

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
OF CHIROPRACTIC EXAMINERS

N.C. Board of Chiropractic Examiners )  
Petitioner, )  
 )  
v. )  
 )  
Nicholas Westfall, D.C., )  
Respondent )

**CONSENT ORDER**

This CONSENT ORDER, is made between the N.C. Board of Chiropractic Examiners (“Board”), acting through John P. Hammer, in his official capacity as Secretary of the Board (“Secretary”) and Chair of the Disciplinary Review Committee (“DRC”) who presided over the Disciplinary Review Committee’s (“DRC”) meeting on October 13, 2022; and Nicholas Westfall, D.C. (“Respondent”) (collectively, “Parties”). The Parties agree, for the purposes of resolving a pending disciplinary action and potential contested case against Respondent, to the following:

**WITNESS THAT:**

**WHEREAS**, Respondent holds a North Carolina Doctor of Chiropractic License, license number 5226, which was first issued on 07/10/2020, with an expiration date of December 31, 2022, and is currently active.

**WHEREAS**, the Board received a complaint submitted by Sammy Predator Prevention “Sammy” (“Complainant”), on September 09, 2022, which alleged that Respondent committed acts involving moral turpitude, unethical conduct, and lack of good moral character;

**WHEREAS**, the Board sent notice that a complaint had been made against him that alleged in appropriate communication with a minor and provided him an opportunity to respond;

**WHEREAS**, Respondent subsequently provided to the Board an email denying the allegations that were mentioned in the Board’s notice;

**WHEREAS**, the Board staff investigated the allegations and compiled the findings into an Investigative Report, which concluded;

- A. The complaint filing form contained printouts of message communications between the Complainant and Respondent through the Grindr app and cell phone text messaging.
- B. The communications between the Complainant and Dr. Westfall reflected that the Complainant was holding himself out as a 15-year-old male.
- C. The Complainant filed a report with the Asheboro Police Department on September 06, 2022, alleging sexual exploitation of a minor by Respondent. No criminal charges

were filed.

- D. The Asheboro Police Department responded to the report and investigated the report by reviewing the messages and questioning Respondent at his place of employment. After their review and interview with Respondent, no charges were filed.

**WHEREAS**, Board staff compiled its findings into an Investigative Report finding that Respondent could be found to be in violation of N.C. Gen. Stat. § 90-154(b) (4), (21) and (22);

**WHEREAS**, on September 21, 2022, the Board mailed Respondent notification that a Disciplinary Review Committee Meeting would be conducted on October 13, 2022, to assess the allegations of the complaint;

**WHEREAS**, on October 3, 2022, the Board received a letter of representation from Jennifer S. Bennett, counsel for Respondent. She was provided with a copy of the investigative report;

**WHEREAS**, the Parties, in addition to counsel for Respondent and counsel for the Board, met for a Disciplinary Review Committee Meeting on October 13, 2022;

**WHEREAS**, during the Disciplinary Review Committee Meeting on October 13, 2022, Respondent admitted that he sent messages to the Complainant and explained that his initial denial specifically addressed the allegations that the communications were inappropriate and occurred with a minor, as Respondent did not feel the messages were inappropriate when review in their complete nature and because Respondent had been informed that the Complainant was not a minor;

**WHEREAS**, Respondent informed the Review Committee that he believed the Complainant to be of 15 years of age, but his communications were to offer support to the Complainant whom he believed was struggling with his sexual identity;

**WHEREAS**, Dr. Hammer, in his role as the Board member presiding over the DRC in the above-referenced matter, has determined that the allegations contained within the complaint, if proven, could constitute one or more violations of the statutes and regulations administered by the Board and, thus, warrant disciplinary action; and

**WHEREAS**, the Parties wish to resolve and settle this matter without a contested case hearing and enter into this Consent Order.

**NOW, THEREFORE**, pursuant to N.C. Gen. Stat. § 150B-41(c), which authorizes settlement of a contested case by consent, the Parties hereby agree and stipulate as follows:

**I. Jurisdiction:**

The Board is an occupational licensing board of the State of North Carolina, organized under N.C. Gen. Stat. § 90-139, *et. seq.* The Board has jurisdiction over this matter pursuant to

N.C. Gen. Stat. § 90-154 *et. seq.*, N.C. Gen. Stat. § 150B-1, *et. seq.*, and 21 N.C. Admin. Code 10 .0103, *et. seq.*

## **II. Identification of Licensee/Respondent:**

Respondent holds a North Carolina Doctor of Chiropractic License, license number 5226, which was first issued on 07/10/2020, with an expiration date of December 31, 2022, and is currently active. At all relevant times, Respondent practiced and currently practices chiropractic at Blase Chiropractic, located at 177-A NC Highway 42N, Asheboro, NC.

