

IN THE MATTER OF	*	BEFORE THE MARYLAND
DOUGLAS WEAVER, D.C.	*	BOARD OF CHIROPRACTIC
RESPONDENT	*	AND MASSAGE THERAPY
	*	EXAMINERS
License Number: S01908	*	Case Number: 10-44C

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On or about June 29, 2011, the Maryland Board of Chiropractic and Massage Therapy Examiners (the "Board") charged **Douglas Weaver, D. C. (the "Respondent") (D.O.B. 1/25/1964), License Number S01908**, under the Maryland Chiropractic Act ("the Act") Md. Health Occ. Code Ann. ("H.O.") §§ 3-101 *et seq.* (2009 Repl. Vol. and 2010 Supp.)

Specifically, the Board charged the Respondent with the following violations under the Act:

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

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

The Board further charged the Respondent with the following violations of the Code of Maryland Regulations ("COMAR") tit. 10§ 43.01 *et seq.*, as follows:

.07 CHIROPRACTIC ASSISTANTS

03. Responsibilities of the Supervising Chiropractor.

A. Submit:

- (1) The required Board notification of Employment form before undertaking any training of any chiropractic assistant applicant; and
- (2) All other Board-required reports and forms in a timely manner;

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.

On or about August 25, 2011, the Respondent, his attorney and the Administrative Prosecutor on behalf of the State, appeared before the Case Resolution Conference Committee (the "CRC") of the Board. As a result of negotiations and consideration of the documents submitted, the Respondent, the Board and the State agreed to enter into this Consent Order. A quorum of the Board accepted the negotiated settlement on or about October 13, 2011.

FINDINGS OF FACT

A. BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice chiropractic in the State of Maryland. He was initially licensed by the Board on or about December 30, 1998. His license is currently active and expires on September 1, 2013.

2. At all times relevant hereto, the Respondent maintained an office for the practice of chiropractic at 12136 Central Avenue in Mitchellville, Maryland 20721("Facility A"). The Respondent served as both the practicing and supervising chiropractor at Facility A.

3. In or around July 2010, Respondent contacted the Board to inquire about the status of an Employee's ("Employee A") Chiropractic Assistant Registration ("registration"). He discovered at that time that no record of valid registration could be located and was instructed to have the employee contact the Board to determine the status.

4. On or about August 3, 2010, the Board received a July 28, 2010 letter from Employee A, requesting reinstatement of her registration. In that letter, Employee A stated that she had passed her Chiropractic Assistant ("CA") Board exam in April of 1997 and had begun working at Facility A on or about July 12, 2010. She further explained that the Respondent had recently advised her, following his telephone call with the Board, that no record of valid CA registration could be found under Employee A's name.

5. On that same day, August 3, 2010, Board staff contacted Employee A regarding her statement that she had passed the CA exam in April of 1997. During that

conversation, Employee A conceded that she recalled receiving a letter from the Board in April of 1997, informing her that she had failed her CA exam. She admitted that she did not retake the exam.

6. Employee A inquired about the courses needed to qualify to retake the exam and was directed by Board staff to submit documentation of all continuing education courses taken since 1997, so that the Board could determine what additional courses would be necessary.

7. On or about August 4, 2010, the Board initiated an investigation of the Respondent based upon Employee's A's letter of July 28, 2010 and her subsequent admissions of practicing as an unauthorized CA in the Respondent's office.

B. BOARD INVESTIGATION

8. On or about August 11, 2010, Board staff contacted Employee A and inquired as to her duties and responsibilities at Facility A. Employee A stated that she assisted the Respondent by performing physical therapy modalities on his patients, such as electrical stimulation, and ultra sound. She also admitted to placing patients on equipment utilized by the Respondent in his practice.

9. On August 16, 2010, Board staff conducted a site visit of the Respondent's office and spoke extensively with the Respondent regarding Employee A's hiring and responsibilities.

10. The Respondent stated that he allowed Employee A to continue performing physical therapy duties consistent with a CA because he believed that she held a valid registration and that the Board was in the process of locating that registration.

11. The Respondent was then advised by Board staff that Employee A did not hold a valid registration and had admitted to having failed the 1997 CA exam.

12. The Respondent stated that Employee A had performed electrical stimulation and traction therapy since July 2010, working approximately thirty (30) hours per week, treating 5-10 patients per day.

13. Board staff then inquired about any other CAs working for the Respondent and learned about another employee ("Employee B"), who allegedly held a valid CA registration.

14. Further investigation revealed that Employee B had been issued a CA registration on or about May 14, 2008, but had allowed that registration to expire sixteen (16) months earlier on March 31, 2009.

15. Board staff immediately notified the Respondent that Employee B's registration had expired on March 31, 2009, and therefore, neither Employee A or B could assist the Respondent in providing chiropractic care until their respective registrations were reinstated by the Board.

16. On or about August 17, 2010, the Board received a letter from Employee B stating that she was unable to complete her CA continuing education requirements needed for registration renewal, due to ongoing financial hardship.

