

**BEFORE THE MINNESOTA  
BOARD OF CHIROPRACTIC EXAMINERS**

In the Matter of  
Kevin S. Conners, D.C.  
License No. 2372

**AMENDED STIPULATION AND ORDER**

WHEREAS, on or about December 11, 2008, the Complaint Panel ("Complaint Panel") for the Minnesota Board of Chiropractic Examiners ("Board") commenced the above-captioned matter by serving upon Kevin S. Conners, D.C. ("Respondent"), a Notice of Hearing for Alleged Noncompliance ("NOHAN") with Stipulation and Order, Affidavit of Michelle King, ("Affidavit") and "Notice of Conference With Complaint Panel" ("Notice"); and

WHEREAS, pursuant to the Notices, Respondent and representatives of the Complaint Panel met on January 8, 2009, to discuss the allegations set forth in the Notices; and

WHEREAS, based upon the conference, the parties wish to resolve this matter without the necessity and expense of a contested case hearing or other procedures by entering in this Stipulation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between Respondent and the Board as follows:

A. During all times material herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice chiropractic in Minnesota.

B. If the Board in its discretion does not approve this Stipulation, it shall be deemed withdrawn and of no evidentiary value and shall not be introduced or relied upon by either party; except that Respondent agrees that, should the Board reject this Stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

C. Respondent expressly waives formal hearing on all facts and legal conclusions referenced herein and any and all procedures before the Board relative to said facts and conclusions to which he might otherwise be entitled by law.

D. Respondent does not contest the facts and conclusions below and agrees that the Board may, for purposes of its proceedings relating to this Stipulation, consider the following as true:

1. Respondent's date of birth is April 20, 1963. Respondent graduated Northwestern Health Sciences University, fka Northwestern Chiropractic College, in Bloomington, Minnesota, and was licensed by the Board on January 24, 1987. Respondent now practices in Woodbury and Vadnais Heights Minnesota.

2. On February 9, 2006, the Board issued a Stipulation and Order (2006 Order) based upon the following findings:

a. Respondent utilized improper billing codes:

i. by using the Evaluation and Management code to bill for an examination at every visit, even when no examination was performed;

ii. by combining the Evaluation and Management codes and office visit codes to bill more than double the fee for what should have been billed as adjustments to multiple spinal regions;

iii. by using the billing code for attended one-on-one Neuromuscular Reeducation when services provided did not meet the requirements for one-on-one supervision.

b. Respondent charged excessive fees for the services rendered:

i. by changing to inappropriate billing codes five weeks into care to increase the daily office charges with no change in services rendered, no documented exacerbation of patient condition, and no increased level of symptoms or pain;

ii. by charging at every visit for “supervised stretching of the lumbar muscles” for a patient whose job it is to supervise other patients in this procedure and who had the equipment at her home to perform these stretches on her own.

c. Respondent provided excessive and unnecessary services:

i. by increasing the patient visit frequency on multiple occasions with no exacerbation, no increased level of symptoms or pain, and no explanation for the increase in care;

ii. by increasing the patient frequency to three times per week, eight months into care for a total of \$800 per week with no explanation for

this increase, despite a patient-completed Rand health study resulting in mild symptoms not justifying the increased level of care;

iii. by documenting that Respondent will continue care without change, while at the same time adding a new charge for mechanical traction at every visit with no explanation and no documentation that this added service was actually provided.

d. Respondent charged for services not rendered or not documented as having been rendered when he:

i. billed \$240, \$260, and \$113 respectively, for three dates of service for which there are no corresponding treatment notes;

ii. billed \$162.50 for a “light beam” procedure for which there are no supporting treatment notes;

iii. billed \$45 on a regular basis for “therapeutic exercise” for which there are no corresponding treatment notes; and

iv. billed \$56 on 19 occasions for a “therapeutic activity, one-on-one 15-minutes” for which there are no corresponding treatment notes.

3. Respondent admitted the documentation of the care rendered to patients did not justify the charges or all of the care and services provided. It is the Board’s finding that Respondent’s records did not accurately reflect the care rendered, did not justify the care rendered, did not justify the charges billed, and did not meet current professional standards.

