

**State of New Hampshire  
Board of Chiropractic Examiners  
Concord, New Hampshire 03301**

In the Matter of:  
**Shawn D. Shapiro, D.C.**  
**License No.: 708-1103**  
(Misconduct Allegations)

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of chiropractic, the New Hampshire Board of Chiropractic Examiners (“Board”) and Shawn D. Shapiro, D.C. (“Dr. Shapiro” or “Respondent”), a chiropractor licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 316-A:22, RSA 316-A:23 and RSA 316-A:23-a and Chapters 208 and 211 of the Board of Chiropractic Administrative Rules (“Ch”), the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by chiropractors. Pursuant to RSA 316-A:22, V and RSA 541-A:31, the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. The Board first granted Respondent a license to practice chiropractic in the State of New Hampshire on November 6, 2003. Respondent holds license number 708-1103. Respondent practices as a chiropractor under business name Port City Chiropractic, P.L.L.C., which is located in Portsmouth, New Hampshire.

3. In the spring of 2014, the Board received information from the New Hampshire Insurance Department alleging that Respondent may have maintained inaccurate records and may have engaged in improper billing practices.
4. In response to this, the Board conducted an investigation and obtained information from various sources.
5. Respondent stipulates that, if a disciplinary hearing were to take place, Hearing Counsel would present evidence to seek to prove the following allegations:
  - A. Patient "BJ" and was treated by Respondent for a total of 10 appointments starting on January 10, 2014 and ending on February 12, 2014. During the 10 appointments, BJ complained of neck stiffness and headaches that affected his driving, sleeping and running following a motor vehicle accident in which he was rear-ended. BJ's reported pain level was initially 6 out of 10 when turning his head and 2 out of 10 at rest. Throughout his treatment, his pain never exceeded 2 out of 10.
  - B. Respondent told BJ that he likely had whiplash from the accident and that the practice had a three-fold attack for car accidents that includes chiropractic, massage and acupuncture.
  - C. At the second appointment, Respondent reviewed BJ's x-rays with him and pointed out the reversal curvature of his cervical spine. Respondent told BJ he would have to adjust the whole spine in order to treat the whiplash and that it would take 25-35 visits over the next 4-6 months.

- D. Respondent performed adjustments to BJ's lower, middle, and upper back along with his neck at each appointment starting with the second. There is a factual dispute as to whether Respondent also adjusted BJ's hip. At each of these appointments, BJ's insurance was billed for spinal manipulation 3-4 regions using billing code 98941 and extremity adjustment using billing code 98943.
- E. The treatment records for each of these visits are nearly identical. It was documented that "[BJ] has a chief complaint of pain, tingling, numbness, spasm and soreness of the neck. The symptoms are described as moderate and constant. According to [BJ] the neck on a pain scale of 0 (no pain) to 10 (severe) is a 6. [BJ] also complains of pain and numbness of the upper back. The symptoms are described as moderate and frequent. According to [BJ], the pain of the lower back on a scale of 0 (no pain) to 10 (severe) is a 7." According to the treatment note, Respondent noted "subluxation of the cervical spine, thoracic spine, lumbar spine, sacral region and right sacroiliac joint is the result of an acceleration, deceleration event, 'whip lash.'" It was also noted that BJ exhibited "spasm and tenderness of the Suboccipital muscles bilaterally; tenderness of the Paracervical muscles on the right; spasm and tenderness of the trapezius muscles on the left; tenderness of the Paradorsal muscles bilaterally; spasms and tenderness of the Paralumbar muscles bilaterally; tenderness of the Gluteal/Piriformis muscles on the right."

