

STATE OF VERMONT
BOARD OF CHIROPRACTIC

IN RE:
KURT A. VREELAND
License No: 006-0000644

)
) Docket No.'s: CH 01-0701 &
) CH 03-0100

STIPULATION AND CONSENT ORDER

The Respondent, Kurt A. Vreeland, and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Chiropractic as a final order in this matter.

Board Authority

1. The Vermont Board of Chiropractic has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Chiropractic Physicians pursuant to 3 V.S.A. §§129, 129a; 26 V.S.A. §§521, 527, 529, 541 and; the Board's and the Office of Professional Regulation's Rules.

2. Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).

3. Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(7).

4. Failure to keep written chiropractic records justifying a course of treatment for a patient, including patient histories, examination results and test results records is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §541(b)(5).

5. In the course of practice, failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(10).

6. Performing any procedure or prescribing any therapy which, by the prevailing standards of chiropractic practice, would constitute experimentation on a human subject without first obtaining full, informed and written consent is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §541(b)(7).

7. Conduct which evidences unfitness to practice chiropractic is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §541(b)(10).

8. "The practice of chiropractic" means the diagnosis of human ailments and diseases related to subluxations, joint dysfunctions, neuromuscular and skeletal disorders for the purpose of their detection, correction or referral in order to restore and maintain health, without providing drugs or performing surgery; the use of physical and clinical examinations, conventional radiologic procedures and interpretation, as well as the use of diagnostic imaging read and interpreted by a person so licensed and clinical laboratory procedures to determine the propriety of a regimen of chiropractic care; adjunctive therapies approved by the board, by rule, to be used in conjunction with chiropractic treatment; and treatment by adjustment or manipulation of the spine or other joints and connected neuromusculoskeletal tissues and bodily articulations. 26 V.S.A. §521(3).

9. Adjunctive therapies are therapies a chiropractor may use in addition to chiropractic adjustment to treat patients. Chiropractors may use adjunctive therapies in which they have been adequately trained. Adjunctive therapies for chiropractic are physiotherapy modalities, rehabilitative exercises, nutritional therapy, massage techniques and acupuncture. Adjunctive therapy includes the use of topically applied therapeutic agents incident to any of the above listed therapies. Board of Chiropractic Rules Relating to the Profession, Rule 3.5.

Facts

10. Respondent Kurt A. Vreeland, is a Chiropractic Physician holding license number 006-0000644 issued by the State of Vermont. Respondent's license has a current expiration date of September 30, 2002.

11. At all times relevant, Respondent practiced at The Vreeland Clinic in Norwich, Vermont.

Count I- Patient M.M. (CH 01-0701)

12. Paragraphs 1-11 above are incorporated.

13. On or about August 28, 1995 M.M. began to see the Respondent as a client. By way of history, around this time the client was diagnosed with ovarian cancer.

Negligence

14. Client had had a "CA125" test performed by her treating doctor from California.

15. On or about November 4, 1996 Respondent states to the client that he had a "gut reaction" that her test results "must be a false positive due to some outside influence". Respondent lacks the qualifications to make this conclusion.

16. On or about November 5, 1996, the client had a CT Scan that confirmed her prior test results. There were no false positive results.

Fail to Meet Acceptable Standards

17. Throughout the client's care, Respondent failed to develop a proper diagnosis. Specifically, Respondent's records

show a diagnosis of fatigue from August 28, 1995 to December 15, 1998, a period of almost three (3) years. Fatigue is a symptom.

18. Throughout the client's care, Respondent's use of E&M Codes was not substantiated by his notes. Specifically, Respondent used improper E&M Codes as follows:

a. On or about January 13, 1997, April 10, 1997, October 28, 1997, May 26, 1998, July 7, 1998 and November 12, 1998, Respondent's use of E&M Code 99214 were not justified nor substantiated by the records.

Lack of Informed Consent

19. Respondent performed live cell microscopy on the client without obtaining the proper informed consent form(s).

20. Live cell microscopy is experimental and therefore requires written consent prior to the procedure.

21. Respondent, from around April 1997 through November 1998, was assessing the effect(s) of a rife machine on the client. The rife machine was the private personal property of the client.

22. Respondent was not performing an adjunctive therapy according to Board rule to treat the patient. Therefore, Respondent was practicing beyond the scope of practice of a licensed chiropractor.

Inadequate Notes

23. Respondent's notes, at all times relevant, were not adequate in that they failed to document discussions with other physicians, discussions with the client, and the circumstances surrounding the use of the rife machine.

Patient L.T. (CH 03-0100)

24. Paragraphs 1-11 above are incorporated.

25. On or about February 1998 L.T. began to see the Respondent as a client. By way of history, in 1997 the client was diagnosed with breast cancer. The client also disclosed a history of tachycardia.

Negligence

26. By way of history, the client complained to Respondent concerning her tachycardia.

27. On or about June 22, 1998 Respondent acted improperly concerning the client's complaint of tachycardia. Specifically, Respondent provided treatment over the telephone and Respondent did not refer the client to a medical doctor for further evaluation nor did Respondent follow-up concerning the complaint on subsequent visits.

Fail to Meet Acceptable Standards

28. Throughout the client's care, Respondent failed to develop a proper diagnosis. Specifically, Respondent's records show a diagnosis of fatigue for a two (2) year period. Fatigue is a symptom.

