

IN THE MATTER OF
JOSEPH MUSICO, D.C.
Respondent
LICENSE NO. S01483

*** BEFORE THE**
*** MARYLAND BOARD OF**
*** CHIROPRACTIC AND**
*** MASSAGE THERAPY EXAMINERS**
*** CASE NO. 11-49C**

* * * * *

CONSENT ORDER

On or about March 20, 2012, the Maryland Board of Chiropractic and Massage Therapy Examiners (the “Board”) charged Joseph Musico, D.C. (“Respondent”), (D.O.B. 11/24/54), license number S01483, pursuant to the Maryland Chiropractic Practice Act (the “Act”) codified at Md. Code Ann., Health Occ. (H.O.) § 3-101, *et seq.* (2009 Repl. Vol. and 2011 Supp).

The pertinent provisions of the Act under which the Board voted charges are H.O. § 3-313:

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; [and]

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

The pertinent regulation set forth in Md. Regs. Code (“COMAR”) tit. 10 § 43.07.03 provides as follows:

The supervising chiropractor shall:

A. Submit:

5. In or around the Fall of 2010, Respondent began practicing chiropractic as an independent contractor at Clinic A in Baltimore, Maryland.

Complaint

6. On or about March 28, 2011, the Board received a complaint from an insurance company investigator alleging, in pertinent part, that during an on-site investigation of Clinic A on January 6, 2011, the investigator observed three individuals (collectively “Unregistered Assistants A, B and C”)¹ assisting in the physical therapy treatment of patients.

7. On or about January 12, 2011, the investigator confirmed with the Board that Unregistered Assistants A, B and C had not been issued valid Chiropractor Assistant (“CA”) registrations and had not been approved by the Board to provide treatment as CAs or CA applicants.

Investigation

8. Upon review of the complaint, the Board initiated an investigation.

9. On or about March 29, 2011, the Board’s investigator obtained the Chiropractic Assistant Applicant In-Service Training Log Records (the “Logs”) for Unregistered Assistants A, B and C from Clinic A’s files.

10. The Logs revealed that Unregistered Assistant A began in-service training on September 14, 2010; Unregistered Assistant B began in-service training on September 6, 2010; and Unregistered Assistant C began in-service training on September 13, 2010.

11. In a sworn interview with Board staff on August 18, 2011, Respondent identified his signature and initials written under “Supervising Chiro. Signature” on all three Logs, indicating that, in numerous instances, Respondent had supervised Unregistered Assistants A, B

¹ The names of these individuals are omitted to protect their privacy but are known to Respondent.

and C for 8 – 9 hours per day for treatments such as traction, heat, electrical stimulation and ice beginning on September 6, 2010.²

12. Respondent testified that the owner of Clinic A had decided that Unregistered Assistants A, B and C should work as Chiropractic Assistants because Respondent had been “complaining that [he] couldn’t do all [the] work [him]self.... It was just too hard.”

13. Respondent did not submit the required Board Notification of Employment Form before undertaking hands-on training or coursework with Unregistered Assistants A, B and C. The Board did not receive these forms for Unregistered Assistants A, B and C until February 15, 2011.

14. Respondent testified that “[n]o one knew we had to [submit the Notification of Employment Form to the Board].” However, the owner of Clinic A testified in a sworn interview with the Board’s investigator that he had obtained the blank Logs from a packet on the Board’s website. This packet also contained the Notification of Employment Form and relevant regulations.

15. Unregistered Assistant A admitted to the Board in a sworn interview on March 30, 2011, that Unregistered Assistants A, B and C began assisting in the treatment of patients in September 2010.

16. The Board’s regulations provide that a person may not serve as a CA or CA applicant unless approved by the Board. COMAR 10.43.07.11.

17. As a Supervising Chiropractor, Respondent knew or should have known the applicable Board statute and regulations regarding CAs and CA applicants.

² During a sworn interview with the Board’s investigator, the owner of the Clinic stated that Respondent practiced at the Clinic Monday through Friday, 11:30 a.m. – 2:30 p.m. Respondent testified that he was often asked to work additional hours. A sign posted at Clinic A provides that its hours were Monday, 8:30 a.m. – 4:30 p.m., Tuesday and Wednesday, 8:30 a.m. – 5:30 p.m., Thursday and Friday, 8:30 a.m. – 12:30 p.m.

18. Respondent failed to submit Board Notification of Employment Forms for Unregistered Assistants A, B and C prior to supervising them in as CA applicants at Clinic A during the period between September, 2010 and February, 2011.

19. Unregistered Assistants A, B and C were thus not authorized to assist in the practice of chiropractic between the period of September, 2010 and February, 2011.

20. By supervising three (3) unauthorized persons in the practice of chiropractic at Clinic A, Respondent is subject to discipline by the Board pursuant to H.O. § 3-313(18).

