

BEFORE THE NORTH CAROLINA BOARD
OF CHIROPRACTIC EXAMINERS

N.C. BOARD OF CHIROPRACTIC)
EXAMINERS)
)
v.)
)
CHRISTOPHER MUSSO, D.C. (#4853))
Respondent)

CONSENT ORDER

This CONSENT ORDER, made between the N.C. Board of Chiropractic Examiners (“Board”), acting through Joseph Democko, D.C. (“Secretary”), in his official capacity as the Board member who presided over the Board’s Disciplinary Review Committee (“Committee” and “DRC”) on July 06, 2023, and Christopher Musso, D.C. (“Respondent”), in his capacity as a licensed chiropractic physician subject to the Board’s jurisdiction (collectively, “Parties”). The Parties agree, for the purposes of resolving a pending disciplinary action and potential hearing against Respondent to the following:

WITNESS THAT:

WHEREAS, Respondent holds a North Carolina Doctor of Chiropractic License, license number 4853, which was first issued on January 02, 2018, with an expiration date of December 31, 2023, and is currently active. At all relevant times, Respondent practiced chiropractic at The Joint Chiropractic in Raleigh, North Carolina.

WHEREAS, On May 25, 2023, Jeffrey Reifel, previously a patient of Respondent, filed a complaint with the board alleging negligence, incompetence, or malpractice by Victoria Cunnea, D.C.

WHEREAS, the Board staff investigated Mr. Reifel’s allegations and compiled its findings into an Investigative Report;

WHEREAS, during the course of the investigation it was determined that Respondent provided treatment to Jeffrey Reifel during the timeframe of December 04, 2022, through April 30, 2023.

WHEREAS, the Board’s Investigator interviewed Mr. Reifel, following the submission of the complaint and included the following in the Investigative Report:

- A. Mr. Reifel reported to the Board Investigator that during his treatment at the Joint Chiropractic in Chapel Hill, N.C. on April 22, 2023, to be treated for a migraine headache and neck pain, a manual adjustment was performed to his lower back by Victoria Cunnea, D.C.; and

- B. The next morning, he experienced numbness in his left leg and severe pain in his lower back that resulted in limited mobility.
- C. Mr. Reifel was seen and treated at various offices of The Joint Chiropractic following his appointment on April 22, 2023.
 - a. On April 23, 2023, April 25, 2023, April 26, 2023, and April 27, 2023, Mr. Reifel was seen and treated by Byron Agapay, D.C. at The Joint Chiropractic in Durham, N.C.;
 - b. On April 30, 2023, Mr. Reifel was seen and treated by Respondent at The Joint Chiropractic in Brier Creek, N.C.
- D. Mr. Reifel was discharged from care with The Joint Chiropractic, following his April 30, 2023, appointment.

WHEREAS, the Parties, in addition to counsel for Respondent and counsel for the Board, met for a Disciplinary Review Committee (DRC) Meeting on July 06, 2023;

WHEREAS, the DRC Members consisted of Joseph Democko, D.C., John Hammer, D.C., and Rick Davis, Jr. D.C. Additionally, Grant Simpkins, Board Counsel; Joseph Siragusa, D.C., Board's Executive Director; and Lisa Hicks-Jones, Board Investigator were present for the meeting but did not participate in the deliberations or decision.

WHEREAS, Respondent was represented by Attorney Michael Schietzelt with the law firm Michael Best & Friedrich LLP.

WHEREAS, during the DRC Meeting on July 06, 2023, Respondent admitted to deficiencies of acceptable standard of care practices, with regards to patient history, patient examination, diagnosis, treatment plan, and documentation. Respondent affirmed that there is not adequate time to document a comprehensive health assessment with each patient during each visit. Respondent maintains that the patient's previous assessment is reviewed to determine patient treatment. Respondent further contends that he was unaware that the document entitled "Terms of Acceptance," that is signed by patients, states that The Joint Chiropractic does not treat patients with acute conditions.

WHEREAS, Dr. Democko, in his role as the Board member presiding over the DRC in the above-referenced matter, has determined that the allegations contained within Mr. Reifel's complaint and information reviewed during DRC Meeting, if proven at hearing, could constitute one or more violations of the statutes and regulations administered by the Board and, thus, warrant disciplinary action.

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

NOW, THEREFORE, 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 practices at The Joint Chiropractic, located at 8531 Brier Creek Parkway, Suite 113, Raleigh, N.C. Respondent holds North Carolina Doctor of Chiropractic License, license number 4853, which was first issued on January 02, 2018, with an expiration date of December 31, 2023, and is currently active.

III. Waiver of Rights:

In order to resolve this matter by Consent Order, Respondent agrees that the Board staff and counsel may discuss this Consent Order with Dr. Democko 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. On May 25, 2023, the Board received a complaint against Victoria Cunnea, D.C.
- B. The complaint alleged that Respondent committed negligence, incompetence, or malpractice with the treatment rendered. Based on the allegations, Board staff initiated an investigation.
- C. The Disciplinary Review Committee (DRC) reviewed information compiled in the Investigation Report and information disclosed during the DRC Meeting and determined:
 - i. Patient records reflect that Jeffrey Reifel was seen and treated by Respondent on April 30, 2023. Jeffrey Reifel's record states, "PT reports ongoing pain in the upper neck region with a headache, as well as low back pain after a bad experience with his adjustment last Saturday." Jeffrey Reifel's chief complaints were listed with a headache rating 5 out of 10 and low back pain rating 9 out of 10.
 - ii. Respondent documented some, but not all, clinical findings and rationale for decision making and necessity of care for Jeffrey Reifel.

