

IN THE MATTER OF * **BEFORE THE MARYLAND**
RAYMOND MOSS, D.C. * **STATE BOARD OF**
Respondent * **CHIROPRACTIC AND MASSAGE THERAPY**
* **EXAMINERS**
LICENSE NUMBER: * **Case Number: 13-02C**
S01328

CONSENT ORDER

On June 18, 2014, the Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") charged Raymond Moss, D.C. (the "Respondent"), License Number S01328, under the Maryland Chiropractic Act (the "Act"), Md. Code Ann., Health Occ. § 3-101 *et seq.* (2009 Repl. Vol. & 2013 Supp.). The pertinent provisions of the Act state:

§ 3-313 Denials, reprimands, suspensions, and revocations.

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:

(18) Practices chiropractic with an unauthorized person or supervises or aids an unauthorized person in the practice of chiropractic;

(19) Violates any rule or regulation adopted by the Board[.]

The pertinent regulations under Md. Code Regs. 10.43.07 provide:

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

(3) "Chiropractic assistant" means an individual who is registered by the Board to perform the duties authorized under this chapter.

(4) "Direct supervision" means supervision provided by a supervising chiropractor who is personally present and immediately available in the area where the procedures are performed to give aid, direction, and instruction when certain procedures or activities are performed.

(5) "Supervising chiropractor" means a chiropractor licensed by the Board in chiropractic with the right to practice physical therapy as set forth in Health Occupations Article, §3-301(c), Annotated Code of Maryland, and approved as a supervising chiropractor by the Board.

.02 Requirements for Achieving Supervising Chiropractor Status.

A. Only a supervising chiropractor may work with or train a chiropractic assistant or applicant.

B. Only an active, licensed chiropractor who holds physical therapy privileges and has no outstanding disciplinary orders may qualify for supervising chiropractor status.

C. An applicant for supervising chiropractor status shall:

1) Submit to the Board the required application and fee;

(2) Successfully pass the Board supervising chiropractor examination and interview; and

(3) Satisfactorily follow Board regulations and statutes.

D. The Board may deny, suspend, or revoke supervising chiropractor status for violation of the Board's statutes and regulations by the supervising chiropractor.

.03 Responsibilities of the Supervising Chiropractor.

The supervising chiropractor shall:

A. Submit:

(1) The required Board Request to Employ form before undertaking any hands on training or coursework with any chiropractic assistant applicant [.]

...

...

.09 Activities That May Be Performed by Chiropractic Applicants and Assistants Under Direct Supervision of a Supervising Chiropractor.

A chiropractic applicant or assistant may perform the following activities only under the direct supervision of a supervising chiropractor who is in the treatment area:

...

C. Demonstration, administration, and observation of therapeutic exercises as prescribed by a supervising chiropractor;

...

L. Traction therapy;

...

.11 Practicing Without Registration.

A. Except as otherwise provided in this chapter, a person may not practice, attempt to practice, or offer to practice as a chiropractic assistant in this State unless registered by the Board.

B. A person may not serve as a chiropractic applicant or assistant unless approved by the Board.

.12 Penalties for Violations of This Chapter.

A. Violations of these regulations may result in disciplinary action against the supervising chiropractor as set forth in Health Occupations Article, § 3-313, Annotated Code of Maryland.

On August 14, 2014, a Case Resolution Conference was held before a panel of the Board. As a result of negotiations, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

I. FINDINGS OF FACT

The Board finds the following:

BACKGROUND AND GENERAL FINDINGS

1. At all times relevant to these charges, the Respondent was licensed to practice chiropractic in the State of Maryland. The Respondent was originally licensed to practice chiropractic in Maryland on January 29, 1987. The Respondent's license is scheduled to expire on September 1, 2015.
2. At all times relevant to these charges, the Respondent practiced chiropractic with his wife ("G.M.") in a private practice located in Olney, Maryland.
3. On or about March 20, 2008, the Board designated the Respondent as a Supervising Chiropractor.
4. G.M. has been licensed as a chiropractor in Maryland since 1987, but is not a Supervising Chiropractor.
5. On or about October 14, 2013, the Respondent and G.M. hired a Chiropractic Assistant ("C.A.") (identified as C.A. #1 for purposes of these Charges).
6. The Board originally issued C.A. #1 registration as a C.A. in 2006. He allowed his registration to expire on March 31, 2013. C.A.#1 did not hold an active C.A. registration in Maryland from March 31, 2013 through January 24, 2014.¹
7. The Respondent and G.M. hired C.A.#1 to assist the Respondent with Neuromuscular Reeducation ("NMR"). NMR is a therapeutic procedure performed to reeducate a body part to perform a function or task and to improve proprioception and posture. It is billed under the Physical Medicine and Rehabilitation CPT code 97112 which is defined as follows:

Neuromuscular re-education of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities.

