

PARTIES

1. The Division is a division of the Department of Commerce of the State of Utah as established by Utah Code Ann. § 13-1-2 (2004).
2. With one exception, at all times material to the allegations contained herein, the Respondent was licensed by the Division to practice as a chiropractic physician under the Chiropractic Physician Licensing Act, Utah Code Ann. §§ 58-73-101 to 58-73-701 (2011).

STATEMENT OF ALLEGATIONS

3. The Respondent was originally licensed to practice as a chiropractic physician in the State of Utah on or about November 15, 2006. During some dates and times that are relevant to the allegations in this Petition, the Respondent's professional license had expired. Specifically, from May 31, 2012 through June 20, 2012, the Respondent's professional license, number 6310612-1202, had expired.
4. The Division served the Respondent with a citation, number 19849, on June 20, 2012 for practicing chiropractic medicine without a license. On the same day, Division investigator Daniel Briggs served the Respondent with a Subpoena Duces Tecum, asking the Respondent to provide the Division with the original and complete patient charts for all patients examined, diagnosed, or treated by the Respondent from June 1, 2012 through June 22, 2012, including all patient notes, test results, x-rays CT scans, MRI's, interpretations and any and all correspondence associated with the care or treatment of patients.
5. The Respondent renewed his chiropractic physician license and paid a \$500 fine to the Division to resolve citation 19849 on June 21, 2012. The Respondent, in his Notice of Response

to citation 19849, admitted in writing to the Division that he had committed the offense, chose not to contest the citation and submitted the fine imposed.

6. On or about July 3, 2012, the Respondent responded to the Division's Subpoena Duces Tecum that is mentioned in paragraph 4 of this Petition, stating that he "did not treat any patients from June 1, 2012 through June 22, 2012." (Paragraph 3, Respondent's Response to Division's Subpoena Duces Tecum). The Respondent also stated in his Response that "no documents exist that are responsive to the subpoena." (Paragraphs 3 and 4, Respondent's Response to Division's Subpoena Duces Tecum).

7. On June 19 and 20, 2012, DOPL investigator Dee Thorell participated in an undercover investigation of the Respondent's chiropractic office, Utah Spine and Disc. Ms. Thorell filled out some background information forms and was given both laser and compression treatment by one of Dr. Meadors' assistants. Dr. Meadors filled out a "Patient Responsibility Agreement" on Ms. Thorell and also filled out a medical diagnostic form that instructed his assistants on what type of lower back treatment to give Ms. Thorell. On June 20, 2012, Ms. Thorell asked one of the Respondent's receptionists if she could get a copy of her medical file. The receptionist made copies of Ms. Thorell's medical files, and Ms. Thorell took these documents back to DOPL headquarters.

8. On August 1, 2012, the Division's Subpoena Authority issued his Order Denying the Respondent's Motion to Quash the Division's Subpoena Duces Tecum. The Order mandated that the Respondent comply with the Subpoena Duces Tecum within ten days. Therefore, the Respondent was ordered to submit all of the requested documentation to the Division by August

11, 2012.

9. As of the date of this Petition, May 2013, the Respondent had not submitted any documents associated with the care and treatment of patients from June 1, 2012 through June 22, 2012 to the Division.

10. On August 28, 2012, the Respondent emailed a letter to Department of Commerce Executive Director Francine Giani (who would have authority over DOPL and its investigators). The Respondent alleges in this letter that on June 20, 2012, investigators Gooch and Briggs, while serving the Respondent with a citation, told the Respondent five times to “shut up.” The Respondent described the behavior of investigators Briggs and Gooch on June 20, 2012 as “abhorrent.”

11. The June 20, 2012 service of a citation on the Respondent by investigators Briggs and Gooch was audio recorded. At no time did either of the investigators tell the Respondent to “shut up.” The investigators acted in a courteous and professional manner.

12. On or about March 27, 2013, the Respondent sent Sally Stewart, the Division’s Bureau Manager for Chiropractic Physicians, an email, informing Ms. Stewart that Holly Coco, the District Attorney in charge of prosecuting a criminal complaint against the Respondent, had “no desire to move forward on this case,” and that “she should be dropping the case in the next two weeks.” The Division checked with the District Attorney’s Office (DA’s Office) after it received notice of the letter to Ms. Stewart, and the DA’s Office informed the Division that it was not closing its case on the Respondent and that it actually had a desire to move forward with the case.

