

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS

IN RE: THE LICENSE TO PRACTICE CHIROPRACTIC
HELD BY TERRY G. HEISNER, D.C.,
806 JEFFERSON STREET
PADUCAH, KENTUCKY 42001

AGREED ORDER

Come the parties to this action, the Kentucky Board of Chiropractic Examiners, and Terry G. Heisner, D.C., and Dennis L. Null, counsel for Terry G. Heisner, D.C., and hereby agree as follows:

1. That a "Notice and Complaint" was issued by the Board against Terry G. Heisner, D.C., on September 23, 1991, which Notice and Complaint alleged the following:

1. That on or about September 5, 1985, you treated and examined a female patient by the name of Jackie Curtis; that during the examination you inserted your fingers into her vagina; that you have alleged that you so inserted your fingers for the purpose of making a pelvic examination; that, in doing so, you violated KRS 312.017(2), in that you did not perform said examination by the use of methods taught in accredited chiropractic colleges as stated in KRS 312.085; that your failure to use such methods included, but was not limited to, the following: (1) You did not advise the patient, in advance, that you were going to conduct such an examination; (2) you had no nurse or other assistant present when you performed the examination; (3) you did not have a sink in the examination room; (4) you did not wash your hands before performing the examination; (5) you did not use a proper examination table with stirrups in performing the examination; and

(6) you did not wear gloves or other acceptable protective covering when you performed the examination.

The violation alleged hereinabove constitutes a violation of KRS 312.150(1)(f), in that your conduct was unethical. It was unethical inasmuch as KRS 312.150(2) provides that unprofessional (unethical) conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic or the willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. By your actions, and your lack of adherence to the methods of examination required by KRS 312.017(2), you did so depart from and failed to conform to the minimal standards of acceptable chiropractic practice, and you showed willful and careless disregard for the health, welfare, and safety of your patient. You additionally demonstrated gross ignorance of, or incompetence in, the practice of chiropractic, as provided in KRS 312.150(2)(a), which additionally constitutes a violation of KRS 312.150(f).

The above-stated violations constitute grounds for the Board to take disciplinary action against your license, pursuant to KRS 312.163(1) and (2). The violation of KRS 312.017(2) additionally constitutes a violation of 201 KAR 21:015, which delineates the minimum standards of professional and ethical conduct which all licensees shall maintain, in that in Section 1(5) thereof, it is provided that a licensee shall practice his profession in accordance with the provisions of KRS Chapter 312 and the Board's regulations. Such violation of 201 KAR 21:015, Section 1(5), represents a violation of KRS 312.150(f) and (g), which violation constitutes grounds for the Board to take disciplinary action against your license to practice chiropractic pursuant to KRS 312.163(1) and (2).

2. That on or about October 8, 1990, you treated and examined a female patient by the name of Lee Shelby; that during the examination you inserted your fingers into her vagina; that you have alleged that you so inserted your fingers for the purpose of making a pelvic examination; that, in doing so, you violated KRS 312.017(2), in that you did not perform said examination by the use of methods taught in accredited chiropractic colleges as stated in KRS 312.085; that your failure to use such methods included, but was not limited to, the following: (1) You did not advise the patient, in advance, that you were going to conduct such an examination; (2) you had no nurse or other assistant present when you performed the examination; (3) you did not have a sink in the examination room; (4) you did not wash your hands before performing the examination; (5) you did not use a proper examination table with stirrups in performing the examination; and (6) you did not wear gloves or other acceptable protective covering when you performed the examination.

The violation alleged hereinabove constitutes a violation of KRS 312.150(1)(f), in that your conduct was unethical. It was unethical inasmuch as KRS 312.150(2) provides that unprofessional (unethical) conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic or the willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. By your actions, and your lack of adherence to the methods of examination required by KRS 312.017(2), you did so depart from and failed to conform to the minimal standards of acceptable chiropractic practice, and you showed willful and careless disregard for the health, welfare, and safety of your patient. You additionally demonstrated gross ignorance of, or incompetence in, the practice of chiropractic, as provided in KRS 312.150(2)(a), which additionally constitutes a violation of KRS 312.150(f).

The above-stated violations constitute grounds for the Board to take disciplinary action against your license, pursuant to KRS 312.163(1) and (2). The violation of KRS 312.017(2) additionally constitutes a violation of 201 KAR 21:015, which delineates the minimum standards of professional and ethical conduct which all licensees shall maintain, in that in Section 1(5) thereof, it is provided that a licensee shall practice his profession in accordance with the provisions of KRS Chapter 312 and the Board's regulations. Such violation of 201 KAR 21:015, Section 1(5), represents a violation of KRS 312.150(f) and (g), which violation constitutes grounds for the Board to take disciplinary action against your license to practice chiropractic pursuant to KRS 312.163(1) and (2).

2. That said Notice and Complaint provided for a Hearing to be held on the charges before the Kentucky Board of Chiropractic Examiners on the 10th day of January, 1992.

