

NORTH CAROLINA
BUNCOMBE COUNTY

NORTH CAROLINA STATE BOARD
OF
CHIROPRACTIC EXAMINERS

In the Matter Of)
)
SHARON H. SHELTON,)
Complainant)
)
vs.)
)
DONALD R. ACTON, D.C.,)
Respondent.)

DECISION

THIS MATTER coming on before the Board upon a complaint filed by Sharon H. Shelton; after due consideration of the pleadings, the record of the Chiropractic Review Committee and the representations of counsel, the Board of Examiners makes the following:

FINDINGS OF FACT

1. On or about November 6, 1990, Ms. Shelton filed a written complaint with the Board alleging that during her course of treatment, Dr. Acton failed to recognize a deteriorating disc herniation in her lumbar spine and that the spinal manipulations he performed on her made condition worse, not better.

2. Dr. Acton denied the wrongdoing alleged in Ms. Shelton's complaint. On April 4, 1991, a probable cause hearing was held in Asheville, North Carolina before the Chiropractic Review Committee. Dr. Acton was present and represented by his attorney, Eugene W. Ellison. Ms. Shelton was also present, and both parties gave unsworn testimony.

3. The Review Committee determined that there was no evidence upon which to believe that any of Dr. Acton's treatments had injured Ms. Shelton or aggravated her lumbar condition. However, the Committee did find probable cause to believe that Dr. Acton had failed to make an adequate examination and diagnosis of Ms. Shelton before performing spinal adjustments. That portion of her complaint was referred to the full Board.

4. Ms. Shelton became a patient of Dr. Acton on May 16, 1990 and was seen by him through June 25, 1990. She had a total of eighteen office visits. Her presenting symptoms as reported on her patient history form were "lower back pain -- (Fear slipped disc) hard to bend; difficulty in left leg movement."

5. Dr. Acton's initial examination consisted of 4 x-rays, including AP and lateral lumbar, palpation of vertebrae, and the following neurological and orthopedic tests: cervical flexion-extension, lateral flexion, lateral rotation, grip strength, three dimensional postural analysis and bilateral scale.

6. Dr. Acton's diagnosis was lumbar and cervical subluxations, lumbar intervertebral disc syndrome and cervical hypolordosis. His treatment consisted of cervical atlas manipulations while mirror imaging the thoracic and lumbar spines three times a week. He did not apply any forces to the thoracic or lumbar spine.

7. On June 25, 1992, Ms. Shelton complained of acute low back pain and numbness in the left leg. Dr. Acton continued his usual treatment of adjusting only her cervical spine. He did not note on her chart her subjective report of changes in symptomology. Ms. Shelton thereafter discharged herself, having concluded that Dr. Acton's treatment was ineffective. On July 4, 1990 she consulted a neurologist. On July 9, 1990 she had surgery for a herniated lumbar disc.

Based on the foregoing Findings of FAct, the Board makes the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction of subject matter and of the parties, and this complaint is properly before the Board for adjudication.

2. Dr. Acton has denied and continues to deny liability for any claims alleged by Ms. Shelton. However, Dr. Acton does not resist the entry of this Decision.

3. G.S. 150B-22 requires the Board of Examiners to attempt to resolve patient-physician disputes involving issues subject to G.S. 90-154 et. seq. on an informal basis.

4. A chiropractic physician has a duty to make a thorough initial examination and to maintain records adequate to document the patient's progress.

5. Dr. Acton's examination was deficient in that he failed to note vital signs, and his records did not adequately reflect changes in the patient's condition.

6. There is no evidence that the treatment rendered by Dr. Acton to Ms. Shelton contributed to or aggravated her lumbar disc condition.

WHEREFORE IT IS ORDERED, ADJUDGED AND DECREED that the respondent, Dr. Donald R. Acton, has violated G.S. 90-154(b) (7) by failing to render acceptable care with respect to his examination and diagnosis of the patient, Sharon Shelton. Dr. Acton is directed to obtain twelve hours of continuing education in examination and diagnosis from an instructor approved by the Board within one (1) year of this Decision. The education required herein shall be in addition to the regular number of hours of continuing education required for license renewal. Upon completion, Dr. Acton shall cause his course of study to be certified to the Board by the instructor or institution offering said course.

This the 17 day of August, 1992.

NORTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS

BY: Robert Vaughn, D.C.
Robert Vaughn, D.C., President

ACKNOWLEDGED:

Donald R. Acton
DONALD R. ACTON, D.C.,
Respondent

Eugene W. Ellison
EUGENE W. ELLISON
Attorney for Respondent