## **III. Waiver of Rights:**

In order to resolve this matter by a Consent Order, Respondent agrees that the Board staff and counsel may discuss this Consent Order with Dr. Hammer in his role as the Presiding Board Member of this matter and any subcommittee that may be assigned to this matter *ex parte* whether or not the Board accepts this Consent Order as written.

## **IV. Stipulation to Facts:**

The Parties stipulate to the following facts:

- A.** The Board received a complaint submitted by Sammy Predator Prevention, dated September 8, 2020, which alleged that Respondent had committed violations of the Board's Practice Act and attendant rules as follows.
1. N.C. Gen. Stat. § 90-154(b)(4) Unethical conduct as defined in N.C. Gen. Stat. § 90-154.2.
  2. N.C. Gen. Stat. § 90-154(b)(21) Committing an act on or after October 1, 2007, which demonstrates a lack of good moral character which would have been a basis for denying a license under N.C. Gen. Stat. § 90-143(b)(1), had it been committed before application for a license.
  3. N.C. Gen. Stat. § 90-154(b)(22) Engaging in any act or practice violative of any of the provisions of this Article or of any of the rules and regulations adopted by the Board or aiding, abetting, or assisting any other person in the violation of any of the provisions of this Article.

### **INVESTIGATIVE FINDINGS:**

- B.** The Parties met for a DRC meeting on October 13, 2022.
- C.** During the DRC meeting, Respondent initially denied the allegations, but later admitted that the printed copies of message communications outlined in the complaint filing form were in fact message communications between himself

and the Complainant. This acknowledgement by Respondent who also made certain other admissions that, when reviewed together with all of the other evidence contained in the Investigative Report, resulted in Dr. Hammer reaching the conclusion that probable cause exists to show that Respondent has engaged in behavior which violates N.C. Gen. Stat. § 90-154(b) (21) and (22).

#### **V. Stipulation to Applicable Sections of Law:**

Respondent admits the allegations set forth in Paragraphs IV. A-C. above, including all subparts, if proven at a hearing, could violate N.C. Gen. Stat. § 90-154(b)(21) and (22). If proven, these violations could constitute grounds for disciplinary action.

#### **Stipulation to Sanction**

In lieu of proceeding to hearing, the Parties hereby enter into this Consent Order, whereby Respondent and the Board agree to the following terms:

1. Respondent admits the **Stipulation to Facts** above;
2. Respondent shall comply with the statutes and guidelines for the practice of chiropractic care in North Carolina;
3. Respondent shall cease and desist from actions that would result in a violation of N.C. Gen. Stat. § 90-154(b)(21) and (22).
4. Respondent's license to practice chiropractic is suspended for a period of twelve (12) months. Such suspension is stayed until six (6) months following the Effective Date of this Consent Order. If Respondent complies with every term contained within this Consent Order within six (6) months following the Effective Date and otherwise complies with all applicable statutes and rules enforced by the Board, the suspension will be set aside.
5. Upon the Effective Date of this Consent Order and for eighteen (18) months thereafter, Respondent is required to ensure that a chiropractic assistant or fellow chiropractic doctor licensed by the Board is present for any chiropractic care, treatment, or therapies that Respondent provides to any minor patient. Additionally, Respondent shall obtain signatures from parents or guardians of all minors giving Consent to Treat a Minor during this time.