¹ Effective January 24, 2014, the Board reinstated C.A. #1's registration.

8. G.M. stated that during the hiring process, C.A.#1 told her he held a C.A. registration,² and on his resume, C.A.#1 had represented he held a Maryland registration. When G.M. asked C.A.#1 for a copy of his registration, he told her that he had lost it.

9. Neither the Respondent nor G.M. contacted the Board or checked the Board's website to ascertain whether C.A.#1 was actively registered in Maryland as a C.A.

10. The Respondent produced documentation that G.M. had sent in information to the Board at the time of C.A.#1's hire entitled "CA & CA Applicant Change of Status Report Form" notifying the Board of C.A.#1's hire. The Board has no record of the Respondent or his office notifying the Board of C.A. #1's employment. The Board acknowledges receiving documentation by the Respondent, or his office, notifying the Board in September, 2013 of two other C.A.s hiring. The documentation was entitled "Supervising Chiropractor Request to Employ CA Applicant".

11. The Board emailed G.M. a roster of actively registered C.A.s in Maryland on December 30, 2013.

12. On January 10, 2014, when G.M. became aware that C.A. #1 was not on the actively registered CA roster, she emailed and telephoned the Board. The Board informed that C.A. #1 had been notified in May, 2013 that his registration had lapsed in March, 2013. Shortly thereafter, the Board opened an investigation of the Respondent as set forth in pertinent part below.

² C.A.#1, G.M. and the Respondent referred to the registration as a license. For purposes of this document, the term license and registration shall be used interchangeably.

PATIENT- RELATED FINDINGS

13. According to a written response filed by the Respondent's attorney, patients received NMR after an adjustment, which was performed by the Respondent. The Respondent routinely instructed C.A.#1 to set up patients for therapy including positioning the patient using air discs, posture blocks/rolls and/or wedges. After positioning, the Respondent ordered that straps and weights be applied for a certain time. C.A.#1 was routinely instructed by the Respondent to set the timer for a certain amount of time, and C.A.#1 would subsequently remove the straps and weights from the patients and initial the patient treatment cards.

14. Patient treatment cards received from the Respondent's practice reflect that C.A.#1 assisted with NMR without an active registration, to the following patients:³

- a. Patient A- Male patient who received NMR from C.A.#1 on the following dates in 2013: 12/23 and 12/30; and on the following dates in 2014: 1/3, 1/8 and 1/18.⁴
- b. Patient B-Female patient who received NMR from C.A.#1 on the following dates in 2013: 12/2, 12/4, 12/17, 12/19, 12/20, 12/23, 12/30, 12/31; and on the following dates in 2014: 1/2, 1/6, 1/8 and 1/9.
- c. Patient C-Female patient who received NMR from C.A.#1 on the following dates in 2013: 11/18, 11/25, 12/6, 12/11, 12/16, 12/23 and 12/30; and on the following date in 2014: 1/6.
- d. Patient D-Female patient who received NMR from C.A.#1 on the following date in 2013: 12/30; and on the following date in 2014: 1/3.
- e. Patient E-Male patient who received chiropractic assistant treatment from C.A.#1 on the following dates in 2013: 12/13 and 12/30;
- f. Patient F-Female patient who received NMR and other chiropractic assistant treatment from C.A.#1 on the following dates in 2013: 12/16, 12/18, 12/23, 12/27; and on the following date in 2014: 1/8;

³ This list is not exhaustive; it merely represents a sample of patients seen by C.A.#1 in his capacity as a C.A.

⁴ January 18 post-dated G.M.'s notification to the Board that C.A.#1 did not hold an active registration.

- g. Patient G-Male patient who received chiropractic assistant treatment from C.A.#1 on the following dates in 2013: 11/22, 11/25, 11/26 and 12/2;
- h. Patient H-Male patient who received NMR and other chiropractic assistant treatment from C.A.#1 on the following dates in 2013: 11/20, 11/25, 11/26, 11/27, 12/3, 12/4, 12/5, 12/9, 12/10, 12/12, 12/17, 12/19, 12/23; and on the following dates in 2014: 1/6 and 1/8;
- i. Patient I-Female patient who received NMR and other chiropractic assistant treatment from C.A.#1 on the following dates in 2013: 12/9, 12/13, 12/27, 12/30 and 12/31; and
- j. Patient J-Female patient who received chiropractic assistant treatment from C.A.#1 on the following dates in 2013: 12/27, 12/30 and 12/31; and on the following dates in 2014 1/2, 1/6, 1/7 and 1/8.

