

STATE OF VERMONT
BOARD OF CHIROPRACTIC

IN RE:)
ODIN THOMAS WILLMOTT) DOCKET NO. CH 01-0803
License No: 006-0001048)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent, Odin Thomas Willmott, D.C., who stipulate and agree as follows:

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 of Chiropractic Laws and Rules ("BCLR"); 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. 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).

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. Chiropractic records shall be legibly maintained and shall contain sufficient information to identify the patient; support the diagnosis/assessment; substantiate the treatment; and document the course and results of treatment accurately by including, at a minimum, patient histories, examination results, test results, records of substances dispensed, administered, or recommended, reports of consultations and hospitalizations, and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient. Initial and follow-up services (daily records) shall consist of documentation of current status and treatment rendered. All patient records shall include patient history; condition presented or wellness care, or both; and examination findings, including x-rays when clinically indicated. BCLR 6.1.

Facts

6. Respondent Odin Thomas Willmott is a Chiropractic Physician holding license number 006-0001048 issued by the State of Vermont. Respondent's license was originally

issued on June 2, 1999 and Respondent's license has a current expiration date of September 30, 2004.

7. At all times relevant, Respondent practiced at Lyndonville Family Chiropractic ("LFC") in Lyndonville, Vermont.

8. On or about May 31, 2000, K.M-R. began receiving treatment from the Respondent at LFC for back pain caused by office work. K.M-R. was treated by the Respondent for approximately three months after the initial visit in May 2000.

9. K.M-R. returned to LFC and was treated by the Respondent's wife for the same back pain symptoms on or about February 22, 2001.

10. On or about June 4, 2003, K.M-R. returned to the Respondent for the same back pain symptoms and for wrist symptoms that were work related. At this time K.M-R. also complained of headaches, mood swings and back pain symptoms associated with her menstrual cycle. The Respondent believed that those symptoms along with other symptoms commonly associated with menstrual cycles, constituted a complaint of abdominopelvic problems. The Respondent's notes do not reflect any indication of the term abdominopelvic, however.

11. Respondent inquired into the symptoms associated with K.M-R.'s menstrual cycles and the Respondent suggested an internal procedure for potential relief of the complained of symptoms.

12. Respondent's records do not document that he questioned K.M-R. about her complete abdominopelvic history before suggesting the internal procedure, but the Respondent alleges that it is his established practice to ask patients about the past history of abdominopelvic tension, findings on gynecological exams, painful intercourse or previous treatments related to the pelvic/vaginal area. However, the Respondent has no independent recollection as to whether he followed his established procedure in this instance, nor do his patient records reflect that he attempted to rule out, by either patient history or referral to a gynecologist, other potential causes of K.M-R.'s pain.

13. The Respondent's notes do not indicate that diet factors were discussed as an alternative treatment for K.M-R.'s P.M.S.-related pain. His notes do indicate that regular chiropractic adjustments were made and therapy applied to the lumbar region prior to Respondent suggesting the internal procedure. The Respondent alleges that because K.M-R.'s lumbar and sacral regions had been assessed and adjusted on numerous prior visits, and because it had previously been determined that diet factors were not an issue in her case, the internal procedure was presented to K.M-R. as an option because of its proven efficacy on other patients.

14. During a June 13, 2003 visit, Respondent referred to the day of the internal procedure as "the big day."

15. Prior to June 18, 2003, the day the internal procedure was performed, there was not any notation made by the Respondent in K.M-R.'s records regarding the existence of K.M-R.'s headaches. However, K.M-R. did note in a Change in Condition Report of June 6, 2003 that

she filled out, that she was experiencing headaches. The Respondent's notes on June 18, 2003 indicate the existence of headaches and P.M.S. symptoms.

16. The Respondent performed the internal procedure on or about June 18, 2003.

17. At no time prior to performing the procedure did the Respondent obtain specific written informed consent from K.M-R. for the internal procedure. However, on June 4, 2003 K.M-R. did sign a general consent that provided "I authorize the Doctor to treat my condition as he or she deems appropriate through the use of manipulation and soft tissue techniques throughout my body."

18. On or about June 18, 2003, the date of the internal procedure, the following occurred:

- a. Respondent failed to provide proper gowning for K.M-R. Instead the Respondent conducted the procedure with K.M-R.'s skirt pulled up; he did not provide a drape over the skirt. The Respondent alleges that he offered K.M-R. a gown, but instead used the long skirt she was wearing as draping.
- b. K.M-R.'s leg was bent and K.M-R.'s knee may have been touching the Respondent's leg.
- c. After the procedure, the Respondent offered to dispose of and then did dispose of the used tissues that K.M-R. had used to wipe away excess lubricant.