4. Paragraph E.2.of the 2006 Order provides that Respondent is on probation with the Board for not less than two (2) years from the effective date of the

Order, subject to the provisions in paragraph F. During the period of probation the terms and conditions in paragraph E apply.

a. Paragraph E.2.of the 2006 Order provides that within 30 days of the effective date of the order, or by March 11, 2006, Respondent shall engage the services of an independent practice supervisor, pre-approved by the Board. The practice supervisor shall submit quarterly reports to the board regarding the above matters unless more frequent reports are indicated in the opinion of the practice supervisor and/or the board.

b. On March 13, 2006, Board staff received a report from a practice supervisor. The Board received a second report from the practice supervisor in June 2006, but the second report only addressed the difficulty in arranging for reimbursements to the two insurance carriers. Respondent did not submit any other quarterly reports to the Board, as is required by paragraph E.2 of the 2006 Order, until December 2008. Respondent failed to engage the services of a practice supervisor for a period of two years, as is required by paragraph E.2 of the 2006 Order.

c. Paragraph E.2.c of the 2006 Order provides that Respondent shall prepare a full accounting of the services billed out for the identified patients within 90 days of the date of the order, or by May 10, 2006, and make full restitution to Blue Cross and Blue Shield of North Dakota (BCBSND), HealthPartners, and National Automatic Sprinkler Insurance (NASI) for all funds received on these accounts.

d. Respondent sent Board staff copies of checks in the amounts of \$5,493.90, \$8,241.81, and \$5,067.20. Respondent did not provide the

Board with a full accounting of the services billed out for the identified patients until January 8, 2009. However, the checks provided were not cancelled, and there is no other proof of mailing or receipt supplied.

e. Paragraph E.3 of the 2006 Order provides that Respondent shall provide a copy of the 2006 Order to all new associates, employees, and staff within 30 days of bringing them into his practice and all associates, employees, and staff will sign an affidavit attesting that they have received and read the Stipulation and Order.

f. Respondent failed to provide the Board with signed affidavits of all new employees and associates verifying they read the 2006 Order.

g. Paragraph E.4 of the 2006 Order provides that Respondent shall remit to the Board a \$5000 civil penalty within 60 days of the effective date of the order, or by April 10, 2006. In the alternative, Respondent may submit equal monthly installments to the board amortized over the period of probation at 6.5% interest.

h. On July 27, 2006, Respondent paid \$890.92 toward the civil penalty. On July 27, 2006, Respondent paid \$4,011.11 toward the civil penalty. As of January 8, 2009, \$97.97, plus interest, was due and owing to the board for the civil penalty in accordance with paragraph E.4 of the 2006 Order.

5. In addition to the above violations of the Order, the Board also finds Respondent:

a. Improperly managed healthcare records and failed to keep records justifying the care rendered as follows:

i. The notes in the patient records for ACR, AMM, CCM, and ARM are often identical, repeating the exact same language throughout the course of treatment, which does not allow for reasonable assessment of the progress of the patient.

ii. For ACR, Respondent documented at every visit that therapies were applied. However, ACR reports she did not receive any therapies after April 9, 2007. According to the Statement of Account, no therapies were applied after March 27, 2007. After April 9, 2007, Respondent billed ACR's insurance for "Attended EMS" on 17 occasions at \$50 per service, and "Mechanical Traction" on 17 occasions at \$50 per service. Respondent denies billing for any therapies which were not provided to the patient.

iii. Respondent billed for therapies applied in increments of 12 minutes or more for patients ACR, AMM, CCM, and ARM. However, all four patients reported that therapies were provided for no more than 5 to 10 minutes and that they themselves set the therapy timers.

c. Respondent utilized improper billing codes by billing for supervised one-on-one therapies for more than one patient at the same time, and by billing for one-on-one therapies when his chiropractic assistant administered the therapy instead of a licensed chiropractor.