13. On or about September 17, 2009, the Respondent billed the insurance company responsible for the medical treatment of an elderly female patient \$1,000 for an orthotics insert that is routinely sold for \$18.00. The insurance company denied the \$1,000 billing.

14. The Respondent failed to respond to the Division's November 14, 2012 Subpoena Duces Tecum asking for patient charts for the time period of November 1, 2012 through November 14, 2012.

15. On or about the Fall of 2012, the Respondent used the term "doctor" in an advertisement in a manner which might cause a reasonable person to believe that he was a licensed physician and surgeon. This advertisement did not identify the Respondent as a chiropractic physician.

16. On or about July 6, 2010, a mentally retarded adult patient with an approximate IQ of 59 entered into a credit agreement to pay for services rendered by the Respondent. This disabled patient had entered the Respondent's offices with her mother, but her mother was separated from her when she was filling out the credit application, which was for approximately \$5300, in the Respondent's office. The disabled patient was not mentally competent to enter into any type of financial agreement, and she was not able to shop independently or budget her finances. The patient's mother informed the Respondent's office of the disabled patient's mental limitations. The patient only actually saw the Respondent three times after signing the credit agreement, yet she was billed the entire \$5250 total. The matter was also turned over to a legal corporation in Louisiana for debt collection action. This debt collection firm informed the patient that her balance, which included interest and collection fees, totaled over \$6,000.

17. On or about January 16, 2013, during a DOPL Citation Hearing, the Respondent, while

under oath, informed the administrative tribunal that on June 20, 2012, investigators Gooch and Briggs, while serving the Respondent with a citation, told the Respondent five times to “shut up.” The June 20, 2012 service of a citation on the Respondent by investigators Briggs and Gooch was audio recorded. At no time did either of the investigators tell the Respondent to “shut up.” The investigators acted in a courteous and professional manner.

18. On or about November 2, 2012, DOPL Investigator Laurie Neff had an appointment with Newlife Body Contour for fat melting/body contouring. Ms. Neff was seen by Clinical Director Teresa for 20 minutes to discuss the procedures and the “fat imploding” machines. Ms. Neff was then taken to a technician, who performed one hour of ultrasonic fat reduction and radio frequency skin tightening on her stomach. Ms. Neff was not seen by a physician, an osteopath or an advanced practice registered nurse during the consultation or the fat melting session. The technician informed Ms. Neff that the technicians see 30 to 40 patients a day.

19. On or about November 14, 2012, DOPL Investigator Brittany Butsch had an appointment with Newlife Body Contour for fat melting. Ms. Butsch was greeted by Allie, who gave Ms. Butsch paperwork to complete. Ms. Butsch completed the forms that indicated that she had no preexisting medical conditions, and that she wanted ultrasonic fat reduction and radio frequency skin tightening. Ms. Butsch was then seen by Director Jerri Jensen, who discussed the treatment with her and attempted to get Ms. Butsch to purchase multiple treatments. Ms. Jensen advised Ms. Butsch that she was also a personal trainer at Gold’s Gym. Ms. Butsch then met with technician Amber, who informed Ms. Butsch that she was not a nurse and that all of the technicians were trained at Newlife Body Contour. Amber also informed Ms. Butsch that

Newlife Body Contour was owned by the Respondent, and that the Respondent never actually saw the patients during these procedures. Amber completed the ultrasonic fat reduction and radio frequency skin tightening on Ms. Butsch. Ms. Butsch was not seen by a physician, an osteopath or an advanced practice registered nurse during the consultation or the fat melting session. The technician informed Ms. Butsch that the technicians see 30 to 40 patients a day.

APPLICABLE LAW

20. Subsection (a) of Utah Code Ann. § 58-1-401(2) (1996) gives the Division the legal authority to “revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee” when “the licensee has engaged in unprofessional conduct, as defined by statute or rule under this title[.]”

21. Subsection (h) of Utah Code Ann. § 58-1-501(2) (2007) defines “unprofessional conduct” to include:

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of communication which is false, misleading, deceptive or fraudulent[.]

22. Subsection (k) of Utah Code Ann. § 58-1-501(2) (2007) defines “unprofessional conduct” to include:

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee’s practice under this title or otherwise facilitated by the licensee’s license[.]

23. Utah Code Annotated § 58-73-501(10) defines “unprofessional conduct” to include:

(10) knowingly engaging in billing practices which are abusive and represent charges which are fraudulent or grossly excessive for services rendered[.]

