

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

AUG 23 2004

In the Matter of)
IVAN G. CARNEY, D.C.)
Kansas License No. 01-03680)
_____)

Docket No. 04-HA-47
KANSAS STATE BOARD OF
HEALING ARTS

FINAL ORDER

NOW ON THIS Fourteenth Day of July 2004, this matter comes on for review of the Initial Order issued July 20, 2004. Respondent Ivan G. Carney, D.C. does not appear. Stacy L. Cook, Litigation Counsel, appears for the Board.

Having the agency record before him, the Board orders as follows:

1. The findings of fact, conclusions of law and order by Presiding Officer Gary L. Counselman, D.C. are adopted as the Final Order, except as follows:

2. Paragraph 10 is amended. Respondent should be censured and fined in the amount of \$1500 for engaging in dishonorable conduct. This fine should be paid in 10 equal monthly installments, commencing 30 days following the effective date of this order.

11. The Presiding Officer finds that Respondent should be censured for engaging in unprofessional conduct. Additionally, Respondent's license is limited. Respondent shall not practice the healing arts unless he completes a course approved by the Board regarding patient records within 180 days following the effective date of this order.

IT IS, THEREFORE, ORDERED that Ivan G. Carney, D.C. is hereby censured.

IT IS FURTHER ORDERED that Ivan G. Carney, D.C. is hereby fined in the amount of \$1500 for engaging in dishonorable conduct. This fine shall be paid in 10 equal monthly installments, due on the first day of each month, commencing 30 days following the effective date of this order.

IT IS FURTHER ORDERED that the license of Ivan G. Carney is limited; he shall not practice the healing arts in this state unless he completes a course approved by the Board regarding patient records within 180 days following the effective date of this order.

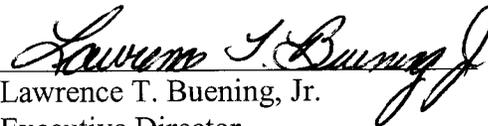
IT IS FURTHER ORDERED that the fines ordered herein shall become immediately due and payable upon written notice by the Board to Ivan G. Carney stating that payment has not been received as ordered.

IT IS FURTHER ORDERED that the costs of this proceeding are assessed against Respondent in the amount of \$455.75, and that such costs shall be paid in full within 30 days following the effective date of this order.

PLEASE TAKE FURTHER NOTICE that this is a final order. A final order is effective upon service. A party to an agency proceeding may seek judicial review of a final order by filing a petition in the District Court as authorized by K.S.A. 77-601, et seq. Reconsideration of a final order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the final order. A copy of any petition for judicial review must be served upon the Board's Executive Director at 235 SW. Topeka Blvd., Topeka, KS 66603.

Dated this 23^d Day of August 2004.

Kansas State Board of Healing Arts


Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 23rd day of August 2004 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Ivan G. Carney, D.C.
P.O. Box 128
Mulvane, KS 67110

And a copy was hand-delivered to the office of

Stacy L. Cook
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603



FILED

JUL 21 2004

**KANSAS STATE BOARD OF
HEALING ARTS**

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

In the Matter of)
IVAN G. CARNEY, D.C.)
Kansas License No. 01-03680)
_____)

Docket No. 04-HA-47

INITIAL ORDER

NOW ON THIS Eighth Day of July 2004, this matter comes on for hearing. Respondent Ivan G. Carney, D.C. appears in person and without counsel. Stacy L. Cook, Litigation Counsel, appears for the Board.

Having heard the testimony of witnesses, and with the agency record before him, the Presiding Officer finds, concludes and orders as follows:

1. The Board issued a license to Respondent in January 1984, allowing him to engage in the practice of chiropractic.
2. Patient N.W. sought treatment from Respondent on August 29, 2000 following a motor vehicle accident resulting in pain in his back and left shoulder. N.W. was a 71-year-old male at that time. Respondent had treated this patient on prior occasions for other ailments.
3. N.W.'s motor vehicle personal injury insurance coverage was with American Family Insurance. He completed the appropriate authorizations to allow Respondent to disclose necessary information to American Family Insurance for reimbursement purposes. Respondent told N.W. that the treatment would be covered by insurance.

4. Despite multiple requests for treatment records, Respondent did not furnish patient records to the insurer. Ultimately, the insurer denied reimbursement of the claims. The reason for the denial was Respondent's failure to produce records to justify the claims.

5. Respondent did not advise N.W. that the insurer had denied reimbursement. Respondent continued to treat N.W. through October 2001 without presenting a bill for the services, and in May 2002 presented an invoice to N.W.'s attorney for \$8,593.

