

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: DYLAN D. LÉVESQUE, D.C.
License No.: 0104-001589

ORDER

In accordance with Sections 54.1-2919 and 9-6.14:11 of the Code of Virginia (1950); as amended ("Code"), an informal conference was held with Dylan D. Lévesque, D.C., on August 22, 2001, in Roanoke, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the Informal Conference Committee ("Committee") were: Kenneth Walker, M.D., Chairman; Sue Ellen Rocovich, D.O.; and Jerry R. Willis, D.C. Dr. Lévesque appeared personally and was not represented by legal counsel. The purpose of the informal conference was to inquire into allegations that Dr. Lévesque may have violated certain laws governing the practice of chiropractic in the Commonwealth of Virginia, as set forth in a Notice of Informal Conference dated July 13, 2001.

FINDINGS OF FACT

Now, having properly considered the evidence and statements presented, the Committee makes the following Findings of Fact:

1. Dr. Lévesque was issued License No. 0104-001589 to practice chiropractic in the Commonwealth of Virginia on April 1, 1996. His license will expire on August 31, 2002, unless renewed.
2. Dr. Lévesque advertised Nambudripad's Allergy Elimination Technique ("N.A.E.T.") in local publications and in pamphlets distributed from his chiropractic practice, and he utilizes this modality in his chiropractic practice. N.A.E.T. is a system of muscle response testing for the diagnosis and treatment of allergies, for which there exists no research or scientific evidence that supports its efficacy. Dr. Lévesque stated to the Committee that he does not tell patients he is curing their allergies. However, Dr. Lévesque's advertisements contained false, misleading or deceptive language, e.g., "Complete Allergy Elimination"; "...get rid of your allergy problems..."; "This technique will eliminate all allergies and symptoms arising

from previous exposure to allergens and their allergic manifestations...all food allergies, environmental, and chemical whether or not the allergy was developed from exposure or inherited.” By using these and other similar statements in his advertisements, Dr. Lévesque explicitly and implicitly claimed that N.A.E.T. is a cure for allergies. Further, Dr. Lévesque failed to accurately represent in his advertisements that N.A.E.T. is a non-medical treatment. Specifically:

a. On or about January 22, 2001, Dr. Lévesque caused an advertisement entitled “This is for Anyone That Has Not Experienced Nambudripad’s Allergy Elimination Technique” to be published in the Bristol Herald Courier/Virginia-Tennessean in which he claimed that “N.A.E.T....is providing lasting relief for migraine headaches, asthma, Attention Deficit Disorder, fibromyolgin [*sic*], irritable bowel syndrome, colitis, sinus problems, chemical sensitivities, join [*sic*] aches & pains, addictions (smoking & other), chronic fatigue, depression, anxiety, skin problems (rashes, hives).” Dr. Lévesque stated to the Committee that he believes N.A.E.T. does provide relief to his patients with the above listed symptoms.

b. On or about November 15, 2000, Dr. Lévesque caused an advertisement for N.A.E.T. entitled “My Allergies are Completely Gone...” to be published in the Bristol Herald Courier/Virginia-Tennessean that was false, misleading, or deceptive in that he failed to accurately identify the method of treatment he provided as chiropractic or otherwise non-medical, and he failed to identify Dr. Nambudripad or himself as chiropractors.

c. On or about August 20, 2000, Dr. Lévesque caused an advertisement entitled “Lasting Relief for ALLERGY SUFFERERS” to be published in the Bristol Herald Courier/Virginia-Tennessean that was false, misleading, or deceptive in that he used the word “Dr.” in connection with his name without simultaneously using a clarifying title, initials, abbreviation, designation or language that identifies the type of practice for which he is licensed. Further, Dr. Lévesque failed to

accurately identify that the method of treatment he provided would be chiropractic or otherwise non-medical.