4. The facts set forth in paragraph D.4 and D.5 constitute violations of state law and rules pertaining to the practice of chiropractic, and authorize the Board to take disciplinary action against Respondent's license and to assess Respondent the

cost of the proceedings. Minn. Stat. §§ 148.10, subd. 1(a)(10), (11), (14), and (18) and (e)(3), (4), (5), and (6), and Minn. R. 2500.5000.

E. NOW, THEREFORE, IT IS FURTHER STIPULATED AND AGREED that upon this Stipulation the Board may forthwith adopt and implement the following Order:

1. Respondent's license to practice chiropractic in Minnesota is hereby **SUSPENDED** for six (6) months, effective on the date of this Order; provided that the suspension shall be **STAYED** in its entirety, in accordance with the procedures set forth below.

2. Respondent is on **PROBATION** with the Board for not less than two (2) years from the effective date of this Order, subject to the provisions set forth in paragraph F. During the period of probation, the following terms and conditions shall apply:

a. Complete all remaining compliance items from the 2006 Order. Respondent shall:

i. Within 14 days of this Order, submit payment to the Board for \$97.97 as payment in full of the remaining balance of the civil penalty from the 2006 Order;

ii. Within 30 days of this Order, submit copies of the front and back of the canceled checks to NASI, Blue Cross and Blue Shield of North Dakota, and HealthPartners as evidence that each entity has received the refunds submitted pursuant to the 2006 Order;



iii. Within 10 days of the date of this order, submit signed and notarized individual affidavits for each employee for whom verification has not yet been provided that the employee has reviewed the 2006 Order;

iv. Engage the services of an independent practice supervisor, within 30 days of the date of this Order, pre-approved by the Board, to review all treatment procedures, protocols, documentation, coding, treatment plans, and facilitate the implementation of appropriate procedures and practices. The practice supervisor shall submit quarterly reports to the board regarding the above matters unless more frequent reports are indicated in the opinion of the practice supervisor and/or the board. The practice supervisor shall be required to report any observed violations or issues of concern. Respondent shall bear any costs associated with the services of the independent practice supervisor. It shall be the responsibility of Respondent to facilitate such meetings and interactions as recommended by the practice supervisor, or as necessary to assure that the practice supervisor can provide the Board with an adequate and meaningful report.

b. Respondent shall attend not less than four units of continuing education in healthcare documentation by a person pre-approved by the Board within 60 days of the effective date of this order. Respondent shall bear any costs associated with this provision. Units obtained from a Board-approved Continuing Education sponsor shall apply to Respondent's annual CE requirement in the year obtained.

c. Respondent shall require that all patients sign a form verifying the patient acknowledges receipt of all services rendered and verifying the

patient's arrival time and departure time. The patient shall sign the verification on the same date that the services are rendered, and immediately following the clinical visit.

d. Respondent shall provide a copy of this Amended Stipulation and Order to all associates, employees, and staff within 30 days of its effective date. Thereafter, Respondent shall provide a copy of this Stipulation and Order to all new associates, employees and staff within 30-days of bringing them into his practice. All Associates, employees, and staff will sign an individual notarized affidavit attesting that they have received and read the Amended Stipulation and Order.

F. If during the period of probation Respondent fails to comply with any term, condition, or requirement of this Order or engages in any act or omission substantially similar to any of those set forth at paragraph D., the same shall authorize and empower the Board to remove the stay imposed under paragraph E.1 and suspend Respondent's license for six (6) months. During the period of suspension, Respondent shall not provide or assist in the provision of chiropractic care to any person or engage in any other procedure or practice which may be undertaken in this state only by licensed health personnel or by the lawful delegates, assistants, technicians, or aids of such personnel. Any period of suspension shall run consecutively and not concurrently with the probation. In its discretion, the Board may in addition to the aforementioned, extend the period of probation and its associated requirements, or take other appropriate action.

1. It is Respondent's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Consent Order are timely filed by those making the payment or

preparing the report, evaluation, or documentation. Failure to make payments or file reports on or before their due date is a violation of this Stipulation and Consent Order. The information contained in the reports, evaluations, and documentation is confidential and shall be submitted to the Board by United States mail, professional courier service, or personal delivery by sender or sender's agent only.

