

IN THE MATTER OF

*

BEFORE THE STATE BOARD

PATRICK D. KENNEDY, D.C.

*

OF CHIROPRACTIC

License No. SO1511

*

EXAMINERS

Respondent

*

Case No. 98-17

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

The Maryland State Board of Chiropractic Examiners (the "Board") on December 9, 1999, charged **Patrick D. Kennedy, D.C.** (D.O.B. 04/03/64), License No. SO1511 (the "Respondent"), with violation of certain provisions under the Maryland Chiropractic Act (the "Act"), codified at MD. CODE ANN., HEALTH OCC. ("Health Occupations") § 3-301 et seq. (1994 Repl. Vol and 1999 Supp.).

Specifically, the Board charged the Respondent with violating the following provisions of § 3-313 of the Act:

Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the applicant or licensee:

- (20) Behaves immorally in the practice of chiropractic; [or]
- (21) Commits an act of unprofessional conduct in the practice of chiropractic[.]

A Case Resolution Conference was held on February 15, 2000, and was attended by the Respondent, Jeremy K. Fishman, counsel to the Respondent, James C. Anagnos, Administrative Prosecutor, Jack Murray, D.C., Board liaison, Cynthia Peltzman, counsel to the Board, and James Vallone, Acting Board Administrator. Following the Case Resolution Conference, the Respondent and the Board agreed to resolve the matter by way of settlement. As a result of the Case Resolution Conference, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order, with the terms and conditions set forth below.

FINDINGS OF FACT

The Board makes the following findings:

1. At all times relevant to the charges herein, the Respondent was licensed to practice chiropractic in the State of Maryland. At all times relevant, the Respondent owned and operated Kennedy Chiropractic at 11750 Business Park Drive, Suite 201, Waldorf, Maryland. The Respondent was originally licensed in the State of Maryland on June 20, 1990, being issued License Number S01511.

PATIENT A¹

2. In November 1993, the Respondent began treating Patient A, a female born June 29, 1979, then 14 years old, for chronic lower back pain and migraine headaches.

3. In addition to treating Patient A, from 1994 to 1997, the Respondent employed Patient A as a babysitter for his children, paying Patient A \$100.00 for a four hour shift.

4. On July 29, 1997, Patient A, who had turned 18 years old one month earlier, had an appointment to see the Respondent. Although the appointment had originally been scheduled for 4:00 p.m., the Respondent telephoned Patient A's house on July 28, 1997, to see if Patient A could reschedule her appointment for 8:00 p.m., because the Respondent was giving a seminar. Patient A agreed to do this.

5. Patient A arrived at the Respondent's office on July 29, 1997, for her 8:00 p.m. appointment. The Respondent performed an adjustment on Patient A, which was not unlike any adjustment that he had performed on Patient A in the past. After the adjustment, the Respondent's receptionist, who was still in

¹Patient names are confidential and are not included in the Charging Document. The Respondent may obtain a Confidential Patient Identification List, listing the name of the patient that corresponds to the letter, upon request to the Administrative Prosecutor.

the office, was getting ready to leave for the evening. At that time, Patient A was walking into the hallway from the examining room, when the Respondent told Patient A that he needed to discuss something with her. The receptionist overheard this and asked the Respondent if she should lock the front door on her way out, to which the Respondent answered in the affirmative. After the receptionist left, the Respondent then began a conversation with Patient A in the hallway.

6. The Respondent told Patient A that he was nervous, embarrassed, and could not talk to his wife about a problem that he was experiencing. The Respondent then told Patient A that he was having trouble attaining an erection due to the possibility that he had prostate cancer.

7. Patient A became scared, began to leave, and told the Respondent that he needed to discuss the issue with his wife. Before Patient A left, the Respondent apologized to her, saying that he hoped that they could forget about the incident. Patient A had the Respondent unlock the front door, and she left the office.

8. Patient A went from the Respondent's office to her boyfriend's house, where she telephoned her mother. Patient A's mother telephoned the Respondent that night. The Respondent admitted to Patient A's mother what had occurred earlier that

evening in his office, apologized, and began to cry when Patient A's mother stated that she was going to call the police.

9. Patient A and the Respondent reached an out-of-court settlement to resolve this matter in which the Respondent admitted no culpability.

10. The Board became aware of the above allegations based on a closed claim report from the Respondent's insurance carrier, Princeton Insurance Company.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated Health Occupations §§ 3-313(20) (behaves immorally in the practice of chiropractic) and (21) (commits an act of unprofessional conduct in the practice of chiropractic).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 10th day of August 2000, by a majority of the full authorized membership of the Board considering this case:

ORDERED that the Respondent's license to practice chiropractic in the State of Maryland is **SUSPENDED** for a period of **ONE (1) YEAR**, commencing on the date that this Consent Order


is signed by the Board's President, with **ONE (1) YEAR IMMEDIATELY STAYED** subject to the following conditions:

1. If the Respondent returns to practice in the State of Maryland, he must first notify the Board, which may lift the stay of suspension and require him to serve the full year of suspension, or some part of one year.
2. If the Respondent intends to return to practice in the State of Maryland, he must first complete an ethics course selected or approved by the Board.
3. The Respondent shall be responsible for all costs incurred under this Consent Order; and be it further

ORDERED that this Consent Order is considered a public document pursuant to MD. CODE ANN., STATE GOV'T ("State Government") §§ 10-611 et seq.

08-10-00

Date



Paul Goszkowski, D.C.
President

Board of Chiropractic Examiners

CONSENT OF PATRICK D. KENNEDY, D.C.

I, Patrick D. Kennedy, D.C., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney.
2. I am aware that without my consent, my license to practice chiropractic in the State of Maryland cannot be limited, except pursuant to the provisions of § 3-313 of the Maryland Chiropractic Act, and the provisions of the Maryland Administrative Procedure Act codified at State Government §§ 10-201 *et seq.*
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.
4. By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order, provided that the Board adopts the foregoing Final Consent Order in its entirety. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate

these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal.

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may, after an opportunity to be heard, suffer disciplinary action, including the revocation of my license to practice chiropractic in the State of Maryland.

6. I voluntarily sign this Consent Order after having had an opportunity to consult with an attorney, without reservation, and I fully understand the language, meaning, and terms of this Consent Order.

7/11/00
Date


Patrick D. Kennedy, D.C.

STATE OF: Virginia

CITY/COUNTY OF: Franklin

I HEREBY CERTIFY that on this 11th day of July 2000, before me, a Notary of the State of Virginia, and (City/County) Franklin, personally appeared Patrick D. Kennedy, D.C., License No. S01511, and made oath in due form of law that signing the foregoing Consent Order was his

voluntary act and deed, and the statements made herein are true and correct.

AS WITNESS my hand and Notarial Seal.

Kathy H. Brown
Notary Public

My Commission Expires: Sept 30, 2000