6. Respondent shall, at his own expense and within (45) days of the Effective Date of this Consent Order, complete and pass the following essays by offered by Ethics and Boundaries Assessment Services (EBAS): (1) an essay focusing on the area of Boundary Violations; and (2) an essay focusing on the area of Unprofessional Conduct. Information for EBAS can be found at <http://www.ebas.org>. Respondent will need to provide the EBAS administrators of the exam with a copy of this notification prior to the beginning of the exam. Respondent must sign all necessary waivers to allow Board staff to communicate with EBAS administrators as needed and submit proof of satisfactory completion along with a copy of the written report. On the EBAS application Respondent will need to designate the topic essays outlined above that he is required to take.
7. Respondent agrees that he will utilize reasonable efforts to cooperate with any valid audit of patient files conducted by the Board, to the extent he has access to or is in possession of the records requested. For purposes of this order, a "valid" Audit is one which the Board conducts every three (3) months, beginning after the Effective Date of this Consent Order and continuing for eighteen (18) months thereafter. The audit shall include any and all of Respondent's patient files, of the Board's choosing, with at least five (5) business days' notice to Respondent; such notice shall be provided by both electronic correspondence and Fed Ex delivery service to the e-mail address and business mailing address, respectively, that Respondent has on file with the Board at that time. Such criteria that the Board may, but is not required, to use in determining which files it will audit include but are not necessarily limited to: patients treated after the required continuing education courses have been completed by Respondent.
8. Respondent shall, within forty-five (45) days from Effective Date of this Consent Order, reimburse the Board for a portion of its costs and attorneys' fees in the prosecution of this matter, in the amount of \$1,000.00. Costs shall be remitted by check to the Board office as follows:

North Carolina State Board of Chiropractic Examiners  
9121 Anson Way, Ste 200  
Raleigh, NC 27615

9. Nothing in this Consent Order shall prohibit the Board from investigating new complaints, violations of Board Statutes and Rules, or any other matter within the jurisdiction of the Board.

## **VII. Effective Date**

The Effective Date of this Consent Order is the date on which it is signed by the Board Secretary, or his designee.

### **VIII. Public Record**

The parties agree that this Consent Order is a public record, as defined by N.C. Gen. Stat. § 132-1.3. As such, this agreement is admissible in future disciplinary proceedings. Other related documents that are part of the investigative file and are trial preparation materials are not public records, pursuant to N.C. Gen. Stat. § 132-1.9.

### **IX. Adverse Action Reporting**

The parties agree that this Consent Order is a disciplinary agreement and contains an adverse action, and, therefore, will be reported to the National Practitioners Data Bank.

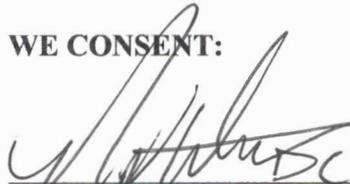
### **X. Respondent's Contact Information**

Within 21 days of the Effective Date of this Consent Order, Respondent shall, via electronic and USPS first-class mail, submit to the Board: 1) Respondent's residential address and residential phone number; 2) Respondent's primary mailing address, if different from the residential address; and 3) Respondent's business address(es) and business phone number(s), if any. Respondent shall notify the Board by certified letter, return receipt, within one week of any changes in Respondent's contact information during the pendency of this Consent Order.

### **XI. Compliance with Consent Order:**

- A) This Consent Order and its provisions are effective on the date of signature by the Board Secretary.
- B) Any modification of this Consent Order must be pre-approved in writing by the Board and signed by the Board Secretary or his or her designee before it may be effective.
- C) Failure by Respondent to meet the terms of this Consent Order, either in substance or in timing, is a violation of N.C. Gen. Stat. § 90-154(a)(6).
- D) If, during the term of this Consent Order, the Board staff receives evidence that Respondent has violated any of the above conditions, the Board staff may schedule a Show Cause Hearing for a determination of the violations.
- E) Should circumstances arise that affect Respondent's ability to remain in compliance, Respondent shall immediately notify the Board in writing by certified mail, fully describing the situation along with any attendant request for Board consideration.
- F) Communications with Respondent regarding compliance with this Consent Order may occur between the Board staff and Respondent.

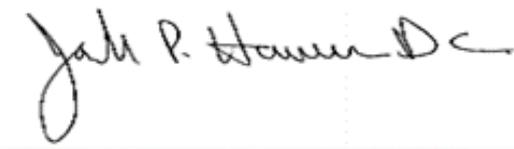
**WE CONSENT:**

  
\_\_\_\_\_  
Nicholas Westfall, D.C.  
Respondent

3/6/23  
Date

  
\_\_\_\_\_  
Jennifer S. Bennett  
Counsel for Respondent  
Post Office Box 1447  
Asheboro, NC 27204  
(336) 669-7287  
[Jennifer@jennifersbennett.com](mailto:Jennifer@jennifersbennett.com)

2.28.23  
Date

  
\_\_\_\_\_  
John Hammer, D.C.  
Presiding Member of Review Committee

03/08/2023  
Date

  
\_\_\_\_\_  
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3.8.2023  
Date