29. Throughout the client's care, Respondent's use of E&M Codes was not substantiated by his notes. Specifically, Respondent used improper E&M Codes as follows:

a) On or about February 9, 1998 Respondent's use of E&M Code 99205 was not justified nor substantiated by the records;

b) On or about March 16, 1998 Respondent's use of E&M Code 99213 was not justified nor substantiated by the records; and

c) On or about March 8, April 27 and June 8, 1998, Respondent's use of E&M Code 99214 were not justified nor substantiated by the records.

Inadequate Notes

30. Respondent's notes, at all times relevant, were not adequate in that they failed to document discussions with other physicians, discussions with the client, and the circumstances surrounding the use of the rife machine.

Charges

31. The above acts and/or omissions constitute unprofessional conduct pursuant to, and also violate:

a) 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession); specifically:

i) Rule 3.5 (Adjunctive therapies are therapies a chiropractor may use in addition to chiropractic adjustment to treat patients. Chiropractors may use adjunctive therapies in which they have been adequately trained. Adjunctive therapies for chiropractic are physiotherapy modalities, rehabilitative exercises, nutritional therapy, massage techniques and acupuncture. Adjunctive therapy includes the use of topically applied therapeutic agents incident to any of the above listed therapies.)

b) 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; viz: using improper or outdated E&M Codes;

c) 26 V.S.A. §541(b)(5) (Failure to keep written chiropractic records justifying a course of treatment for a patient, including patient histories, examination results and test results records);

d) 3 V.S.A. §129a(a)(10) (In the course of practice, failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in

similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred);

e) 26 V.S.A. §541(b)(7) (Performing any procedure or prescribing any therapy which, by the prevailing standards of chiropractic practice, would constitute experimentation on a human subject without first obtaining full, informed and written consent); and

f) 26 V.S.A. §541(b)(10) (Conduct which evidences unfitness to practice chiropractic).

Consent Order

A. Based on the above stipulations, it is ADJUDGED as follows:

(1) Though Respondent is not admitting the facts set out in this Stipulation and Consent Order, sufficient facts exist to enable the Board to impose disciplinary sanctions on Respondent.

(2) The Respondent has engaged in unprofessional conduct in that the Respondent has violated:

a) 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession); specifically:

i) Rule 3.5 (Adjunctive therapies are therapies a chiropractor may use in addition to chiropractic adjustment to treat patients. Chiropractors may use adjunctive therapies in which they have been adequately trained. Adjunctive therapies for chiropractic are physiotherapy modalities, rehabilitative exercises, nutritional therapy, massage techniques and acupuncture. Adjunctive therapy includes the use of topically applied therapeutic agents incident to any of the above listed therapies.)

b) 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; viz: using improper or outdated E&M Codes;

c) 26 V.S.A. §541(b)(5) (Failure to keep written chiropractic records justifying a course of treatment for a patient, including patient histories, examination results and test results records);

d) 3 V.S.A. §129a(a)(10) (In the course of practice, failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred);

e) 26 V.S.A. §541(b)(7) (Performing any procedure or prescribing any therapy which, by the prevailing standards of chiropractic practice, would constitute experimentation on a human subject without first obtaining full, informed and written consent); and

f) 26 V.S.A. §541(b)(10) (Conduct which evidences unfitness to practice chiropractic).

B. Based on the above stipulation and on the above Findings and Conclusions of this Board, it is

ORDERED as follows:

a. The Respondent and/or Respondent's license is hereby **SUSPENDED for a period of thirty (30) days commencing ninety (90) days from the date of entry of this Order.** Thereafter, Respondent and/or Respondent's license is hereby **CONDITIONED** for a minimum period of two (2) years as follows:

i. Respondent shall complete an eight (8) hour minimum record-keeping seminar approved by the Board, or the Board's designee, in advance. Respondent shall complete the course within six (6) months of the entry of this Order.

ii. Respondent shall be subject to random quarterly audits of his records by a Board approved Vermont licensed chiropractor in good standing to determine compliance with the Vermont laws and rules concerning the practice of the profession, including but not limited to, compliance with the informed consent requirements and that Respondent is not exceeding the proper scope of practice. The first audit shall be due ninety (90) days following the entry of this Order. The audit shall consist of examining approximately twenty percent (20%) of Respondent's current and active files. Current and active files are meant to include patients who have or will have a present and continuing course of care in the chiropractic practice of Respondent during the conditional period and are meant to exclude patients who have not visited Respondent's clinic in the past six (6) months unless those patients receive treatment during the conditional period.

iii. The licensed chiropractor performing the above audits shall be available to meet with the Board, or the Board's designee, upon request.

iv. Respondent shall take any steps, corrections and/or changes as suggested by the auditor in a timely manner.

v. Respondent shall bear all costs associated with this Order.

vi. If Respondent violates any of the above conditions that shall be grounds for further action by the Board.

Understandings

C. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Board and that if the Board rejects any portion the entire Stipulation and Consent Order shall be null and void.

D. Respondent waives any notification period and requests that this be heard at the next available Board meeting. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

E. Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.

F. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.

G. This Stipulation and Consent Order is entered into voluntarily by Respondent after the opportunity to consult with legal counsel. Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.

H. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

I. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

BY: KURT A. VREELAND
RESPONDENT

Date: 6/2/03

Kurt A. Vreeland
Kurt A. Vreeland

Approved as to form:

[Signature] 6/02/03
Respondent's attorney

AND BY:

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 6/3/03

[Signature], AAG, for
George C. Haegele, IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF CHIROPRACTIC

Date: 7/1/2003

Dennis C. Natale, DC
Acting Chairperson

Dated entered: 7/2/03