19. The billing records for K.M-R. indicate that the Respondent billed worker's compensation for the Respondent's treatment on June 18, 2004. Worker's compensation was billed for chiropractic manipulations (code 98941) and unattended electrical stimulus (code 97041). Respondent's notes only indicate that the chiropractic manipulations were performed, but it is undisputed that the interferential electrical therapy was performed. Respondent mistakenly did not circle the therapy in his notes. The internal procedure had been performed to alleviate K.M-R.'s P.M.S.-related (non-work related) symptoms and was not billed to worker's compensation. Neither Respondent, nor his wife (who is a partner in the practice) ever bill any of their patients for the internal procedure or any other soft tissue therapy.

20. None of the facts as listed above should be construed as an allegation that the Respondent acted in a sexually inappropriate or harassing manner. Nor should any of the charges listed below be construed as a finding that the Respondent acted in a sexually inappropriate or harassing manner.

Charges

21. The above acts and/or omissions constitute unprofessional conduct in that they 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);
- b. 26 V.S.A. §541(b)(10) (Conduct which evidences unfitness to practice chiropractic);
- 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. BCLR 6.1 (Minimum Record Keeping Standards).

Understandings

22. Respondent understands that the Board of Chiropractic must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.

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

24. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

25. Respondent voluntarily waives his right to charges and a contested hearing before the Board of Chiropractic.

26. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. Respondent's actions described above demonstrate grounds for discipline because Respondent violated:

- (i) 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession as more particularly described below);
- (ii) 26 V.S.A. §541(b)(10) (Conduct which evidences unfitness to practice chiropractic) in that Respondent
 - (a) was insensitive in referring to an upcoming procedure as "the big day";
 - (b) employed poor protocol with respect to draping and gowning his patient and disposal of used tissues; and

- (c) failed to document specific consent to a uniquely sensitive procedure;
- (iii) 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);
- (iv) BCLR 6.1 (Minimum Record Keeping Standards).

B. The Board hereby **CONDITIONS** the Respondent's chiropractic license for a minimum period of **TWO (2) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Record-Keeping Course.

Respondent shall, at his own expense, complete an eight (8) hour record-keeping course approved in advance by the Board or the Board's designee. Respondent must submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. Respondent shall complete the course within six (6) months of the date of entry of this Order.

(2) Audits.

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 proper billing practices, written 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 twenty percent (20%) of Respondent's active files.

The licensed chiropractor performing the above audits shall be available to meet with the Board, or the Board's designee, upon request. Respondent shall take any steps, corrections and/or changes as suggested by the auditor in a timely manner.

(3) Written Policy.

Before administering the internal procedure to any patients, the Respondent must submit to the Board a written policy outlining the steps and protocols involved with the procedure. Until the written policy is approved by the Board, the Respondent is prohibited from performing the procedure on any patients.

(4) Violation of the Consent Order.

If Respondent violates the terms of this Stipulation and Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during

the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(5) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on his license. Respondent shall demonstrate, to the Board's satisfaction that Respondent fully complied with all the terms of this Consent Order.

C. 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).

D. The Respondent shall bear all costs associated with compliance of this Stipulation and Consent Order.

E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 3/31/04

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Edward G. Adrian
State Prosecuting Attorney

AGREED TO:

Dated: 3/20/04

ODIN THOMAS WILLMOTT
RESPONDENT

By: [Signature]
Odin Thomas Willmott

APPROVED AS TO FORM:

Dated: 3/30/04

RESPONDENT'S ATTORNEY

By: [Signature]
John D. Monahan, Jr., Esq.

APPROVED AND SO ORDERED:

Dated: 5/4/04

VERMONT BOARD OF CHIROPRACTIC

By: [Signature]
Chairperson

Date of Entry: 5/10/04

**STATE OF VERMONT
BOARD OF CHIROPRACTIC**

IN RE:	)	
ODIN THOMAS WILLMOTT	)	Docket No. CH 01-0803
License No: 006-0001048	)	

SPECIFICATION OF CHARGES

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 of Chiropractic Laws and Rules ("BCLR"); 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. In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use 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).
4. Notwithstanding the provisions of 3 V.S.A. §129a(a)(10), in the course of practice, failure to use and exercise that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent chiropractor engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred. 26 V.S.A. §541(b)(14).
5. 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).
6. 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).
7. Chiropractic records shall be legibly maintained and shall contain sufficient information to identify the patient; support the diagnosis/assessment; substantiate the treatment; and document the course and results of treatment accurately by including, at a minimum, patient histories, examination results, test results, records of substances

dispensed, administered, or recommended, reports of consultations and hospitalizations, and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient. Initial and follow-up services (daily records) shall consist of documentation of current status and treatment rendered. All patient records shall include patient history; condition presented or wellness care, or both; and examination findings, including x-rays when clinically indicated. BCLR 6.1.

8. 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).

Facts

9. Respondent Odin Thomas Willmott is a Chiropractic Physician holding license number 006-0001048 issued by the State of Vermont. Respondent's license was originally issued on June 2, 1999 and Respondent's license has a current expiration date of September 30, 2004.

10. At all times relevant, Respondent practiced at Lyndonville Family Chiropractic ("LFC") in Lyndonville, Vermont.

11. On or about May 31, 2000, K.M-R. began receiving treatment from the Respondent at LFC for back pain caused by office work. K.M-R. was treated by the Respondent for approximately three months after the initial visit in May 2000.