24. Utah Admin. Code R156-73-501(3) defines “unprofessional conduct” to include:

(3) engaging in or abetting deceptive or fraudulent billing practices[.]

25. Utah Code Annotated § 58-1-506(5) defines “unprofessional conduct” to include:

(5) failure to comply with the provisions of this section.

26. Utah Code Annotated § 58-1-506(3) mandates that a physician or a qualified nurse practitioner must develop a treatment plan for and conduct a face to face evaluation of a patient undergoing a nonablative cosmetic medical procedure. Subsection 3 also allows a physician assistant acting under the supervision of a physician to perform the required face to face evaluation.

COUNT I

UNPROFESSIONAL CONDUCT: COMMUNICATING WITH THE DIVISION IN A FALSE, MISLEADING AND DECEPTIVE MANNER BY NOT HONESTLY COMPLYING WITH THE DIVISION’S SUBPOENA DUCES TECUM

27. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

28. As described in Paragraphs 1 through 26, the Respondent, in response to the Division’s Subpoena Duces Tecum asking for all documentation associated with the care or treatment of patients from June 1, 2012 through June 22, 2012, informed the Division that he had not treated any patients from June 1, 2012 through June 22, 2012. He also informed the Division that there were no documents responsive to the Division’s Subpoena Duces Tecum. In fact, the Respondent had treated DOPL investigator Dee Thorell on June 19 and 20, 2012, and he had created a medical file for Ms Thorell. That being the case, the Respondent communicated with the Division in a false, misleading and fraudulent manner. Therefore, the Respondent has engaged in

unprofessional conduct pursuant to Utah Code Ann. § 58-1-501(2)(h). The Respondent's untruthful and unprofessional conduct gives the Division the legal authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) .

COUNT II

UNPROFESSIONAL CONDUCT: COMMUNICATING WITH THE DIVISION IN A FALSE, MISLEADING AND DECEPTIVE MANNER BY LYING ABOUT THE CONDUCT OF INVESTIGATORS GOOCH AND BRIGGS IN AN AUGUST 28, 2012 LETTER TO COMMERCE DIRECTOR FRANCINE GIANI.

29. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

30. As described in Paragraphs 1 through 26, on August 28, 2012, the Respondent emailed a letter to Department of Commerce Executive Director Francine Giani (who would have authority over DOPL and its investigators). The Respondent alleged in this letter that on June 20, 2012, DOPL investigators Gooch and Briggs, while serving the Respondent with a citation, told the Respondent five times to "shut up." The Respondent further described the conduct on June 20, 2012 by investigators Gooch and Briggs as "abhorrent." The June 20, 2012 service of a citation on the Respondent by investigators Briggs and Gooch was audio recorded. At no time did either of the investigators tell the Respondent to "shut up." Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-501(2)(h) because he communicated with the Division of Commerce Director in a manner that was false, misleading and deceptive. This unprofessional conduct gives the Division the authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a).

COUNT III

UNPROFESSIONAL CONDUCT: COMMUNICATING WITH THE DIVISION IN A FALSE, MISLEADING AND DECEPTIVE MANNER BY LYING ABOUT THE CONDUCT OF INVESTIGATORS GOOCH AND BRIGGS DURING A JANUARY 16, 2013 DOPL CITATION HEARING WHILE UNDER OATH

31. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

32. As described in Paragraphs 1 through 26, on January 16, 2013 during a DOPL Citation Hearing, the Respondent, while under oath, testified that on June 20, 2012, DOPL investigators Gooch and Briggs, while serving the Respondent with a citation, told the Respondent four or five times to “shut up.” A recording of the actions of investigators Gooch and Briggs on June 20, 2012 shows clearly that they never told the Respondent to “shut up” and that their actions were professional and courteous. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-501(2)(h) because he dealt with the Division in a manner that was false, misleading and deceptive. This unprofessional conduct gives the Division the authority to impose sanctions against the Respondent’s license pursuant to Utah Code Ann. § 58-1-401(2)(a).