INTERVIEW OF C.A.#1

- 15. On January 13, 2014, the Board's staff interviewed C.A.#1 under oath.
- 16. C.A.#1 stated that he had received notification from the Board in January or February 2013 that his registration was due to be renewed on or before March 31, 2013.
- 17. C.A.#1 failed to timely renew his registration as he stated he was not employed at the time and was having financial difficulties. He had not completed his continuing education requirements.
- 18. On or about May 3, 2013, the Board sent a written notification to C.A.#1 that he had failed to renew his registration for the 2013-2015 biennial period.
- 19. C.A.#1 failed to renew his registration.
- 20. In October 2013, C.A.#1 began employment as a C.A. with the Respondent and G.M., after his registration had expired. C.A. #1 stated that he did not complete an employment application when he applied for employment with Respondent. C.A.#1

stated that for approximately one month he observed [the Respondent and G.M.], and began actual patient care in December 2013.

21. According to C.A.#1, he stated that the Respondent was aware that he had not renewed his registration. He recalls that during the interview process he told the Respondent and G.M. that his registration was inactive "but I'm working towards a [registration]."

22. C.A.#1 stated that he was responsible for ensuring patients were doing their exercises correctly.

INTERVIEW OF G.M.

23. On February 6, 2014, the Board's staff interviewed G.M. under oath.

24. G.M. stated that during C.A.#1's interview for a C.A. position, C.A.#1 told her that he was registered. C.A.#1's resume stated that he was [registered] in Maryland as a C.A.

25. According to G.M., when she asked C.A.#1 for a copy of his registration, C.A.#1 told her that he had lost his registration.

26. G.M. produced an employment application completed by C.A. #1 at this time of his application for employment with Respondent. The application indicated C.A. #1 was applying for the position of Chiropractic Assistant.

27. G.M. stated that she was not aware that she could check a C.A.'s registration status on the Board's website.

28. G.M. stated that she sent a notification to the Board that C.A. had been hired by the Respondent's practice.⁵

⁵ The Board's staff did not receive any notification of C.A.#1's employment until G.M.'s January 10, 2014 contact with the Board.

29. G.M. stated that for approximately the first four to five weeks of C.A.#1's employment, C.A.#1 observed G.M. teaching the patients' exercises, and performed clerical tasks

30. G.M. attempted to teach C.A.#1 posture evaluations, exercises, and the like, but he was not "catching on" so consequently, she and the Respondent decreased his hours from full time to part time.

31. G.M. stated that she and the Respondent worked with C.A.#1. The treatment room, an open bay area, contained four adjusting tables.

32. Sometime around January 10, 2014, after reviewing the roster in ¶ 11, G.M. asked C.A.#1 about his licensure status and he acknowledged that his registration had expired as he had not completed his continuing education requirements.

33. G.M. stated that she notified the Board when she discovered C.A.#1 was not actively registered, and immediately discharged him from employment.

INTERVIEW OF RESPONDENT

34. On March 20, 2014, the Board's staff interviewed the Respondent under oath.

35. The Respondent stated that his wife was responsible for the hiring in their practice, and acknowledged that he had not seen a copy of C.A.#1's C.A. registration.

36. The Respondent stated that G.M. told him (the Respondent) that she had sent in a notification to the Board that C.A.#1 had been hired.

37. The Respondent stated that C.A.#1 started assisting patients with NMR in late November 2013.

38. The Respondent stated that C.A.#1's initials on the treatment cards indicated that he had set up procedures for the patients the Respondent was supervising.

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38. The Respondent stated that C.A.#1's initials on the treatment cards indicated that he had set up procedures for the patients the Respondent was supervising.

39. The Respondent stated that C.A.#1 was under his supervision at all times.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's actions constitute the practice of chiropractic with an unauthorized person or the supervision or aid of an unauthorized person in the practice of chiropractic in violation of Health Occ. § 3-313(18) and (19) as defined in part under Code Md. Regs. 10.43.07.01 *et seq.*

III. ORDER

Based upon the findings of fact and conclusions of law, it is, by the Board, hereby:

ORDERED that the Respondent be **REPRIMANDED**; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't, §§ 10-611 *et seq.* (2009 Repl. Vol. & 2013 Supp.).

9/11/14
Date



BOARD PRESIDENT:

Michael Fedorczyk, D.C., by direction of the
Maryland State Board of Chiropractic and
Massage Therapy Examiners

CONSENT

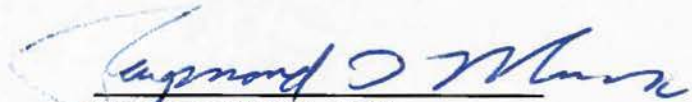
I, Raymond Moss, D.C., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for

the sole purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 provided by law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and 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 any adverse ruling of the Board that I might have filed after any such hearing.

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

9/4/14
Date


Raymond Moss, D.C.

Reviewed and Approved by:


Larry M. Waranch, Esquire

STATE OF MARYLAND

CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 4 day of September, 2014, before me, a Notary Public of the State and County aforesaid, personally appeared Raymond

Moss, D.C. and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Esperanza Vidales
Notary Public



My commission expires: 5-7-2016