- F. Respondent would also at times have BJ perform exercises with an employee he described as their physical therapy expert. BJ performed exercises at four appointments. BJ would spend between 2 and 5 minutes at these appointments doing the exercises. Respondent billed BJ's insurance for therapeutic exercises using billing code 97110.
- G. On February 7, 2014, BJ's insurance was inadvertently billed for therapeutic exercises, but no therapeutic exercises were offered or conducted on that date.
- H. BJ also received massages at six of his appointments. Three of the appointments included hour long massages and the other three included chair massages. The chair massages lasted approximately 10 minutes. Respondent billed the massages to BJ's insurance company as manual therapy using billing code 97140 in 15-minute units. Each of the chair massages were inadvertently billed for two 15-minute units.
- I. On January 27, 2014, BJ received a sixty minute massage from an unlicensed massage therapist.
- J. Prior to April 2014, Respondent delegated the task of recordkeeping to his staff members. Most of time, staff members were not present while the patients were being treated. For a period of at least six months, Respondent did not always create, review, or sign off on most of the treatment notes for his patients.

6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 316-A:22, II (c) and (g), and RSA 328-B:3.
7. By entering into this *Settlement Agreement*, Respondent makes no admission of wrongdoing, but acknowledges that the above allegations, if proven, might constitute grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a chiropractor in the State of New Hampshire.
8. To avoid an expensive, protracted and complicated dispute and without admitting any of the allegations, Respondent consents to the Board imposing the following discipline, pursuant to RSA 316-A:22, III:
  - A. Respondent is reprimanded.
  - B. Respondent's license to practice chiropractic is suspended for a period of thirty days starting on August 12, 2017 and running through the end of September 10, 2017.
  - C. Respondent is required to meaningfully participate in 20 hours of continuing chiropractic education in the areas of medical recordkeeping and billing practices, which may be met by taking Bulletproof Your Documentation (12 hours - live), which Respondent completed in good faith on May 20 to 21, 2017, and Coding and Documentation 201-204 (12 hours). Respondent is required to meaningfully participate in 10 hours of continuing education in the area of ethics which shall be met by taking and passing the Ethics and Boundaries Assessment Services ("EBAS"). The score report of any and all

examinations shall be provided to the Board within fifteen (15) business days of Respondent's receipt of the result. The above continuing education hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within six months from the effective date of this *Settlement Agreement*. Any hours above the stated requirements may count towards the hours required by the Board for renewal of licensure. Within fifteen (15) days of completing these hours, Respondent shall notify the Board and provide written proof, certified by the organization, of completion and/or passing.

- D. Respondent is assessed an ADMINISTRATIVE FINE in the amount of \$5,000, payable within 60 days of the effective date of this Agreement. All payments shall be made in the form of a money order or bank check made payable to "Treasurer, State of New Hampshire" and delivered to the Board's office at 121 South Fruit Street, Concord, New Hampshire.
- E. Respondent shall enter into a signed written monitoring contract with a licensed chiropractor of Respondent's choosing. The signed agreement shall be submitted to the Board for Board approval prior to commencing the monitoring. Respondent shall recommend three possible New Hampshire licensed chiropractors willing to act as monitor from whom the Board may choose one to act as monitor. If Respondent is unable to locate three chiropractors willing to serve, he shall notify the Board and the Board may consider any chiropractor(s) who are willing to serve. If no chiropractor on

the list is acceptable, the Board may ask Respondent for additional candidates. This is not a probationary period or restriction on Respondent's practice. The written agreement shall comply with the following terms:

- 1) Respondent shall have no social or professional association with the intended monitor that would impair the monitor's ability to perform in an evaluative role.
- 2) The monitoring period shall be for a period of twenty-four (24) months with eight quarterly reports (as provided for below) submitted to the Board. After twelve (12) months from the effective date of this agreement, Respondent may petition the Board to conclude the monitoring requirement based upon the conclusions of the monitor that Dr. Shapiro has reasonably complied with all recommendations.
- 3) The monitoring shall consist of a preliminary assessment of Respondent's practice and procedures and evaluate the specific ethical and professional issues described in the *Settlement Agreement*. The monitor shall visit Respondent's place of business to review the adequacy of Respondent's clinical and billing records to determine Respondent's compliance with accepted chiropractic practices. The monitor shall make specific recommendations to remediate any noted issues in the assessment. The monitor shall file an initial report detailing the preliminary assessment and any recommendations with

the board within thirty (30) days from the date the monitor is engaged.