3. Dr. Lévesque's advertisements and other informational materials for N.A.E.T. are misleading in that he used the word "Dr." in connection with the name of Devi Nambudripad, the creator of N.A.E.T., without simultaneously using a clarifying title, initials, abbreviation, designation or language that identified this practitioner as a chiropractor. Further, Dr. Lévesque's informational material characterized Devi Nambudripad's credentials as follows: "She has pointed the way to perfect health by combining many methods and techniques from different disciplines of medicine, including: Allopathic, Kinesiology, Chiropractic, and Oriental medical procedures of Acupuncture and Acupressure. Dr. Nambudripad has received extensive training in each of these fields both in the U.S. and the Orient." Further, on divers occasions, Dr. Lévesque caused advertisements for N.A.E.T. to be published that were false, misleading, or deceptive in that he used the word "Dr." in connection with his own name without simultaneously using a clarifying title, initials, abbreviation or designation or language that identifies the type of practice for which he is licensed. Dr. Lévesque stated to the Committee that the materials regarding Dr. Nambudripad's credentials were given to patients, not advertised to the general public.

4. Dr. Lévesque maintains that he offers N.A.E.T. separately from his chiropractic practice, using the same office, and that some patients receive only N.A.E.T. without chiropractic manipulation. However, Dr. Lévesque provided to patients in his chiropractic office a brochure entitled "Getting the Most from Your Allergy Treatments" which contains the following language: "Since it is your nervous system that carries the electrical impulses through your body, it is very important that there are no blockages to any of the nerves or this may hinder your treatments. Physical blockages to the nerves are caused by misalignments in the spine called '*subluxations*'. This occurs at the level of the nerve root and can be corrected with chiropractic. Subluxations cause pinched nerves which interfere with their electrical transmission and lead to

allergy-type problems. This is why we will first check your spine before doing any allergy-testing or treatments.” Dr. Lévesque stated to the Committee that this brochure was not distributed to the public.

5. Dr. Lévesque distributed an undated document to a patient entitled “Health Report Vol. 3, Issue 111, Juvenile Diabetes Improves with Chiropractic!” which is a testimonial about an individual diagnosed with Type I Juvenile Diabetes, who, after chiropractic treatment, was able to lower her insulin requirements. By providing this document to patients, Dr. Lévesque promotes chiropractic adjustment as a treatment of this medical condition. There is no therapeutic basis for his claim that chiropractic modalities can treat juvenile diabetes. Dr. Lévesque stated to the Committee that his intent was to distribute a testimonial, not to promote chiropractic as a treatment for diabetes.

6. In approximately 1998, Dr. Lévesque caused to be disseminated a document entitled “About Dr. Lévesque” that is misleading or deceptive, and contains a claim of superiority. Specifically, Dr. Lévesque indicates that he specializes in the Gonstead Method of chiropractic, which “helps the doctor detect and correct problems with a precision not possible before – allowing faster and more permanent results.”

7. Dr. Lévesque stated to the Committee that he now realized that some of his past advertisements contained false statements, he has ceased advertising at this time, and that he is willing to comply with the Board’s laws and regulations regarding advertisements in the future.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Committee concludes that Dr. Lévesque has violated Sections 54.1-2403, 54.1-2903, and 54.1-2915.A(3), as further defined in Sections 54.1-2914.A(7), (10), (11), and (13) [formerly Section 54.1-2914.A(9), (12), (13) and (15)] of the Code; and 18 VAC 85-20-30.E of the Board’s General Regulations.

ORDER

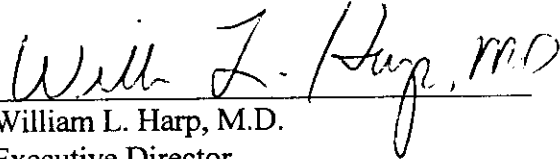
WHEREFORE, it is hereby ORDERED that Dylan D. Lévesque, D.C., be, and hereby is, issued a REPRIMAND.

Pursuant to Section 9-6.14:14 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Pursuant to Section 54.1-2919 of the Code, Dr. Lévesque may, not later than 5:00 p.m., on October 2, 2001, notify William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, Richmond, Virginia 23230, in writing that he desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

Therefore, this Order shall become final on October 2, 2001, unless a request for a formal administrative hearing is received as described above.

FOR THE BOARD



William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

Entered: 8/27/01