21. By failing to ensure submission to the Board of the Board Notification of Employment Forms for Unregistered Assistants A, B and C before undertaking hands on training with those individuals, Respondent is subject to discipline by the Board pursuant to H.O. § 3-313(19) for violating a regulation of the Board, to wit, COMAR 10.43.07.03.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent is subject to discipline pursuant to H.O. § 3-313(18 and 19) and COMAR 10.43.07.03.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, by a majority of the Board considering this case, it is:

ORDERED that the Respondent's license to practice chiropractic is hereby **REPRIMANDED**, and it is further

ORDERED that the Respondent be issued a fine of two thousand five hundred dollars (\$2,500.00), payable to the Board within nine (9) months from the effective date of this Consent Order³, and is it further

ORDERED that the Respondent's license to practice chiropractic shall be placed on **PROBATION** for a period of **ONE (1) YEAR**, to commence on the effective date of this Consent Order; and it is further

ORDERED that during the period of probation, the Respondent shall successfully complete (a) the Board's Jurisprudence and Ethics examination; and (b) the Board's Supervising Chiropractor examination; and it is further

ORDERED that the Respondent shall refrain from functioning as a supervising chiropractor until he has successfully completed the examinations required herein; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice an opportunity for a show cause hearing before the Board, may impose any sanction which the Board may have imposed under the Maryland Chiropractic Act, including a reprimand, probation, suspension, revocation and/or a monetary fine; and it is further

ORDERED that upon proof of successful completion of the probationary requirements stated herein, the Respondent's probation shall automatically be terminated one (1) year from the effective date of this Consent Order; and it is further

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

³ The effective date of this Consent Order is the date upon which the Board's designee signs this Consent Order.

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code

Ann. State Gov't § 10-611 et seq. (2009 Repl. Vol. and 2011 Supp.)

8-6-2012
Date

J.J. Vallone, J.D.
Executive Director
Stephanie Chaney, D.C., Chair
Maryland Board of Chiropractic & Massage
Therapy Examiners

CONSENT

I, Joseph Musico, D.C., acknowledge that by this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

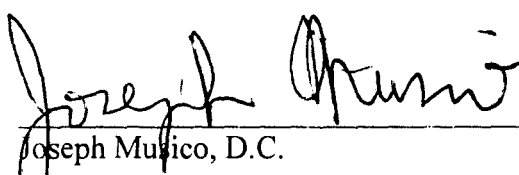
I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the 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 might have followed after any such hearing.

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

7-17-12
Date

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Joseph Musico, D.C.

NOTARY

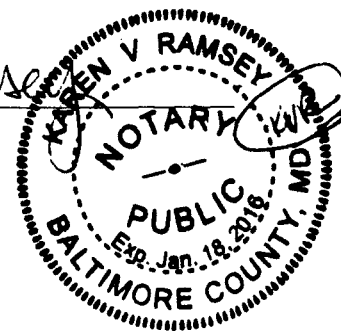
STATE OF MARYLAND
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 13 day of July, 2012,
before me, a Notary Public of the foregoing State and City/County personally appeared
JOSEPH MUSICO, D.C., License Number S01483, and made oath in due form of law that
signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Karen V Ramsey
Notary Public

My commission expires: Jan 18, 2016



IN THE MATTER OF
PAUL A. MULLIGAN,
APPLICANT

* BEFORE THE BOARD OF
* CHIROPRACTIC & MASSAGE
* THERAPY EXAMINERS
* CASE NUMBER: 10-23M

* * * * *

**FINAL ORDER OF DENIAL OF APPLICATION FOR LICENSURE OR
REGISTRATION TO PRACTICE MASSAGE THERAPY**

The State Board of Chiropractic & Massage Therapy Examiners ("the Board") notified **Paul A. Mulligan, ("the Applicant")**, DOB: **04/16/1983**, of the Board's Initial Denial of his Application for Licensure or Registration to Practice Massage Therapy under the Maryland Chiropractic Act ("the Act"), Md. Health Occ. Code Ann. ("Health Occ.") §§ 3-5A-01 *et seq.* (2009 Repl. Vol.). The pertinent provisions state:

Health Occ. §3-5A-06 Qualification for Licensure or Registration

(a) *Qualifications for certification.* - To qualify for a license, an applicant shall be an individual who:

- (1) Is of good moral character[;].

Health Occ. § 3-5A-11 Denials; suspensions; revocations.

(a) *Denial of license or registration.* - Subject to the hearing provisions of § 3-315 of this title, the Board may deny a license or registration to any applicant, reprimand any licensee or registration holder, place any licensee or registration holder on probation, or suspend or revoke the license of a licensee or the registration of a registration holder if the applicant, licensee, or registration holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain license or registration for the applicant or for another;
- (4) Is convicted of or pleads guilt or *nolo contendere* to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside[;].

The Board notified the Applicant that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Board's notification, unless the Applicant requested a hearing.

On August 17, 2010 and on September 16, 2010, the Applicant was served with the Board's Notice of Initial Denial of his Application for Licensure or Registration to practice massage therapy (the "Notice"). The Applicant requested a hearing by his letter dated October 6, 2010. The Board by letter dated October 27, 2010, advised Applicant that the hearing was scheduled for December 9, 2010 at 1:30 p.m. at Board Offices, 4201 Patterson Ave., Baltimore, MD 21215. By an email transmission to Prosecutor, Ms. Janet Brown, Esq. of December 1, 2010 (9:59 p.m.) Applicant submitted his withdrawal from the scheduled hearing.

