

D.C. wins '1-year care contract' case

by Richard Jaffe, Esq.

Recently, there has been a spate of investigations and prosecutions around the country against subluxation-based chiropractors.

One such investigation involved Illinois chiropractor Chris Worth, D.C., who uses Chiropractic Biophysics Technique, and has all patients sign the Terms of Acceptance form developed by Chiropractic Benefit Services (CBS)

The Illinois Disciplinary Board investigated him for possible excessive fees relating to a one-year chiropractic contract for services.

After the complaint was reviewed and the initial investigation completed, the Board decided to proceed with the case, and invited Dr. Worth to appear for an "informal settlement conference."

The Board seemed concerned with the appropriateness of having the patient agree in advance to a year of chiropractic care. Such a position would have drastic implications for a large number of chiropractors throughout the country.

Worth, familiar with horror stories about board proceedings, hired me to represent him. I reviewed his records, and was impressed. Worth's records were exemplary; he documented everything.

He provided complete informed consent, advising what he was going to do, how much he was going to charge, documented his findings, took appropriate initial and follow-up X-rays.

This was far better record keeping than I usually saw in disciplinary investigations. In addition, despite being in practice only seven years, he really seemed to know what he was talking about. I felt he would be an excellent witness.

But we still had the issue of the one-year contract.

Worth helped himself by contacting two highly respected chiropractic leaders. I retained one, discussed what we needed and whether he could support us. He said we were right, and that Worth's care was completely reasonable. He produced a detailed report, as well as a number of peer-reviewed articles. It was first class job.

Armed with these reports, and prepared to do battle, we attended the hearing before the sole chiropractic member, and President of the Illinois Disciplinary Board and Board counsel.

They studied the reports and reviewed Worth's notes in detail. The Board member was also impressed by the thoroughness of Worth's documentation.

Worth explained why he recommended the one-year term and the Board member agreed with his analysis, asking Worth a few questions about his imaging work for the patient. Worth responded directly and the Board member was more impressed.

After less than an hour, they asked us to leave so they could discuss the case. We left the room and started to walk down the hall to the sitting area around 30 feet away. Before we got there, they called to us back to announce their decision. The President of the Disciplinary Board told us

that they had decided to recommend dropping the charges and closing the file. It was the fastest decision I ever received.

Being right helped a lot in obtaining this favorable result; Worth's care and his agreement with the patient were reasonable. However, it was Worth's excellent documentation, starting with the Terms of Acceptance which allowed our expert and the Board member to feel confident that the patient received proper care and informed consent, and that the contract was reasonable.

Having a decent attorney probably didn't hurt him either!

(Richard Jaffe, is a noted Houston health care attorney who has had a long and productive relationship with the chiropractic profession, as well as other alternative health care practitioners. He represented New Jersey chiropractors in a successful federal racketeering lawsuit against officers of the Department of Insurance, Fraud Division and obtained a consent agreement whereby state agents agreed not to use extortionist tactics against health care practitioners. He also successfully represented controversial Houston cancer doctor Stanislaw Burzynski in a federal criminal action brought by the FDA to incarcerate him for providing his un-approved cancer medication to patients.)