A copy of said Notice and Complaint is attached hereto.

3. That Terry G. Heisner, D.C., and his counsel, subsequently proposed terms and conditions for an Agreed Order, which Agreed Order, if approved by the Board, would resolve the charges contained in the Notice and Complaint without the necessity of a formal Hearing being held; and that the Kentucky Board of Chiropractic Examiners considered such proposed terms and conditions for an Agreed Order on December 5, 1991, and made a determination to approve same at that time.

WHEREFORE, IT IS HEREBY ORDERED AND AGREED AS FOLLOWS:

1. That Terry G. Heisner, D.C., hereby admits that, as alleged in the Counts numbered 1 and 2 in the said Notice and Complaint, he had no nurse or other assistant present when he performed the examinations; he did not have a sink in the examination room; he did not wash his hands before performing the examinations (but he claims that he did wash his hands before seeing the patients); and he did not use a proper examination table with stirrups in performing the examinations. Terry G. Heisner, D.C., hereby acknowledges that these admitted omissions constitute violations as alleged in the said Notice and Complaint. Terry G. Heisner, D.C., hereby denies the allegations contained in the Counts numbered 1 and 2 of the said Notice and Complaint, to the effect that he did not advise the patients, in advance, that he was going to conduct such examinations, and that he did not wear gloves or other acceptable protective covering when he performed the examinations (he claims he wore finger cots). However, Terry G. Heisner, D.C., hereby admits that there is sufficient evidence available to the Board upon which it could make a finding that he did indeed not advise the patients, in advance, that he was going to conduct such examinations, and that he did not wear gloves or other acceptable protective covering when he performed the examinations. Terry G. Heisner, D.C., hereby acknowledges that the failure to do each of these things would constitute violations as alleged in the said Notice and Complaint.

2. Terry G. Heisner, D.C., shall never again perform any type of gynecological or pelvic examination of any nature whatsoever in the Commonwealth of Kentucky, beginning with the date of entry of this Agreed Order.

3. Terry G. Heisner's license to practice chiropractic in the Commonwealth of Kentucky is hereby suspended for a period of one year, with three months of said suspension to be actively served and the remaining nine months to be probated for a period of five years. Said three-month period of active suspension shall begin at midnight on December 21, 1991, and it shall end at midnight on March 20, 1992. During said three-month period of active suspension, the following terms and conditions shall apply:

(a) Terry G. Heisner, D.C., shall not practice chiropractic, either directly, indirectly or in any manner whatsoever, in the Commonwealth of Kentucky;

(b) Terry G. Heisner's chiropractic offices in Paducah, Kentucky, and anywhere else in the Commonwealth of Kentucky, shall be completely closed;

(c) Terry G. Heisner, D.C., shall place, or cause to be placed, at all times during said period, signs on the premises of his chiropractic offices, which signs shall be readable from the street and shall contain wording reading either "CLOSED" or "TEMPORARILY CLOSED;"

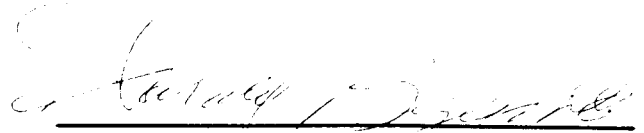
(d) Terry G. Heisner, D.C., may have an outside answering service answer the phones of his chiropractic offices in Kentucky, and, if he does so, said answering service shall inform those who call that Terry G. Heisner's Kentucky chiropractic offices are closed through March 20, 1992.

4. Terry G. Heisner, D.C., is hereby fined the sum of \$3,000, with all of said fine to be paid to the Board by the 15th day of December, 1991.

5. Terry G. Heisner's five-year period of probation, with regard to the probated nine-months portion of his one-year suspension, shall begin at midnight on December 21, 1991, and shall end at midnight on December 20, 1996. During said five-year period of probation, Terry G. Heisner, D.C., as a condition of such probation, shall not violate any federal or state law or regulation applicable to his practice of chiropractic. If Terry G. Heisner, D.C., should violate any of the terms or conditions of this Agreed Order, such violations shall be grounds for revocation of his probation and he shall thereby become subject to actively serving the balance of his one-year suspension provided for herein.

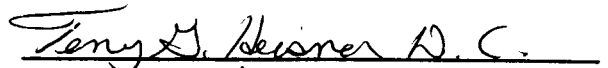
6. This Agreed Order shall be signed by Terry G. Heisner, D.C., and his counsel, Dennis L. Null, and returned to the Board on or before December 15, 1991.

THIS AGREED ORDER ENTERED THIS 5TH DAY OF DECEMBER,
1991.



Harold Byers, D.C., President
Kentucky Board of Chiropractic
Examiners

Seen and agreed to by:



Terry G. Heisner, D.C.
Licensee

December 12, 1991
Date



Dennis L. Null, Counsel for
Terry G. Heisner, D.C.

December 12, 1991
Date