

IN THE MATTER OF
MORGAN ROGERS
license no. S01574

* BEFORE THE STATE BOARD
* OF CHIROPRACTIC
* EXAMINERS

Respondent

* * * * *

CONSENT ORDER

Based on information received and a subsequent investigation by the Maryland State Board of Chiropractic Examiners (the "Board") and subject to the Health Occupations Article, Code Ann., §3-101 et seq., 1994 Repl. Vol. (the "Act") the Board charged **Morgan Rogers, D.C.**, (the "Respondent"), with having violated certain provisions of the Act under §3-313.

Specifically, the Board charged the Respondent with having violated the following provisions of §3-313:

(7) Solicits or advertises in a false or misleading manner or in any other manner not approved by the Board,

(19) Violates any rule or regulation adopted by the Board;

The Board adopted COMAR 10.43.03.05 which lists prohibitions of chiropractic advertisement. In pertinent part it states:

An advertisement may not contain statements which:

- A. Contain a misrepresentation of facts;
- B. Are likely to mislead or deceive because in context the statement makes only a partial disclosure of relevant facts;
- C. Intend to, or are likely to create false or unjustified expectations of favorable results;
- F. Contain representations or implications that in reasonable probability can be expected to cause an ordinary prudent person to misunderstand or to be deceived[.]

On December 3, 1998 a case resolution was held. It was

attended by the Respondent and his attorney, Mr. Paul J. Weber; Ms. Kitty Travagline, Board Executive Director; Mr. James Vallone, Board Deputy Director; Ms. Andrea Brisbin, Assistant Attorney General and Board Counsel; Paul Goszkowski, D.C., Board member; and Lisa B. Hall, administrative prosecutor. The Board, the Respondent and the Office of the Attorney General enter into this Consent Order to resolve the pending issues and to avoid further litigation.

Findings of Fact

1. At all times relevant, the Respondent was licensed to practice as a chiropractor in the State of Maryland. The Respondent was so licensed on July 1, 1992.

2. Under §3-407¹ of the Act, a licensed chiropractor may use a trade name in connection with the practice of chiropractic provided that: (1) The use of the trade name is not deceptive or misleading; (2) The advertisement in which the trade name appears includes the name of the licensed chiropractor or the name of the business entity providing the chiropractic services being advertised as long as the advertisement includes the name of a licensed chiropractor. Exhibit 8 does not contain the name of the Respondent as required under the Act.

3. On Exhibit 8 the Respondent lists, among other things, that the Life Care Center for Health & Wellness performs "naturopathy." Naturopathy is not within the scope of the

¹ Subsections (3), (4), and (5) are omitted here.

practice of chiropractic in Maryland. Additionally, it is not a specialty recognized by the ACA or the ICA.

Conclusions of Law

Based upon the Findings of Fact, the Board makes the following conclusions: The Respondent violated §3-313 (7) and (19), to wit COMAR 10.43.03.05, of the Act by using the term "naturopathy" in an advertisement. Respondent's advertisement is further a violation of the Act in that it fails to contain the name of the Respondent or any other licensed chiropractor. Therefore the Board finds that the omission is a violation of §3-313 (7) as it is not in compliance with §3-407.

The Board dismisses the allegations of fact contained in the charging document in paragraphs 2 through 8.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 28 day of Jan, 1998, by a majority of the Board, hereby

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

ORDERED that within thirty (30) calendar days of the Order, Respondent shall submit to the Board a current curriculum vitae with supporting documentation as to hospital affiliations, school affiliations, and enrollment in degree seeking programs.

Respondent shall note on the bottom of the last page of his curriculum vitae the revised date by noting the month and year of revision.

BE IT FURTHER ORDERED that in the event the Board finds for any reason that the Respondent has substantially violated any provision of Title 3 of the Health Occupations Article, Annotated Code of Maryland or the regulations thereunder, the Board, after notification to the Respondent, and an opportunity to be heard, may take immediate action or impose any lawful disciplinary sanction it deems appropriate, including but not limited to revocation or suspension of Respondent's licensee to practice chiropractic; and be it further

ORDERED that the conditions of the Consent Order be, and the same hereby are, effective as of the date of this Order; and be it further

ORDERED that for purposes of public disclosure, as permitted by §10-617 (h), Md. Code Ann., State Government this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order, resulting from formal disciplinary proceedings.

01-28-99
HFL
Date

Howard F. Lewis, D.C.
Howard F. Lewis, D.C.
President

CONSENT of Morgan Rogers, D.C.

I, Morgan Rogers, D.C., by affixing my signature hereto,

acknowledge that:

1. I am have had an opportunity to consult with an attorney whether or not I have chosen to do so;

2. I am aware that without my consent, my license to practice chiropractic care in this State cannot be limited, except pursuant to the provisions of §3-315 of the Act and §10-201 et seq. of the Administrative Procedure Act, Md. Code Ann. State Government.

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 Facts, Conclusions of Law, and Order provided the Board adopts the foregoing Final Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in §3-315 of the Act and §10-201 et seq. of the Administrative Procedure Act except on connection with any alleged violation of this Order. I waive any appeal right under Maryland Code Annotated, State Government Article §10-222.

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

6. I understand that this Consent Order is a public document, disclosable under §10-617 (h) (2) (vi) of the Md. Code Ann., State Government.

7. I sign this Order without reservations, and I fully

understand its meaning.

1-8-99

DATE

[Signature]

Morgan Rogers, D.C.

STATE OF Maryland

CITY/COUNTY OF: St. Mary's

I HEREBY CERTIFY that on this 8th day of January, 1998⁹⁹, a Notary of the State of Maryland and (City/County), St. Mary's, personally appeared Morgan Rogers, D.C. License No. S01574, 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.

[Signature]

Notary Public

My commission expires: 1/15/02