FINDINGS OF FACT

1. On or about March 5, 2010, the Applicant submitted an Application for Licensure or Registration in Massage Therapy (the "Application") in order to be a licensed or registered massage therapist in the State of Maryland in accordance with Health Occ. § 3-5A-04 (License and Registration Required). On the Application, the Applicant answered "NO" to question D, which states:

Have you ever been arrested, or entered a plea of guilty, no contest, *nolo contendere* or been convicted of a crime or received probation before judgment in any jurisdiction for a crime other than a minor traffic violation?

2. The Applicant signed the Application, stating that the information provided in the Application was true and correct.

3. On or about May 5, 2010, the Board conducted a Maryland Judiciary Case Search of the Applicant's name and date of birth as part of the application processing procedure. The search noted a match for a closed case in the District Court for

Montgomery County – Criminal System, Case Number 1D00140680, Tracking Number 992001207820, related to an incident involving the Applicant occurring on or about November 8, 2003 involving possession of Controlled Substance (CDS) paraphernalia.

4. The case search also noted a match for a closed case in the District Court for Anne Arundel County – Criminal System, Case Number 3A00198110, Tracking Number 020004968771, related to an incident involving the Applicant occurring on or about September 21, 2008 involving possession of CDS paraphernalia and possession of marijuana.

5. On June 4, 2010, the Board sent a Subpoena *Duces Tecum* to the District Court for Anne Arundel County and the District Court for Montgomery County requesting copies of the Applicant's cases.

6. On June 14, 2010, the Board received the Applicant's case information from both District Courts.

7. Based on the information received, the Board learned that on March 11, 2004, the Applicant appeared in the District Court for Montgomery County in Case Number 1D00140680, regarding a charge of possession of CDS paraphernalia. This charge against the Applicant was disposed by *Nolle Prosequi*.

8. Additionally, the Board learned that on June 10, 2009, the Applicant appeared in the District Court for Anne Arundel County in Case Number 3A00198110, regarding a charge of possession of marijuana and a charge of possession of CDS paraphernalia.

9. The charge of possession of CDS paraphernalia against the Applicant was disposed by *Nolle Prosequi*.

10. The Applicant entered a plea of guilty to the charge of possession of marijuana. The Applicant was sentenced to supervised probation before judgment through December 10, 2010 and ordered to pay fines and costs totaling \$250.00.

11. The Applicant was also ordered to attend one narcotics anonymous meeting per week for 14 weeks. It was also ordered that after completing the meetings and paying the fines and costs, the Applicant would be moved from supervised probation to unsupervised probation.

12. The Board may deny a license or registration to any applicant who engages in any of the prohibited acts under the Act, or to any applicant who is not judged to be of good moral character.

13. The Applicant's plea of guilty to possession of marijuana and sentence of supervised probation before judgment on June 10, 2009, less than one year prior to submitting the Application, constitutes a violation of Health Occ. §3-5A-11(a)(4), pleading guilty to a crime of moral turpitude.

14. The Applicant's failure to disclose the plea of guilty to possession of marijuana and sentence of supervised probation before judgment on June 10, 2009 on his Application constitutes a fraudulent or deceptive attempt to obtain a license or registration in violation of Health Occ. §3-5A-11(a)(1).

15. The Applicant's plea of guilty to possession of marijuana and sentence of supervised probation before judgment on June 10, 2009, less than a year prior to submitting the Application, constitutes, in whole or in part, a failure to meet the prerequisite of good moral character to practice in the State of Maryland under Health Occ. §3-5A-06(a)(1).

16. The Applicant's failure to disclose the plea of guilty and sentence of supervised probation before judgment on June 10, 2009 on the Application constitutes, in whole or in part, a failure to meet the prerequisite of good moral character to practice in the State of Maryland under Health Occ. § 3-5A-06(a)(1).

CONCLUSION

Based upon the foregoing Findings of Fact, the Board concludes that the Applicant fails to meet the prerequisite of good moral character and, therefore, fails to meet the qualifications for licensure or registration under Health Occ. § 3-5A-06(a)(1). The Board further concludes that the Applicant violated Health Occ. §§ 3-5A-11(a)(1) and (a)(4) of the Act, which is an additional basis for denial of the Application for licensure or certification.

ORDER

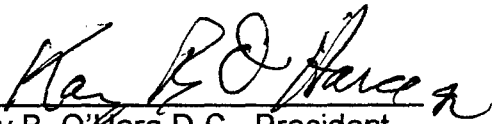
Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9th day of December 2010 by the majority of the Board, hereby:

ORDERED that the Application for Licensure or Registration of **Paul A. Mulligan**, to Practice Massage Therapy is hereby **DENIED**; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol.), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this Order is final and a public document pursuant to Md. State
Govt. Code Ann. §§ 10-601 *et seq.* (2009 Repl. Vol.).

12-9-2010
Date


Kay B. O'Hara D.C., President
Board of Chiropractic & Massage
Therapy Examiners
By direction of the Board