- 4) On a quarterly basis, the monitor shall review no fewer than ten (10) patient records selected by the monitor. The monitor shall visit Respondent's place of business to select the records to be reviewed. The records selected for review shall be records of patients seen by Respondent since the monitor's prior visit.
- 5) The monitor shall furnish quarterly written reports to the Board and to Respondent regarding the results of such monitoring. The first such quarterly report shall be due ninety (90) days from the date the monitor is engaged. Such reports shall:
  - a. Evaluate the clinical and billings records reviewed by the Monitor;
  - b. Identify any deficiencies in those clinical and billing records which reasonably warrant corrective action.
  - c. Assess Respondent's progress in implementing improvements to his clinical and billing recordkeeping.
- 6) Respondent shall take any and all corrective actions that are reasonably necessary to correct any and all deficiencies identified in any review by the monitor. Within 30 days after Respondent's receipt of the monitor's report, Respondent shall submit to the Board a detailed written report identifying the steps that have been taken, or

are being taken, to correct the deficiencies cited in the monitor's report, and the dates by which such corrective actions will be completed.

- 7) The Board, in its reasonable discretion, may at any time during the period of monitoring request a different monitor. If the monitor becomes unable to serve or to fulfill his/her obligations, Respondent is responsible for nominating a different monitor who is acceptable to the Board. In the event the monitor is unable to complete his/her review or report in a timely fashion due to the monitor's own personal and/or professional commitments, Respondent or the monitor shall notify the Board in writing of the reasons the monitor is unable to complete his/her review or report by that date, and the Board, for good cause shown, shall extend the deadline for completion of the review and report.
- 8) The terms and provisions of Respondent's contract with the monitor shall be incorporated into this Settlement Agreement by reference. Respondent's failure to comply with any terms of the contract shall constitute a violation of the terms of this Settlement Agreement. It is the responsibility of Respondent to provide information to the monitor in a timely and complete manner and to assure that all written reports setting forth the findings of the monitor are timely transmitted to the Board on a quarterly basis.

- F. Unannounced visits to Respondent's practice by the Board's investigator or designee may be conducted at any time during the monitoring period during normal operating hours in an unobtrusive manner so as not to interfere with Respondent's ordinary practice. During the visits, the Board's investigator or designee will be authorized to examine, inspect and to obtain copies of scheduling documentation, treatment records, billing records and to review and request copies of any other documentation of Respondent's chiropractic practice that the investigator deems appropriate to complete the inspection.
- G. Respondent shall bear all costs of evaluation, and reporting required by this *Settlement Agreement*, but he shall be permitted to share such costs with third parties.
- H. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of the *Settlement Agreement* to any current employer for whom Respondent performs services as a chiropractor and directly or indirectly involves patient care, or work that requires a chiropractic license.
- I. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of this *Settlement Agreement* and the *Monitoring Agreement* to any employer to which Respondent may apply for work as a chiropractor and directly or indirectly involves patient care, or work that requires a chiropractic license.

9. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 316-A:22, II (c), and a separate and sufficient basis for further disciplinary action by the Board.
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider the fact that discipline was imposed by this *Settlement Agreement* as a factor in determining appropriate discipline should any further misconduct be proven against Respondent be proven in the future.
11. No content in this *Settlement Agreement* shall constitute a statement by Respondent that is admissible in any Court or other proceeding for any purpose.
12. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
13. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
14. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein or in the Notice of Hearing issued March 8, 2017, nor proceed with any formal adjudicatory process based upon the results of any other proceedings based upon the facts described herein or in the Notice of Hearing issued March 8, 2017.

15. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
16. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this agreement.
17. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
18. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
19. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.
20. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

**FOR RESPONDENT**

Date: 7/17/17

  
Shawn D. Shapiro, D.C.  
Respondent

Date: 7/19/17

  
Adam Pignatelli, Esq.  
Counsel for Respondent

**FOR THE BOARD/\***

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: July 20, 2017

  
(Signature)

  
(Print or Type Name)  
Authorized Representative of the  
New Hampshire Board of Chiropractic Examiners

/\*Board members, recused:

Tamara Lovelace, D.C.