

NORTH CAROLINA
BRUNSWICK COUNTY

NORTH CAROLINA BOARD
OF CHIROPRACTIC EXAMINERS

In the Matter of:)
)
MARC J. SURPRENANT, DC, and)
JOELLE M. SURPRENANT, DC,)
Respondents.)

FINAL AGENCY DECISION

THIS MATTER coming on to be heard before the Board of Chiropractic Examiners on the date recited below, and it appearing that each of the respondents and the Secretary of the Board have agreed, stipulated and consented to the proposed Final Agency Decision herein and now jointly urge the Board to adopt and ratify said Final Agency Decision; after reviewing the record, the Board makes the following:

Findings of Fact

1. The respondents are duly-licensed chiropractic physicians and are husband and wife. At all times relevant to the disciplinary complaint described herein, the respondents maintained a chiropractic office in Southport, Brunswick County, North Carolina.

2. This matter comes before the Board upon a formal complaint filed on August 4, 2003 by Jeanne Carteret, a patient of the respondents. On April 30, 2004, the Chiropractic Review Committee held a preliminary hearing at which the complainant and the respondents and their respective counsel appeared. Based on the evidence presented, the Review Committee determined that probable cause existed upon which to refer the following allegations concerning Dr. Marc Surprenant to the full Board:

Dr. Marc Surprenant is hereby charged with not rendering acceptable care in the practice of chiropractic, in violation of N.C.G.S. 90-154(b)(7) and N.C.G.S. 90-154.3, in that on or about June 3, 2003, and continuing through July 9, 2003, Dr. Surprenant:

- (a) Failed to make an adequate initial examination upon a new patient, Jeanne Carteret, and failed to produce a credible diagnosis of her condition; and further,
- (b) Failed to maintain adequate clinical records upon his patient, Jeanne Carteret; and further,
- (c) Failed to make a timely referral of Jeanne Carteret to another health care provider when he reasonably should have known that she was not responding to chiropractic treatment.

3. To the foregoing charges, Dr. Marc Surprenant now pleads guilty.

4. Based on the evidence presented at the preliminary hearing, the Review Committee determined that probable cause existed upon which to refer the following allegation concerning Dr. Joelle Surprenant to the full Board:

Dr. Joelle Surprenant is hereby charged with not rendering acceptable care in the practice of chiropractic, in violation of N.C.G.S. 90-154(b)(7) and N.C.G.S. 90-154.3, in that on or about July 3, 2003, she performed a cervical spinal adjustment on Jeanne Carteret without first making an examination and reviewing the patient's clinical records to make certain that the adjustment could be performed safely.

5. To the foregoing charge, Dr. Joelle Surprenant now pleads guilty.

6. On May 14, 2004, the attorney for the Board served upon the respondents a letter reciting the Chiropractic Review Committee's findings and describing in detail the facts adduced from the evidence presented at the preliminary hearing. A copy of said letter is identified as Exhibit A, attached hereto and incorporated by reference. The respondents stipulate to the facts as set forth in Exhibit A and waive any additional findings of fact.

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 persons of the respondents. The complaint filed by Jeanne Carteret on August 4, 2003 is properly before the Board for adjudication on the merits.

2. N.C.G.S. 90-154(b)(7) provides that not rendering acceptable care in the practice of the profession as defined in G.S. 90-154.3 is grounds for disciplinary action by the Board.

3. N.C.G.S. 90-154.3(a) provides that it shall be unlawful for a doctor of chiropractic to examine, treat, or render any professional service to a patient that does not conform to the standards of acceptable care.

4. N.C.G.S. 90-154(a) authorizes the Board to impose any of the following sanctions, singly or in combination, when it finds a practitioner guilty of not rendering acceptable care: permanent revocation of license, suspension of license, censure, issuance of a letter of reprimand, or placing a practitioner on probationary status and requiring him to report regularly to the Board upon the matters which are the basis of probation.

5. Failing to make an adequate initial examination upon a new patient and failing to produce a credible diagnosis of the patient's condition constitutes not rendering acceptable care within the meaning of the statutes.

6. A chiropractic physician's obligation to make a thorough examination and arrive at a comprehensive diagnosis arises by operation of the acceptable care statutes, not by contract with the patient, and cannot be avoided through the use of disclaimers or notices stating that the physician only diagnoses for subluxation.

7. Failing to maintain adequate clinical records upon a patient constitutes not rendering acceptable care within the meaning of the statutes.

8. Failing to make a timely referral of a patient to another health care provider when the physician reasonably should have known that the patient was not responding to chiropractic treatment constitutes not rendering acceptable care within the meaning of the statutes.

9. Performing a cervical spinal adjustment upon a patient without first making an examination and reviewing the patient's clinical records to make certain the adjustment could be performed safely constitutes not rendering acceptable care within the meaning of the statutes.

WHEREFORE, BY CONSENT, it is hereby ordered, adjudged and decreed:

1. Upon his plea of guilty, Dr. Marc Surprenant is found guilty of not rendering acceptable care to his patient, Jeanne Carteret.

2. Upon her plea of guilty, Dr. Joelle Surprenant is found guilty of not rendering acceptable care to her patient, Jeanne Carteret.

3. The license of Dr. Marc Surprenant to practice chiropractic in North Carolina is suspended for a term of six months. Said license suspension is stayed, and Dr. Surprenant is placed on probationary status for a period of two years under the following terms and conditions:

- (a) Dr. Surprenant shall serve a period of active license suspension for fourteen (14) consecutive days commencing on December 20, 2004.
- (b) Within the first year of probation, Dr. Surprenant shall obtain twelve (12) hours of Board-approved continuing education in the subject of patient examination. These twelve hours shall be in addition to and shall not supercede the twenty-four hours of continuing education required for license renewal.
- (c) Within the first year of probation, Dr. Surprenant shall obtain twelve (12) hours of Board-approved continuing education in the subject of diagnosis. These twelve hours shall be in addition to and shall not supercede the twenty-four hours of continuing education required for license renewal.

4. The license of Dr. Joelle Surprenant to practice chiropractic in North Carolina is suspended for a term of six months. Said license suspension is stayed, and Dr. Surprenant is placed on probationary status for a period of two years under the following terms and conditions:

- (a) Dr. Surprenant shall serve a period of active license suspension for fourteen (14) consecutive days commencing on December 6, 2004.
- (b) Within the first year of probation, Dr. Surprenant shall obtain twelve (12) hours of Board-approved continuing education in the subject of patient examination. These twelve hours shall be in addition to and shall not supercede the twenty-four hours of continuing education required for license renewal.
- (c) Within the first year of probation, Dr. Surprenant shall obtain twelve (12) hours of Board-approved continuing education in the subject of diagnosis. These twelve hours shall be in addition to and shall not supercede the twenty-four hours of continuing education required for license renewal.

5. If either respondent wilfully fails to comply with the terms of this order, the offending respondent's six-month license suspension, now stayed, shall be invoked.

6. This Final Agency Decision is a public document and shall be reported to relevant national data banks, specifically including CIN-BAD, and to the chiropractic licentiate body in North Carolina by summary in the Board's next newsletter.

7. This Final Agency Decision is effective immediately upon service on the respondents.

ADOPTED AND RATIFIED THIS the 30th day of November, 2004.

N.C. BOARD OF CHIROPRACTIC EXAMINERS

By: Thomas M. Brown
Thomas M. Brown, President

AGREED UPON AND STIPULATED TO BY:

Marc J. Surprenant
Marc J. Surprenant, DC, Respondent

Joelle M. Surprenant, DC
Joelle M. Surprenant, DC, Respondent

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