

NORTH CAROLINA  
LEE COUNTY

NORTH CAROLINA BOARD  
OF CHIROPRACTIC EXAMINERS

In the Matter of: )  
)  
CHRISTOPHER LOPER, DC, )  
Respondent. )

**FINAL AGENCY DECISION**

THIS MATTER coming on to be heard before the Board of Chiropractic Examiners at its regular meeting held on December 14, 2006, in Charlotte, North Carolina; and at the call of the case, the respondent was represented by his counsel, Michael C. Allen, and the staff of the Board of Examiners was represented by its counsel, Vance C. Kinlaw. All parties affirmed their readiness to proceed; and after hearing the evidence presented and giving due consideration to the arguments of counsel and the record as a whole, the Board, with the consent of the parties, makes the following:

Findings of Fact

1. This case was heard by a majority of the Board, Dr. John A. Webster, presiding. Dr. Dennis Hall Sr., Secretary of the Board, was also present but did not actively participate in the Board's deliberations due to his earlier participation in the respondent's probable cause hearing.
2. The probable cause hearing for this complaint was held in Raleigh on July 20, 2006.
3. The respondent, Dr. Christopher Loper, is a duly licensed chiropractic physician in North Carolina.
4. This matter comes before the Board upon a formal complaint filed on July 1, 2005 by Mr. Jerry Hocutt, a former patient of Dr. Loper's. The complaint alleges that Dr. Loper committed negligence and malpractice by improperly performing a cervical adjustment upon Mr. Hocutt on July 2, 2001.
5. On the morning of July 2, 2001, Mr. Hocutt, a citizen and resident of Lee County, awoke with numbness in his left foot. Although he had no prior experience with chiropractic care, he decided to seek treatment at Knecht Chiropractic Center because he was familiar with Dr. Knecht's advertisements, which included references to treating numbness. Mr. Hocutt expected to be seen by Dr. Knecht, but Dr. Knecht was on vacation that day, and Dr. Loper had been assigned by the clinic owners to cover for him. The front desk chiropractic assistant persuaded Mr. Hocutt to permit Dr. Loper to see and treat him.
6. Mr. Hocutt completed new patient intake forms that included a general authorization for treatment. He noted foot numbness and also noted intermittent left leg pain aggravated by twisting

or lifting. He did not indicate any symptoms of the neck. The chiropractic assistant made X-rays of the low back only, then gave Mr. Hocutt moist heat and electrical stimulation. It is not clear whether either the assistant or Dr. Loper performed any neurological or orthopedic tests as none are noted on Mr. Hocutt's chart, but Dr. Loper did do some range of motion testing.

7. Dr. Loper palpated Mr. Hocutt's full spine, and his notes indicate that he found taut tender fibers, abnormal joint function and vertebral subluxation complex at C-2, 5 and 6; T-3, 6,9 and 10; and L-3, 4 and 5. Dr. Loper told Mr. Hocutt that he would give him a report of findings the following day; but Mr. Hocutt, already unhappy with his experience, had no intention of returning and asked Dr. Loper to go over the X-ray findings immediately.

8. Dr. Loper reported to Mr. Hocutt that he had misaligned vertebrae in the low back which needed to be put back into position through manual chiropractic adjustment. It is not clear whether Dr. Loper explained the potential risks associated with chiropractic adjustments, but he believes that he did because it is his standard practice to make such disclosures to all new patients. Mr. Hocutt emphatically denies that Dr. Loper said anything about the risks of treatment.

9. Mr. Hocutt agreed to have treatment, but his understanding was that treatment would consist only of adjustments to the low back. Dr. Loper initially performed lumbar rolls and drop-table work. He then had Mr. Hocutt sit upright on the treatment table and, with no advance warning or explanation, performed a cervical adjustment toward the patient's right side. Mr. Hocutt recalls Dr. Loper saying "we do this for prevention" at the moment he twisted his neck, but Dr. Loper denies saying anything about prevention.

10. Beginning the next day, and continuing to the present, Mr. Hocutt has experienced chronic neck pain and weakness. He has headaches, difficulty sleeping and greatly diminished enjoyment of life. He has sought treatment from a variety of providers, including acupuncturists and neurologists. Recently, he has found some relief by treating with a physical therapist who specializes in necks. There is no evidence that Mr. Hocutt suffered a cerebrovascular accident. His current symptoms appear to be musculo-skeletal in nature and may be partly attributable to age and the presence of arthritis.