COUNT IV

UNPROFESSIONAL CONDUCT: VIOLATING AN ORDER FROM THE DIVISION’S SUBPOENA AUTHORITY

33. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

34. As described in Paragraphs 1 through 26, the Respondent failed to comply with the August 1, 2012 Order Denying the Respondent’s Motion to Quash the Division’s Subpoena Duces Tecum issued by the Division’s Subpoena Authority. The Order mandated that the Respondent comply

with the Subpoena Duces Tecum within ten days. Therefore, the Respondent was ordered to submit all of the requested documentation to the Division by August 11, 2012. As of the date of this Petition, the Respondent had not submitted any documents associated with the care and treatment of patients from June 1, 2012 through June 22, 2012 to the Division. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-501(2)(a) and (h) because he dealt with the Division in a manner that was false, misleading and deceptive, and because he violated an order from the Division's Subpoena Authority. This unprofessional conduct gives the Division the authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a).

COUNT V

UNPROFESSIONAL CONDUCT: COMMUNICATING WITH THE DIVISION IN A FALSE, MISLEADING AND DECEPTIVE MANNER BY FALSELY INFORMING SALLY STEWART IN A MARH 27, 2013 LETTER THAT THE DISTRICT ATTORNEY HAD NO DESIRE TO MOVE FORWARD WITH ITS CASE AGAINST THE RESPONDENT

35. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

36. As described in Paragraphs 1 through 26, on or about March 27, 2013, the Respondent sent Sally Stewart, the Division's Bureau Manager for Chiropractic Physicians, an email, informing Ms. Stewart that Holly Coco, the District Attorney in charge of prosecuting a criminal complaint against the Respondent, had "no desire to move forward on this case," and that "she should be dropping the case in the next two weeks." The Division checked with the District Attorney's Office (DA's Office) after it received notice of the letter to Ms. Stewart, and the DA's Office informed the Division that it was not closing its case on the Respondent and that it actually had a

desire to move forward with the case. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-501(2)(h) because he dealt with the Division in a manner that was false, misleading and deceptive. This unprofessional conduct gives the Division the authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a).

COUNT VI
UNPROFESSIONAL CONDUCT: COMMUNICATING WITH THE DIVISION IN A FALSE, MISLEADING AND DECEPTIVE MANNER BY NOT COMPLYING WITH OR RESPONDING TO THE DIVISION'S NOVEMBER 14, 2012 SUBPOENA DUCES TECUM.

37. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

38. As described in Paragraphs 1 through 26, the Respondent failed to respond to the Division's November 14, 2012 Subpoena Duces Tecum asking for patient charts for the time period of November 1, 2012 through November 14, 2012. That being the case, the Respondent communicated/dealt with the Division in a false, misleading and fraudulent manner. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-501(2)(h). The Respondent's noncompliant, misleading and unprofessional conduct gives the Division the legal authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) .

COUNT VII
UNPROFESSIONAL CONDUCT: COMMUNICATING WITH THE PUBLIC IN A FALSE, MISLEADING AND DECEPTIVE MANNER BY USING THE TERM "DOCTOR" IN AN ADVERTISING IN A MISLEADING MANNER

39. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

40. As described in Paragraphs 1 through 26, in or about the Fall of 2012, the Respondent used the term “doctor” in an advertisement in a manner which might cause a reasonable person to believe that he was a licensed physician and surgeon. This advertisement did not identify the Respondent as a chiropractic physician. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-501(2)(h). The Respondent’s untruthful and unprofessional conduct gives the Division the legal authority to impose sanctions against the Respondent’s license pursuant to Utah Code Ann. § 58-1-401(2)(a).

**COUNT VIII
UNPROFESSIONAL CONDUCT: ABUSIVE/DECEPTIVE/FRAUDULENT BILLING
PRACTICES**

41. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

42. As described in Paragraphs 1 through 26, on or about September 17, 2009, the Respondent billed the insurance company responsible for the medical treatment of an elderly female patient \$1,000 for an orthotics insert that is routinely sold for \$18 00. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-73-501(10) and Utah Admin. Code R156-73-501(3). The Respondent’s abusive/fraudulent/deceptive billing practices give the Division the legal authority to impose sanctions against the Respondent’s license pursuant to Utah Code Ann. § 58-1-401(2)(a).

**COUNT IX
UNPROFESSIONAL CONDUCT: FAILURE TO COMPLY WITH THE
REQUIREMENTS FOR NONABLATIVE COSMETIC MEDICAL PROCEDURES**

43. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

44. As described in Paragraphs 1 through 26, on or about November 2, 2012, the Respondent’s

New Life Body Contour technicians performed nonablative cosmetic medical procedures on DOPL Investigator Laurie Neff for approximately one hour (ultrasonic fat reduction and radio frequency skin tightening on her stomach). New Life Body Contour did not have a physician or an APRN develop a treatment plan or conduct a face to face evaluation prior to performing the nonablative cosmetic medical procedures on Ms. Neff. That being the case, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-506(5). The Respondent's unprofessional conduct gives the Division the legal authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a).

