

In the matter of:)
)
JEFFREY H. CARLISLE, D.C.,) **FINAL AGENCY DECISION**
)
Respondent.)

THIS MATTER coming before the Board of Chiropractic Examiners at its regular quarterly meeting held on October 27, 2017 in Greensboro; and after reviewing the record and hearing the recommendations of the staff, the Board makes the following:

Findings of Fact

1. This case was heard by a majority of the Board, Dr. Kevin Sharp presiding. Dr. Rick Davis, Secretary of the Board, was present but did not participate in the Board's deliberations due to his earlier participation in the investigation of the respondent's conduct described below.
2. The respondent, Dr. Jeffrey H. Carlisle, is a chiropractic physician duly-licensed by the Board. Dr. Carlisle maintains a chiropractic office at 3535 Randolph Road, Suite 202, Charlotte, NC and known as NOVA CHIROPRACTIC.
3. On September 19, 2016, Director of Standards and Enforcement Dr. Ricky Sides filed a disciplinary complaint alleging that Dr. Carlisle engaged in unlawful patient solicitation in violation of N.C.G.S. 90-401.1 and Rule 21 NCAC 10. 0303 [hereinafter referred to as Count I].
4. On October 10, 2016, Dr. Sides filed another disciplinary complaint alleging that Dr. Carlisle engaged in a second instance of unlawful patient solicitation in violation of the same statute and rule [hereinafter referred to as Count II].
5. The Chiropractic Review Committee held a preliminary hearing in connection with Count I on October 14, 2016 and found probable cause. The Committee held a preliminary hearing in connection with Count II on November 18, 2016 and found probable cause.

Count I

6. Mr. Demaurion Wall, a citizen and resident of Charlotte, was injured in an automobile collision on August 26, 2016. The Charlotte police investigated the collision and filed an accident report. The following day, Mr. Wall received a telephone call from Ms. Shawnte Partlow, who was the manager of a Charlotte automobile repair facility known as Elite Auto Body & Paint. Ms. Partlow obtained Mr. Wall's telephone number from the police accident report and initiated contact with Mr. Wall.
7. The purpose of Ms. Partlow's call was two-fold: first, to persuade Mr. Wall to bring his fiancée's damaged car to Elite for repair; and second, to persuade Mr. Wall to schedule an appointment with Nova Chiropractic.

8. Ms. Partlow told Mr. Wall that she had worked with Nova before and that Nova would help him get better quicker and recover more money from the liability insurance carrier. She also said that Nova would help him get a lawyer. She gave him Nova's telephone number and street address.

9. Two days later, at approximately 10:00 a.m. on Monday, August 29, 2016, Ms. Partlow and Mr. Wall exchanged text messages. She again provided the number to Nova Chiropractic and urged him to call for an appointment.

10. At approximately 12:40 p.m. the same day, Mr. Wall received a telephone call from Nova Chiropractic. The purpose of the call was to persuade Mr. Wall to confirm or schedule his appointment. The caller told Wall that Nova had been given his number by a lady who had gotten it off the police report.

11. Because he had already started treatment with another chiropractor, Mr. Wall chose not to become a patient at Nova Chiropractic.

12. During the time period in which she solicited Mr. Wall, Shawnte Partlow was referring three to four patients per month to Nova.

13. During the time period in which she solicited Mr. Wall, Ms. Partlow was a patient at Nova. Dr. Carlisle knew her personally and was aware that she worked at Elite Auto Body soliciting business. He was also aware that she had referred several persons injured in automobile collisions to Nova.

14. Dr. Carlisle did not charge Ms. Partlow for the maintenance care he provided to her.

Count II

15. Mrs. Muriel Celestin and her adult daughter Patriel Tukes, citizens and residents of Charlotte, were injured in an automobile collision on September 10, 2016. The Charlotte police investigated the collision and filed an accident report. The following day, Ms. Tukes received a text message from Ms. Shawnte Partlow requesting that she bring her damaged car to Elite Auto Body for repair. Ms. Partlow obtained Ms. Tukes's telephone number from the police accident report and initiated contact with her.

16. Ms. Tukes met Ms. Partlow at Elite Auto Body. After discussing car repair, Partlow told Ms. Tukes that she and her mother should go to Nova Chiropractic to be evaluated and treated. Partlow gave Tukes a handwritten note with Nova's address and telephone number and said, "Be sure to say Shawnte sent you. It will help me."

17. Two days later, Ms. Tukes received a telephone call from Nova Chiropractic. The purpose of the call was to persuade Ms. Tukes to confirm or schedule an appointment for her and her mother. However, Ms. Tukes declined to make the appointment because she and Mrs. Celestin had already started treating with another chiropractor.

18. During the time period in which she solicited Mrs. Celestin and Ms. Tukes, Shawnte Partlow was referring three to four patients per month to Nova.

19. During the time period in which she solicited Mrs. Celestin and Ms. Tukes, Ms. Partlow was a patient at Nova. Dr. Carlisle knew her personally and was aware that she worked at Elite Auto Body soliciting business. He was also aware that she had referred several persons injured in automobile collisions to Nova.