12. K.M-R. returned to LFC and was treated by the Respondent's wife for the same back pain symptoms on or about February 22 and 23, 2001.

13. On or about June 4, 2003, K.M-R. returned to the Respondent for the same back pain symptoms and for cysts on K.M-R's wrists caused by office work, and additionally for migraine headaches and mood swings K.M-R. was suffering from due to P.M.S.

14. Respondent inquired into K.M-R.'s menstrual cycles and the Respondent suggested an internal procedure which would release pressure points in K.M-R.'s body with the goal of alleviating K.M-R.'s P.M.S. symptoms.

15. At no time did the Respondent question K.M-R. about K.M-R.'s complete abdominopelvic history before suggesting the treatment.

16. At no time did the Respondent discuss or prescribe alternative treatments for K.M-R.'s P.M.S.-related pain before suggesting the treatment, such as regular chiropractic adjustments or diet change.

17. At no time did the Respondent substantiate in K.M-R.'s records the internal procedure as treatment flowing from K.M-R.'s symptoms. Additionally, prior to June 18, 2003, the day the internal procedure was performed, there was not even any notation made by the Respondent in K.M-R.'s records regarding the existence of K.M-R.'s headaches.

18. At no time did the Respondent discuss and require that K.M-R. undergo a complete gynecological exam and pap test prior to the Respondent conducting the internal treatment in order to rule out other causes of K.M-R.'s pain, i.e. cancer, cysts, pregnancy, uterine fibroids, endometriosis.

19. K.M-R. agreed to the internal procedure on or about June 13, 2003 after being questioned by the Respondent about it during each visit subsequent to the June 4, 2003 visit. These subsequent visits were made on or about June 6, 2003, June 11, 2003 and June 13, 2003.

20. During the June 13, 2003 visit, the Respondent informed K.M-R. that today was the "big day", referring to the day of the internal procedure. K.M-R. agreed for the procedure to be performed the following week. The Respondent performed the procedure on or about June 18, 2003.

21. At no time prior to performing the procedure did the Respondent obtain written informed consent from K.M-R.

22. On or about June 18, 2003, the date of the internal procedure, the Respondent conducted himself unprofessionally in that the Respondent committed the following:

- a. The Respondent requested that K.M-R. remove K.M-R.'s underwear without the Respondent leaving the room.
- b. The Respondent failed to provide proper gowning for K.M-R. The Respondent conducted the procedure with K.M-R.'s skirt pulled up. The Respondent did not provide a drape over the skirt.
- c. The Respondent failed to order K.M-R. to lie in the lithotomy (child-bearing) position. The Respondent conducted the procedure with K.M-R. seated on the table. K.M-R.'s leg was bent and K.M-R.'s knee was touching the Respondent's leg.
- d. The Respondent instructed K.M-R. to hand to the Respondent the used tissues K.M-R. had used to wipe away excess lubricant following the procedure.
- e. After the procedure, the Respondent failed to knock on the door before entering K.M-R.'s room and walked in on K.M-R. while K.M-R.'s skirt was lifted.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

23. The billing records for K.M-R. indicate that the Respondent incorrectly billed worker's comp. for the internal procedure. The internal procedure had been performed to alleviate K.M-R.'s P.M.S.-related symptoms. Upon information and belief, K.M-R.'s P.M.S.-related symptoms were not work-related.

Charges

24. 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);
- b. 3 V.S.A. §129a(a)(10) (In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use 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);
- c. 26 V.S.A. §541(b)(14) (Notwithstanding the provisions of 3 V.S.A. §129a(a)(10), in the course of practice, failure to use and exercise that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent chiropractor engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred);
- d. 26 V.S.A. §541(b)(10) (Conduct which evidences unfitness to practice chiropractic);
- e. 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);
- f. BCLR 6.1 (Minimum Record Keeping Standards);
- g. 3 V.S.A. §129a(a)(7) (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).

STATE OF VERMONT

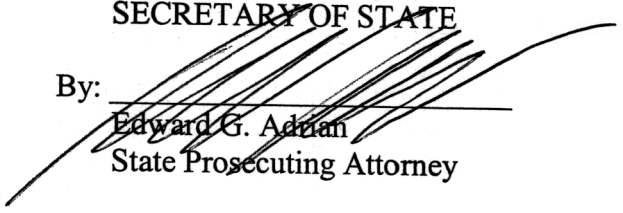


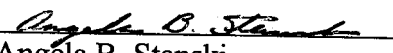
Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

WHEREFORE, the license of Odin Thomas Willmott should be revoked, suspended or otherwise disciplined.

Dated this 1st day of December, 2003 at Montpelier, Vermont.

STATE OF VERMONT
SECRETARY OF STATE

By: 
Edward G. Adrian
State Prosecuting Attorney

By: 
Angela B. Stanski
Law Clerk

ch.willmott.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602