

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

CHIROPRACTIC EXAMINERS

**In Re: Clarence Meyer,
Lic. #461-A**

Docket No.: 2022-CHIRO-001

**ORDER OF EMERGENCY
SUSPENSION – 02/25/22**

I. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 11/16/21, the Board of Chiropractic Examiners ("Board") issued a Show Cause Order approving Clarence Meyer ("Licensee") for a chiropractic license based upon the information at its disposal at that time but noting its concern with certain allegations learned. The primary purpose of the non-disciplinary hearing had been to obtain clarification as to why he failed to disclose on his application that he was being investigated by the New Hampshire State Police for inappropriately touching two female clients. After denying a Motion for Reconsideration on its Show Cause Order that had been filed by the Office of Professional Licensure and Certification, Division of Enforcement ("OPLC Enforcement") in December of 2021, the Board ordered that OPLC Enforcement investigate the Licensee with respect to the aforementioned allegations. During its investigation, OPLC Enforcement learned that the Hillsborough County Attorney's Office had filed charges against the Licensee for sexual assault. The Board then held an emergency meeting on 02/25/22 to determine whether or not to emergently suspend the Licensee's license pursuant to RSA 541-A:30, III and N.H. Code Admin. R., Ch 208.02 ("Rules"). This Order follows. Pursuant to Rule 208.02(a):

Upon the unanimous vote of the board that public health, safety or welfare requires emergency action, the board shall immediately and without a hearing

suspend a license by issuing a written order of suspension incorporating the finding.

On 02/25/22, Nikolas K. Frye, Esq., was appointed to act as presiding officer under Rule 207.01.

II. EVIDENCE PRESENTED AND CONDUCT OF HEARING:

This Board was presented with 1) a Confidential Memorandum from the Office of Professional Licensure and Certification, Division of Enforcement dated 02/22/22; 2) a New Hampshire State Police Continuation of Investigative Report: Interview of Dr. David Letellier 05/18/21; and 3) brief offer of proof from Michael Porter, Esq., Investigations Bureau Chief, OPLC- Division of Enforcement.¹ The Board also takes official notice of the documents, exhibits, testimony, pleadings and its decision in the Show Cause matter involving the Licensee held before the Board on or about 11/04/21. A review of the evidence presented, and the reasonable inferences taken there from, allows the Board to find as follows below.

The Licensee was previously licensed in the State of New Hampshire as a Chiropractor since 1977 but had allowed his license to lapse in June of 2021. When the Licensee applied for licensure by endorsement in September of 2021, the Board scheduled a show cause hearing because it had learned the Licensee did not report on his application that he was the focus of a State Police investigation into whether he inappropriately touching two female patients. OPLC Enforcement intervened to present evidence regarding the allegations and to highlight that the Licensee failed to disclose the investigation on his application.

After a hearing on the merits on 11/04/21, the Board issued an order granting Licensee's license but noting "[t]he Board finds that the allegations of the victims are extremely troubling, but allegations alone are insufficient evidence upon which to deny an Applicant a license in this situation." Ord. of

¹ Attorney Porter was not sworn in because he is subject to Rule 3.3 of the New Hampshire Rules of Professional Conduct. The Board fits the definition of "tribunal" under rule 1.0(m). The emergency meeting also does not fit the definition of "adjudicative proceeding" under RSA 541-a.

11/16/21 at 3. The evidence before the Board as to the allegations of the inappropriate touchings was limited because the focus of the hearing was on whether the Licensee failed to disclose the investigation on his application. The Board summarized that evidence as follows:

two former female victims/patients, who spoke to each other, made certain allegations against the Applicant that they reported to the police. The Applicant denies the victims' allegations, barring one, and has provided practice-related explanations for the other six allegations. This evidence is provided within the context that nearly six months have passed since the Applicant was interviewed by the New Hampshire State Police and no charges have been brought, though the case remains open.

Id. at 3.

The 11/04/21 Order explained that “given the evidence currently at its disposal, [...] [it] does not find ... [the] aforementioned acts, when viewed in light of the Applicant's practice-related explanations, disqualify the Applicant from obtaining a license.” *Id.* at 4. The Board also found that it could not determine that the Licensee had knowingly provided false information by omitting mention of the police investigation from his application because the language of the question pertaining to investigations was not clear as to what was required. *Id.* at 5. OPLC Enforcement later filed a Motion to Reconsider the Board's 11/16/21 order, which was denied; however, the Board voted to have OPLC Enforcement investigate the matter further.