COUNT X
UNPROFESSIONAL CONDUCT: FAILURE TO COMPLY WITH THE
REQUIREMENTS FOR NONABLATIVE COSMETIC MEDICAL PROCEDURES

45. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

46. As described in Paragraphs 1 through 26, on or about November 14, 2012, the Respondent's New Life Body Contour technicians performed nonablative cosmetic medical procedures on DOPL Investigator Brittany Butsch (ultrasonic fat reduction and radio frequency skin tightening on her stomach). New Life Body Contour did not have a physician or an APRN develop a treatment plan or conduct a face to face evaluation prior to performing the nonablative cosmetic medical procedures on Ms. Butsch. That being the case, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-1-506(5). The Respondent's unprofessional conduct gives the Division the legal authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a).

COUNT XI
UNPROFESSIONAL CONDUCT: ABUSIVE/DECEPTIVE/FRAUDULENT BILLING
PRACTICES

47. Paragraphs 1 through 26 are incorporated herein and by this reference made a part hereof.

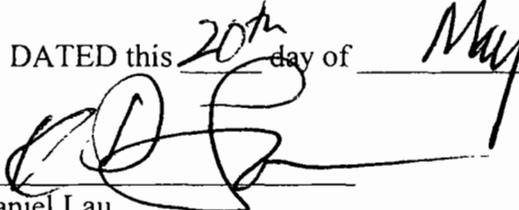
48. As described in Paragraphs 1 through 26, on or about July 6, 2010, a mentally retarded adult patient with an approximate IQ of 59 entered into a credit agreement to pay for services rendered by the Respondent. This disabled patient had entered the Respondent's offices with her mother, but her mother was separated from her when she was filling out the credit application, which was for approximately \$5300, in the Respondent's office. The disabled patient was not mentally competent to enter into any type of financial agreement, and she was not able to shop independently or budget her finances. The patient's mother informed the Respondent's office of the disabled patient's mental limitations. The patient only actually saw the Respondent three times after signing the credit agreement, yet she was billed the entire \$5250 total. The matter was also turned over to a legal corporation in Louisiana for debt collection action. This debt collection firm informed the patient that her balance, which included interest and collection fees, totaled over \$6,000. Therefore, the Respondent has engaged in unprofessional conduct pursuant to Utah Code Ann. § 58-73-501(10), Utah Code Ann. § 58-1-501(2)(k) and Utah Admin. Code R156-73-501(3). The Respondent's abusive/fraudulent/deceptive billing practices give the Division the legal authority to impose sanctions against the Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a).

WHEREFORE, the Division requests the following relief:

1. That the Respondent be adjudged and decreed to have engaged in the acts alleged herein;

2. That by engaging in the above acts, the Respondent be adjudged and decreed to have violated provisions of the Division of Occupational and Professional Licensing Act and the Chiropractic Physician Practice Act;
3. That the Respondent's license to practice as a chiropractic physician in the State of Utah be revoked;
4. That appropriate sanctions, such as a suspension, a revocation, educational classes, a probationary license, a DOPL-approved supervisor, restrictions on treating vulnerable patients and on advertising for his practice/business, and other relevant disciplinary action be imposed against the Respondent's license to practice as a chiropractic physician in the State of Utah.

DATED this 20th day of May, 2013.



Daniel Lau
Assistant Attorney General

VERIFICATION SHEET

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

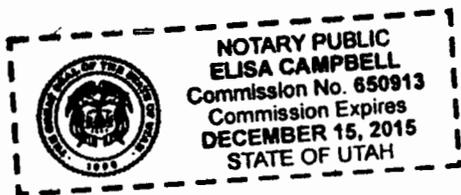
Dan Briggs, being first duly sworn, states as follows:

1. I am an investigator for the Bureau of Investigation, Division of Occupational and Professional Licensing (DOPL), and have been assigned to investigate this case.

2. I have read the foregoing Petition and am familiar with the contents thereof. All of the factual allegations in the Petition are true to the best of my knowledge, information and belief.

Daniel Briggs
Daniel Briggs
Investigator, DOPL

SWORN TO AND SUBSCRIBED before me this 20 day of May, 2013.



Elisa Campbell
NOTARY PUBLIC