20. Dr. Carlisle did not charge Ms. Partlow for the maintenance care he provided to her.

BASED ON the foregoing Findings of Fact, the Board enters the following:

Conclusions of Law

1. This Board is duly-constituted and has jurisdiction of subject matter and of the person of the respondent.

2. The applicable standard of proof is the greater weight of the evidence.

3. Because the disciplinary complaints filed on September 19, 2016 and October 10, 2016 involve nearly identical fact patterns and the same respondent, it is appropriate to consolidate the complaints for disposition.

4. N.C.G.S. 90-401.1 reads in pertinent part as follows:

It shall be unlawful for a health care provider or the provider's employee or agent to initiate direct personal contact or telephone contact with any injured, diseased, or infirmed person, or with any other person residing in the injured, diseased, or infirmed person's household, for a period of 90 days following the injury or the onset of the disease or infirmity, if the purpose of initiating the contact, in whole or in part, is to attempt to induce or persuade the injured, diseased, or infirmed person to become a patient of the health care provider.

5. Rule 21 NCAC 10 .0303 reads in pertinent part as follows:

(a) In-Person and Telephone Solicitation of Auto Accident Victims. In order to protect the public from misrepresentation, coercion or undue influence, it shall be unlawful for a doctor of chiropractic, or the doctor's employee, to initiate direct personal contact or telephone contact with any person who has been injured in a motor vehicle collision, or with any person residing in the injured person's household, for a period of 90 days following the collision, if the purpose of initiating contact is, in whole or part, to solicit the injured person to become a patient of the doctor.

(b) Acceptance of Referrals from Runners. It shall be unlawful for a doctor of chiropractic to accept as a patient any person injured in an automobile accident who was referred by a runner. As used in this Rule, the term "runner" means any person, firm or corporation that routinely obtains the names of injured persons from motor vehicle accident reports or other public records and then contacts those persons to seek medical or chiropractic treatment or pursue legal claims.

6. Shawnte Partlow initiated telephone contact with Demaurion Wall, a person injured in an auto accident, within 90 days following the injury and for the purpose, in part, of attempting to induce or persuade Mr. Wall to become a patient of Dr. Carlisle.

7. Shawnte Partlow initiated telephone contact with Patriel Tukes, a person injured in an auto accident, within 90 days following the injury and for the purpose, in part, of attempting to induce or persuade Ms. Tukes and her mother Muriel Celestin to become patients of Dr. Carlisle.

8. Ms. Partlow was a runner within the meaning of Rule 21 NCAC 10 .0303(b).

9. Dr. Carlisle knew that Ms. Partlow was a runner, accepted patient referrals from her, and benefited financially from her solicitation efforts in his behalf. He compensated her by providing free chiropractic care. Ms. Partlow was acting as Dr. Carlisle's agent when she solicited Mr. Wall, Ms. Tukes and Mrs. Celestin.

10. Under the Board's published disciplinary guidelines, violations of N.C.G.S. 90-401.1 fall within the category of Serious Violations. The presumptive sanctions for Serious Violations range from probation to one-year license suspension, depending on the applicable aggravating and mitigating factors.

11. The aggravating factor present in this case is that the respondent has engaged in two instances of the same misconduct. There are no mitigating factors present. Since the aggravating factor predominates, the disciplinary sanctions imposed should fall within the more punitive end of the presumptive range.

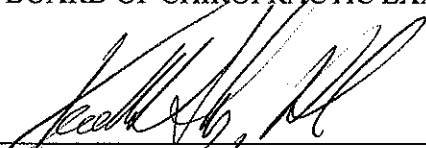
WHEREFORE, with the consent of the respondent, it is hereby ordered, adjudged and decreed that:

1. Dr. Jeffrey H. Carlisle is guilty as charged of unlawful patient solicitation, two counts.
2. Dr. Carlisle's license to practice chiropractic in North Carolina shall be suspended for a term of four months, said term to begin on January 1, 2018 and end on April 30, 2018.
3. When Dr. Carlisle's license is restored on May 1, 2018, he shall be placed on unsupervised probation for a period of one year upon condition that he personally not commit a violation of the laws governing patient solicitation or knowingly permit any associate physician employed by him to commit a violation of said laws.
4. Any other pending charge against Dr. Carlisle, expressly including the charge of failing to respond completely to a Board inquiry, is hereby dismissed.
5. This Final Agency Decision is a public document and shall be reported to national data banks and posted on the Board's website.

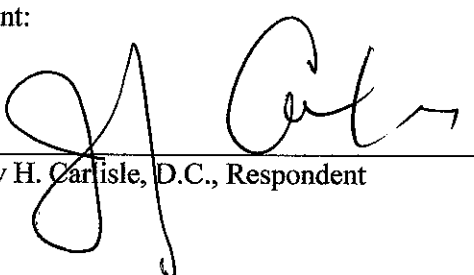
THIS IS the 27 day of October 2017.

N.C. BOARD OF CHIROPRACTIC EXAMINERS

By:


Kevin Sharp, D.C., Presiding

Consent:


Jeffrey H. Carlisle, D.C., Respondent