11. Mr. Hocutt's only treatment with Dr. Loper was the office visit of July 2, 2001.

12. Dr. Loper admitted that he performs cervical adjustments on nearly all the patients he sees each week.

BASED ON THE FOREGOING Findings of Fact, the Board enters the following:

#### Conclusions of Law

1. The Board of Chiropractic Examiners is duly constituted and has jurisdiction of subject matter and of the person of the respondent. The complaint filed July 1, 2005 is properly before the

Board for adjudication on the merits. The burden of proof is borne by the staff of the Board, and the standard of proof is the greater weight of the evidence.

2. N.C.G.S. 90-154(b)(5) states that negligence, incompetence, or malpractice in the practice of chiropractic are grounds for disciplinary action by the Board.

3. It is negligence and malpractice to perform a chiropractic adjustment without first performing an examination adequate to justify the adjustment.

4. The Board does not possess the statutory authority to order a chiropractic physician to make financial restitution to the victims of his negligence or malpractice.

5. By consenting to the entry of this Final Agency Decision, the respondent waives any objection to venue or defect in the service of notice of hearing and agrees and stipulates that this matter may be taken up by the Board at this time.

6. Under the Chiropractic Disciplinary Guidelines currently used by the Board, negligence and malpractice fall within the "Serious" category of disciplinary violations. The presumptive sanctions for this category, when neither aggravating or mitigating factors predominate, range from probation upon specified terms and conditions to one-year license suspension. Probation may also be added to license suspension.

7. Part III of the Chiropractic Disciplinary Guidelines sets forth numerous mitigating and aggravating factors commonly considered by the Board in selecting sanctions. Pursuant to Part III, the Board finds as follows:

A. The mitigating factors present in Dr. Loper's case are:

- (1) The respondent has no prior history of disciplinary violations;
- (2) The respondent showed remorse.

B. The aggravating factor present in Dr. Loper's case is:

- (1) The respondent's misconduct resulted in actual harm to the patient.

8. In the judgment of the Board, the mitigating factors outweigh the aggravating factor. Therefore, in conformity with the Chiropractic Disciplinary Guidelines, sanctions shall fall within the lower end of the presumptive range for a "Serious" violation.

WHEREFORE, BY CONSENT, and upon his plea of guilty, the North Carolina Board of Chiropractic Examiners hereby finds the respondent, Dr. Christopher Loper, guilty of negligence and malpractice, in violation of N.C.G.S. 90-154(b)(5). It is ordered, adjudged and decreed that Dr. Loper be sanctioned as follows:

1. Dr. Loper's license to practice chiropractic in North Carolina shall be suspended for 90 days. This sanction is stayed upon the following terms and conditions:
  - A. Beginning January 1, 2007, Dr. Loper shall be placed on probation for a term of two years, concluding December 31, 2008. During this 24-month period, Dr. Loper shall:
    - (1) Successfully complete 36 hours of approved continuing education in the subjects of examination and diagnosis. These 36 hours shall be in addition to and shall not count towards fulfilling the annual 24-hour continuing education requirement for license renewal. As many as 18 of these 36 hours may be distance-learning courses.
    - (2) Take such action as may be necessary to bring his practice procedures and methodologies into conformity with the standards of care set forth herein; and
    - (3) Not be found guilty of the same or a substantially similar disciplinary violation.
  - B. If Dr. Loper wilfully fails to comply with this Decision, the 90-day suspension now stayed shall be invoked.
2. This Decision shall become effective upon ratification.
3. This Decision is a public document and shall be reported to national data banks and to the chiropractic licentiate body in North Carolina by summary in the Board's next newsletter.

RATIFIED THIS 14<sup>th</sup> day of December, 2006.

NORTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS

By: John A. Webster, DC  
John A. Webster, DC, President

CONSENT:



Christopher Loper, DC  
Respondent



Michael C. Allen  
Attorney for Respondent



Dennis L. Hall Sr., DC  
Secretary of the Board



Vance C. Kinlaw  
Attorney for the Board