is responsible for any and all costs associated with the services of the professional mentor.

5. Within ninety (90) days from the date of this Order, Richard D. Zahorik, D.C., shall pay COSTS of this matter in the amount of \$240.00.

6. Request for approval of courses, proof of successful course completion, quarterly reports and 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:

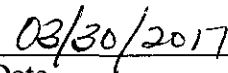
Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

7. 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 costs as ordered, fails to obtain a mentor, or fails to submit proof of successful completion of the ordered education or quarterly reports as set forth above, Respondent's license (no. 3349-12) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs, has obtained a mentor, has submitted proof of successful completion of the ordered education and has submitted satisfactory quarterly reports.

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

WISCONSIN CHIROPRACTIC EXAMINING BOARD

by:   
A Member of the Board

  
Date

STATE OF WISCONSIN  
BEFORE THE CHIROPRACTIC EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

RICHARD D. ZAHORIK, D.C.,  
RESPONDENT.

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STIPULATION

**0005247**

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Division of Legal Services and Compliance Case No. 16 CHI 023

Respondent Richard D. Zahorik, 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 Attorney Linda Meagher.

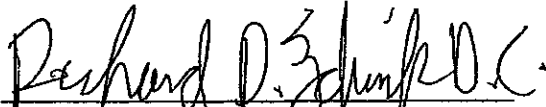
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Chiropractic Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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.

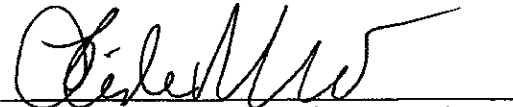
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's 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.

  
Richard D. Zahorka, D.C., Respondent  
4166 North Oakland Avenue  
Shorewood, WI 53211  
License no. 3349-12

2/9/17  
Date

  
Linda Meagher, Attorney for Respondent  
Gass Weber Mullins LLC  
241 North Broadway Suite 300  
Milwaukee, WI 53202

2/9/2017  
Date

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

2/9/17  
Date