- iii. On April 26, 2023, Jeffrey Reifel's record states, "Jeffrey presents today in maintained acute aggravation." On April 27, 2023, the SOAP Notes for Mr. Reifel include notations of increased BM and urinary retention and his lower back pain was listed as a 9 out of 10. However, there are no records that indicate an orthopedic and/or neurologic exam was conducted, or documentation to show that symptoms were adequately addressed or referred for proper care.
- iv. Although the document entitled "Terms of Acceptance," as signed by patients that Respondent treated, states that The Joint Chiropractic does not treat patients with acute conditions, Respondent did in fact treat patient with acute conditions.

D. The Parties met for a DRC as scheduled on July 06, 2023.

V. Stipulation to Applicable Sections of Law:

Respondent admits the allegations set forth in Paragraph IV A-D above, including all subparts, if proven at hearing, could constitute violations of N.C. Gen. Stat. § 90-154 (b)(4), N.C. Gen. Stat. § 90-154 (b)(7), and N.C. Gen. Stat. § 90-154.2 (1). If proven, these violations could constitute grounds for disciplinary action.

VI. Stipulation to Sanction

In lieu of proceeding to hearing, Respondent and the Board Secretary 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's license to practice chiropractic is suspended for ninety (90) days which will commence thirty (30) days following the effective date of this Consent Order. Such suspension is stayed if Respondent complies with all requirements of this Consent Order within thirty (30) days, and otherwise complies with all applicable statutes and rules enforced by the Board.
4. Respondent shall provide a notarized statement that he will remedy all deficiencies related to the acceptable standard of care, to include; history, examination, diagnosis, treatment plan, and documentation. The signed notarized statement shall be submitted to the Board's Executive Director at dr.joe@ncchiroboard.com.
5. Respondent shall complete six (6) hours of Board-approved remedial education in documentation. Respondent shall choose the course and submit it for approval before enrolling in the course. Submit it to the Board's Executive

Director at dr.joe@ncchiroboard.com. These hours **will not** count towards the Respondent's license renewal credits.

6. Respondent shall complete six (6) hours of Board-approved remedial education in examination procedure. Respondent shall choose the course and submit it for approval before enrolling in the course. Submit it to the Board's Executive Director at dr.joe@ncchiroboard.com. These hours **will not** count towards the Respondent's license renewal credits.
7. If Respondent fails to comply with any of the above Stipulation to Sanctions, the Respondent will consent to the active suspension of his license and may be grounds for the Disciplinary Review Committee to reconvene and revisit this issue or refer this matter to the Full Board Hearing.
8. Nothing in this Consent Order shall prohibit the Board from investigating new complaints for 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 Dr. Democko, 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 does contain an adverse action, and, therefore, will be reported to the National Practitioners Data Bank (NPDB).

X. Respondent's Contact Information

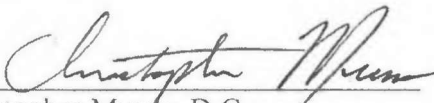
Within 21 days of the effective date of this Consent Order, Respondent shall submit to the Board by certified mail Respondent's: 1) Residential address and residential phone number; 2) Primary mailing address, if different from the residential address; and 3) Business address(es) and business phone number(s), if any.

XI. Compliance with Consent Order

- A. This Consent Order and its provisions are effective as of the date it is signed by Dr. Democko or his designee;
- B. Any modification of this Consent Order must be pre-approved in writing by the Board and signed by the Board President or his or her designee prior to taking effect;
- C. Failure by Respondent to meet the terms of this Consent Order, including the Stipulation to Sanction set forth above, 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 violated any of the above conditions, the Board staff may schedule a Show Cause Hearing for a determination of the violations; and
- E. Communications with Respondent regarding compliance with this Consent Order may occur between Board staff and Respondent.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

WE CONSENT:



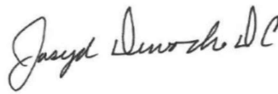
Christopher Musso, D.C.
Respondent

7/25/2023
Date



Michael Schietzelt
Counsel for Respondent
Michael Best and Friedrich LLP
4509 Creedmoor Road, Ste 501
Raleigh, NC 27612
Phone: (984) 220-8750
E-mail: mgschietzelt@michaelbest.com

7/26/23
Date



Joseph Democko, D.C.
Presiding Member of Review Committee

07/27/2023
Date



Anna Baird Choi
A. Grant Simpkins
General Counsel for Board
Hedrick Gardner Kincheloe and Garofalo
4131 Parklake Ave #300
Raleigh, NC 27612
(919)341-2636
achoi@hedrickgardner.com
gsimpkins@hedrickgardner.com

7/27/2023
Date