2. If Respondent fails to comply with or violates this Stipulation and Consent Order or it is determined Respondent has further violated Minnesota Statutes sections 148.01 to 148.108 or Minnesota Rules chapters 2500.0100 to 2500.6050, the Complaint Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

i. The Complaint Panel shall schedule a hearing before the Board. At least 30 days before the hearing, the Complaint Panel shall mail Respondent a notice of the violation(s) alleged by the Complaint Panel. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Respondent shall submit a written response to the allegations. If Respondent does not submit a timely response to the Complaint Panel, the allegations may be deemed admitted.

ii. The Complaint Panel, in its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

iii. Prior to the hearing before the Board, the Complaint Panel and Respondent may submit affidavits and written argument in support of their

positions. At the hearing, the Complaint Panel and Respondent may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Complaint Panel shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Respondent has failed to submit a timely response to the allegations, Respondent may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Respondent waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

4. Respondent's correction of a violation before the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Complaint Panel not to seek discipline when it first learns of a violation shall not waive the Complaint Panel's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Respondent's license is in a probationary status.

5. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board shall dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Respondent's practice, an additional period of suspension, additional conditions of reinstatement, or revocation of Respondent's license.

6. Nothing herein shall limit the Board's right to temporarily suspend Respondent's license pursuant to Minnesota Statutes section 148.10, subdivision 4, based on a violation of this Stipulation and Consent Order or based on conduct of Respondent not specifically referred to herein.

G. One year from the date of this Amended Order, Respondent may petition for the termination of the practice supervisor requirement. Any petition will be in writing and contain evidence of compliance with all conditions of this Amended Order for the Complaint Panel's review. If, in the opinion of the Complaint Panel, Respondent has made the necessary changes and the practice supervisor is no longer providing obvious benefit, the Complaint Panel may at its discretion terminate this requirement. All remaining conditions of the probation shall continue throughout the period of probation. Upon review of a petition for the termination of the practice supervisor requirement, the Complaint Panel may also, in its discretion, terminate the probation in advance of two (2) years from the effective date of this order.

H. Upon written petition and verification of his compliance with all terms, conditions, and requirements of paragraph E.2., and upon written notification from Board staff, the period of probation shall terminate two (2) years from the effective date of this Order; except that the Board may, in its discretion, initiate action in accordance with paragraph E.1. at any time up to forty-five (45) days from the end of the probationary period.

I. This Order and the Stipulation of which it is part, shall be deemed to be public documents.

J. IT IS FURTHER STIPULATED AND AGREED that this Stipulation shall not in any way limit or affect the authority of the Board to initiate contested case proceedings against Respondent on the basis of any act, conduct or omission of Respondent occurring before or after the date of this Stipulation which is not related to the facts, circumstances or requirements referenced herein.

K. Respondent has voluntarily entered into this Stipulation without threat or promise by the Board or any of its members, employees or agents, and after consultation with and advice from Respondent's counsel.

L. Respondent was advised of his right to legal counsel prior to executing this Stipulation. Respondent read the Stipulation in its entirety prior to its execution; he understands all of its provisions; and he affirms that it was entered into freely and voluntarily by him.

M. Respondent hereby knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota and their agents, employees and representatives which may otherwise be available to Respondent under the Americans With Disabilities Act relative to the action taken or authorized against Respondent's chiropractic license under this stipulation.

N. This Stipulation contains the entire agreement between the parties, there being no other kind, verbal or otherwise, which varies this Stipulation.

Dated: 1/26/09

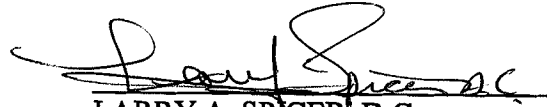
  
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KEVIN S CONNERS, D.C.  
Respondent

**ORDER**

Upon consideration of this Stipulation and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that the terms of this Stipulation are adopted and implemented by the Board on, February 12, 2009, and the Stipulation and Order dated February 9, 2006 is hereby AMENDED.

MINNESOTA BOARD  
OF CHIROPRACTIC EXAMINERS

  
LARRY A. SPICER, D.C.  
Executive Director

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