6. Expert testimony establishes that the patient record that Respondent created in his treatment of N.W. does not meet the standards of the profession, nor does it comply with K.A.R. 100-24-1. Respondent's record consists primarily of a checklist. This checklist does not adequately describe the practitioner's analysis of the patient's condition. The standard of care for documenting the patient's care is to describe the patient's subjective complaint, the practitioner's objective analysis that includes a description of examination results and diagnostic findings, the practitioner's assessment which is the combination of the subjective and objective elements, and a plan of care which includes both short term and long term goals. The record of N.W.'s treatment does not provide sufficient information to allow others who might necessarily rely upon that record to understand the complete nature of N.W.'s condition and justification for the aggressive chiropractic treatment that Respondent provided. The Presiding Officer concludes that Respondent's patient record for N.W.'s would not allow a reasonable and prudent practitioner of the healing arts to determine pertinent and significant information concerning N.W.'s condition and treatment.

7. The Presiding Officer finds and concludes that Respondent failed to create and maintain an adequate patient record for patient N.W., and has engaged in unprofessional conduct as defined at K.S.A. 65-2837(b)(25).

8. The Presiding Officer further finds and concludes that Respondent failed to furnish a copy of N.W.'s patient record to a legally designated representative, and that this constitutes a prima facie case of dishonorable conduct. Respondent has the burden to show that his conduct was justified. Respondent does not present mitigating circumstances that justify his conduct, and thus the Presiding Officer finds and concludes that Respondent engaged in dishonorable conduct.

9. The petition alleges that Respondent provided excessive treatment and services. The Presiding Officer relies upon his own professional knowledge to note that the patient record does not justify the extent of treatment. However, the evidence is not sufficient to find that the treatment was not necessary.

10. The Presiding Officer finds that Respondent should be censured and fined in the amount of \$1000 for engaging in dishonorable conduct. This fine should be paid in 10 equal monthly installments, commencing 30 days following the effective date of this order.

11. The Presiding Officer finds that Respondent should be censured and fined in the amount of \$500 for engaging in unprofessional conduct. The fine should be stayed for a period of 180 days. If Respondent completes a course approved by the Board regarding patient records within the 180 days, the fine shall be abated. This fine should be paid in 10 equal monthly installments, commencing 30 days following the expiration of the period in which the fine is stayed.

IT IS, THEREFORE, ORDERED that Ivan G. Carney, D.C. is hereby censured.

IT IS FURTHER ORDERED that Ivan G. Carney, D.C. is hereby fined in the amount of \$1000 for engaging in dishonorable conduct. This fine shall be paid in 10 equal monthly installments, due on the first day of each month, commencing 30 days following the effective date of this order.

IT IS FURTHER ORDERED that Ivan G. Carney is hereby fined in the amount of \$500 for engaging in unprofessional conduct. The fine is stayed for a period of 180 days from the effective date of this order. If Respondent completes a course approved by the Board regarding patient records within the 180 days, the fine shall be abated. This fine shall be paid in 10 equal monthly installments, due on the first day of each month, commencing 30 days following the expiration of the period in which the fine is stayed.

IT IS FURTHER ORDERED that the fines ordered herein shall become immediately due and payable upon written notice by the Board to Ivan G. Carney stating that payment has not been received as ordered.

IT IS FURTHER ORDERED that the costs of this proceeding are assessed against Respondent, and that such costs shall be paid in full within 30 days following the effective date of this order.

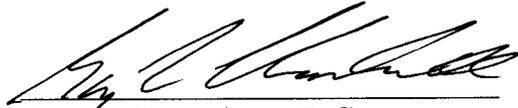
PLEASE TAKE NOTICE that this is an Initial Order. A party to an agency proceeding may seek review of an Initial Order by filing a petition for review within 15 days following service of the Initial Order. Any such petition must be filed with the Executive Director at 235 S. Topeka Blvd., Topeka, KS 66603.

PLEASE TAKE FURTHER NOTICE that Board will, on its own motion, review this Initial Order at its regularly scheduled meeting in the Board office, 235 S.

Topeka Blvd., Topeka, Kansas, on August 14, 2004 at 11:00 a.m. or as soon thereafter as the matter can be heard, and at the conclusion of the review issue a Final Order. Upon conducting review, the Board may exercise all of the decision-making authority as if it had heard the matter itself. Any party may file a brief with the Board's Executive Director on or before July 30, 2004. No further notice of hearing will be given.

Dated this 20th Day of July 2004.

Kansas State Board of Healing Arts



Gary L. Counselman, D.C.
Presiding Officer

Certificate of Service

I certify that a true copy of the foregoing Initial Order was served this 21ST day of July 2004 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Ivan G. Carney, D.C.
P.O. Box 128
Mulvane, KS 67110

And a copy was hand-delivered to the office of

Stacy L. Cook
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603