On or about 02/01/22, OPLC Enforcement learned that on 12/27/21 the Hillsborough County Attorney's Office had charged the Licensee with two counts of Class A Misdemeanor sexual assault. The County Attorney's office explained that the charges related to allegations concerning one of the two alleged victims at the center of the Board's 11/04/21 hearing, and that the Licensee is currently out on personal recognizance. Attorney Michael Porter clarified for the Board that the first charge related to allegations that the Licensee had put his hands under the pants of one of the alleged victims and touched her private area during a session. The second charge related to the Licensee allegedly rubbing one of the victim's breast in a circular motion during a session involving work on her spine.

At today's meeting, the Board was also presented with a 07/01/21 interview conducted by the State Police with Dr. David Letellier, the Board's investigator.² Although the interview predates the 11/04/21 hearing, it was not presented as evidence during it since the contents were not the focus of the hearing. This interview provides an experienced chiropractor's opinion on whether there are legitimate practice reasons for why the Licensee allegedly touched the reported victims in certain ways. Unlike the Board at its 11/04/21 hearing, Dr. Letellier had the benefits of hearing those allegations directly from the trooper who had interviewed the victims and the ability to ask clarifying questions of the officer. In relevant part to this order, Dr. Letellier explains 1) "there would be a medical reason for a chiropractor to make skin-to-skin contact with a patient's buttocks, but goes on to explain that this contact will be through use of a thumb to release a muscle, and would *not* involve full-hand contact", *id.* at 2 (13 of 15) (emphasis added.); 2) "there is no reason for a chiropractor to unzip a patient's pants under any context", *id.* ; 3) "there would never be a situation in which he would make contact with a woman's vagina, inadvertent or otherwise." *id.* ; and 4) "there would be no reason to rub a patient's chest and/or stomach after adjusting their spine", *id.* at 3 (14 of 15). The context of the interview when considered with Attorney Michael Porter's offer of proof elucidates that one of the alleged victims reported to the interviewing trooper that the Licensee had, while performing chiropractic medicine on her, unzipped her pants, contacted her vagina, and rubbed her chest and/or stomach after an adjustment of the spine.

III. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all the evidence, the Board unanimously finds that there is a reasonable basis for emergently suspending the Licensee's license. The new evidence presented to the Board, namely Dr. Letellier's interview and knowledge that the Hillsborough County Attorney has determined it has cause to move forward with charges for sexual assault, calls into question the Licensee's testimony at the

² Dr. Letellier has investigated multiple claims of inappropriate contact by chiropractors, including sexual assaults. Interview of 07/01/21 at 1 (12 of 15).

11/04/21 wherein he denied wrongdoing and provided practice related explanations. The Board also finds there are sufficient facts indicating that the Licensee has engaged in serious professional misconduct by inappropriately touching one or more female patients while practicing as a chiropractor in violation of RSA 316-A:22, II(c) and/or (d).³ Due to the nature of the Licensee's actions on their face, OPLC Enforcement has demonstrated an imminent threat to the public health, safety, and welfare, so as to warrant immediate emergency suspension of the Licensee's license pursuant to RSA 541-A:30(III) and Rule 208.02.

IV. CONCLUSION AND DECISION:

Pursuant to RSA 541-A:30(III) and Rule 208.02, the Board hereby orders the immediate emergency suspension of Clarence Meyer's license as a chiropractor in the State of New Hampshire, pending a follow up emergency hearing in this matter to be scheduled within 10 days. A Notice of Emergency Hearing with an appropriate date/time is served contemporaneously with this Order.

DATED: 2/25/2022

_____/s/ Nikolas K. Frye, Esq. _____
Hearings Examiner
Authorized Representative of the Board of
Chiropractic Examiners-
New Hampshire Office of
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³ The Board is not concluding that there are no other bases for professional misconduct stemming from this transaction or occurrence. These are simply the bases which require an immediate suspension of the Licensee's license to protect the public health, safety, and welfare.