

BEFORE THE NORTH CAROLINA BOARD
OF CHIROPRACTIC EXAMINERS

N. C. BOARD OF CHIROPRACTIC
EXAMINERS

**INFORMAL SETTLEMENT
AGREEMENT**

v.

MARK COOK, D.C.,
Respondent

This INFORMAL SETTLEMENT AGREEMENT, made between the N.C. Board of Chiropractic Examiners (“Board”), acting through Richard K. Davis, Jr., D.C., in his official capacity as Secretary of the Board and Chair of the Chiropractic Review Committee (“Committee”), and MARK COOK, D.C., (Respondent), (hereafter both being “Parties”) agree, for the purposes of resolving a pending disciplinary action and potential contested case, to the following:

WITNESS THAT:

WHEREAS, Respondent had a complaint filed against him on October 12, 2018 alleging violation of N. G. Gen. Stat. §§ 90-154(b) (8) (21);

WHEREAS, Respondent was sent a copy of the Complaint on October 25, 2018, and offered the opportunity to submit a written response; and

WHEREAS, the parties met for a Probable Cause Hearing on November 29, 2018; and

WHEREAS, Board Staff and the Secretary have determined that the allegations of the Complaint, if proven, would constitute a violation of the statutes and regulations administered by the Board and require disciplinary action, and a Show Cause hearing before the Board regarding his noncompliance with a previous Board Order; and

WHEREAS, the parties wish to resolve and settle this matter without a contested case hearing;

NOW, THEREFORE, pursuant to N.C. Gen. Stat. §150B-22, which mandates that whenever possible disputes between a regulatory agency and another person that involves the person’s rights, duties or privileges be settled through informal procedure, and pursuant to N.C. Gen. Stat. §150B-41(c), which authorizes settlement of a contested case by settlement and consent order, the Parties hereby agree and stipulate as follows:

I. Jurisdiction:

The Board is an occupational licensing board of the State of North Carolina, organized under N. C. Gen. Stat. § 90-139, *et. seq.* The Board has jurisdiction over this matter pursuant to N. C. Gen. Stat. § 90-154 *et. seq.*, N. C. Gen. Stat. §150B-1, *et. seq.*, and 21 N.C. Admin. Code 10 . *et. seq.*

II. Identification of Licensee/Respondent:

MARK COOK, D.C. (Respondent), resides at, 119-A, West Marion Street, Shelby, North Carolina 28150. The Respondent holds North Carolina license number 1493 which was first issued on November 11, 1984, with an expiration date of December 31, 2018.

III. Waiver of Rights:

In order to resolve this matter by an Informal Settlement Agreement and Consent Order, Respondent agrees that the Board staff and counsel may discuss this Informal Settlement Agreement and Consent Order with the Board Secretary and any subcommittee that may be assigned to this matter *ex parte* whether or not the Board accepts this Informal Settlement Agreement and Consent Order as written.

IV. Stipulation to Facts:

The Respondent and the Board Secretary stipulate to the following facts:

- A. The Board staff received a Complaint against Respondent on October 12, 2018, alleging a violation of N.C. Gen. Stat. §90-154(b)(8)(21) – lewd conduct toward a patient and lack of good moral conduct.
- B. The parties met for a Probable Cause Hearing on November 29, 2018, and both parties called and cross-examined witnesses,

V. Stipulated Informal Settlement Agreement:

The parties consent to the following terms in settlement of this case:

A. Stipulation to Sections of Law Violated:

Respondent admits that his actions if proven at a hearing would violate N.C. Gen. Stat. §90-154(b)(8)(21). If proven, violation would constitute grounds for disciplinary action.

B. Stipulation to Sanction

In lieu of proceeding to hearing, the Respondent and the Board Secretary hereby enter into this Informal Settlement Agreement whereby the Respondent and Board Secretary agree to the following terms:

- 1) The Respondent admits the **Stipulation to Facts** above.
- 2) Respondent admits to the unwanted kissing of a patient on her neck.
- 3) Respondent shall cease and desist from further violations of the allegations set forth above.
- 4) Respondent agrees to take a record keeping course within six (6) months of the effective date of this Informal Settlement Agreement. Respondent shall not receive Continuing Education credit for such course.
- 5) Respondent shall take the Jurisprudence course and successfully pass the Jurisprudence Exam within six (6) months. Respondent shall not receive Continuing Education credit towards annual license renewal for such course.
- 6) The Board shall issue a Letter of Reprimand.

VII. Effective Date

The effective date of this Informal Settlement Agreement is the date on which it is signed by the Board Secretary, or designee.

VIII. Public Record

The parties agree that this Informal Settlement Agreement is a public record, as required by N. C. Gen. Stat. § 132-1.3. Other related documents are part of the investigative file and are trial preparation materials and are not public records, pursuant to N.C. Gen. Stat. §132-1.9.

IX. Adverse Action Reporting

The parties agree that this Informal Settlement Agreement contains a negative action, as defined by 42 CFR §60.3 and, therefore, will be reported to the National Practitioners Data Bank (The Data Bank) as a Letter of Reprimand.

X. Respondent's Contact Information

Within 21 days of the effective date of this Informal Settlement Agreement, Respondent shall submit to the Board by certified mail Respondent's: 1) Residential address and residential phone number, 2) Primary mailing address, if different from the residential address, and 3) Business address(es) and business phone number(s), if any;


Respondent shall notify the Board by certified letter, return receipt, within one week of any changes in Respondent's contact information during the pendency of this Informal Settlement Agreement and Consent Order.

XI. Compliance with Informal Settlement Agreement

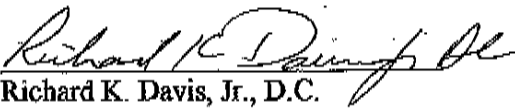
- A. This Informal Settlement Agreement and its provisions are effective on the date of signature by the Board's Secretary.
- B. Any modification of this Informal Settlement Agreement must be pre-approved in writing by the Board and signed by the Board President or designee before it may be effective.
- C. Failure by the Respondent to meet the terms of this Informal Settlement Agreement, either in substance or in timing, is a violation of N.C. Gen. Stat. §90-154(a)(6).
- D. If, during the term of this Informal Settlement Agreement, the Board staff receives evidence that Respondent has violated any of the above conditions, the Board staff may schedule a Show Cause Hearing for a determination of the violations.
- E. Should circumstances arise that affect the Respondent's ability to remain in compliance, the Respondent shall immediately notify the Board in writing by certified mail fully describing the situation along with any attendant request for Board consideration.
- F. Communications with Respondent regarding compliance with this Informal Settlement Agreement may occur between the Board staff and Respondent.

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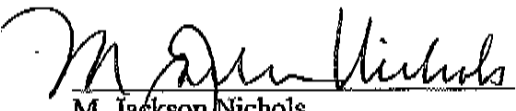
WE CONSENT:


MARK COOK, D.C.
Respondent

1/22/19
Date


Richard K. Davis, Jr., D.C.
Board Secretary
N.C. Board of Chiropractic Examiners
6070 Six Forks Rd. Ste. L
Raleigh, NC 27609

2/4/19
Date


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1/29/2019
Date