17. Employee B stated to Board staff that she had never received a registration renewal notification and had mistakenly believed that she was not required to renew her license in 2009.

18. The Board's investigation revealed that a renewal notification had been sent to Employee B's address of record and was returned to the Board on January 18,

2009 marked "Return to Sender, Attempted—Not Known, Unable to Forward". There was no documentation in the Board's file that it notified the Respondent that Employee B's renewal notice had been returned to the Board as undeliverable..

19. On or about October 12, 2010, Board staff interviewed the Respondent, who stated¹, among other things, the following:

- a. When he hired Employee A on July 12, 2010, she presented herself as a registered CA;
- b. Employee A showed him a certificate of completion of CA training from Palmer College;
- c. The Respondent did not provide the Board with notification of Employee A's employment as required, because he believed that Employee A's letter requesting reinstatement satisfied the requirement of notification of employment;
- d. Employee A provided electrical muscle stimulation, heat, and inter-segmental traction therapy for the Respondent's patients;
- e. Employee A was allowed to perform physical therapy on his patients because he believed that the Board was attempting to locate her registration;
- f. Employee A worked for the Respondent approximately thirty (30) hours per week and performed physical therapy on five (5) to ten (10) patients per day;
- g. Upon learning that Employee A was not a registered Chiropractic Assistant, Respondent immediately terminated Employee A's contact with patients and terminated Employee A's employment because of her failure to tell the truth to the Respondent or the Board.
- h. The Respondent also hired another CA, Employee B, in April 2007. The Respondent paid for her to attend CA training and recalled her being issued a registration by the Board shortly after completing her training. Employee B did not display her registration in the office;

¹ The substance of the interviews given by the Respondent in this case have been abridged and paraphrased and do not purport to be direct quotes from the transcripts.

- i. The Respondent was unaware that Employee B failed to complete the requisite ten (10) hours of continuing education needed to renew her CA registration;
- j. The Respondent, Employee B's supervising chiropractor, had not been notified that Employee B's renewal notification has been returned to the Board as undeliverable.
- k. Employee B worked 35 hours per week treating approximately 10-20 patients per day; and
- l. After the expiration of her registration in April 2009, Employee B continued to perform physical therapy, including electrical muscle stimulation, heat, mechanical traction, ultra-sound and decompression therapy.

20. After being notified by the Board that Employee B did not hold a valid registration, the Respondent immediately limited her responsibilities to escorting patients from the waiting room to the exam room.

21. The Respondent denies prior knowledge of Employees' A and B's lapsed registrations.

22. The Respondent practiced chiropractic with unauthorized persons, Employees A and B. He also supervised unauthorized persons in the practice of chiropractic.

22. The Respondent failed to submit to the Board, the required notification of employment for Employee A. As a result, Employee A practiced as a chiropractic assistant without a valid registration or Board approval.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated H.O. § 3-313 (18) and (19) and COMAR tit.10§ 43.07.03.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 6th day of December 2011, by a majority of the Board considering this case:

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 one thousand (\$1,000.00) dollars, five hundred dollars (\$500.00) to be payable to the Board within six (6) months of the effective date of the Consent Order and the remaining five hundred dollars (\$500.00) to be payable to the Board within one (1) year of the effective date of this Consent Order, and be 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 from the date that this Consent Order is executed, and be it further

ORDERED that within one (1) year of the date of the Consent Order, the Respondent shall take and successfully complete the Board's Jurisprudence and Ethics examination; and be it further

ORDERED that within six (6) months of the date of the Consent Order, the Respondent shall enroll in and successfully complete the Board's Supervising Chiropractor Exam; and be it further

ORDERED that within one (1) year of the date of the Consent Order, the Respondent shall enroll in and successfully complete a Board-approved course in ethics which course shall include a minimum of three (3) hours instruction; and be it further

ORDERED that the Continuing Education requirements required by this Consent Order shall not count toward fulfilling other continuing education requirements that the Respondent must fulfill in order to renew his license to practice chiropractic; and be it further

ORDERED that Respondent shall comply with the Maryland Chiropractic Act and all laws, statutes and regulations pertaining to the practice of Chiropractic; and be it further

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

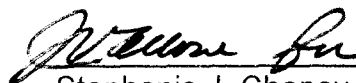
ORDERED that at the conclusion of the one (1) year probationary period and only after the Board's receipt of documentation confirming successful completion of the probationary conditions, the Respondent may petition the Board for termination of probation; and be it further

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

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. § 10-611 et seq. (2009 Repl. Vol. and 2011 Supp.).

DEC 06 2011

Date



Stephanie J. Chaney, D.C., President
Board of Chiropractic Examiners

CONSENT OF DOUGLAS WEAVER D.C.

I, Douglas Weaver, D.C., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree and accept to be bound by the foregoing Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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, 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 jurisdiction of the Board to initiate these proceedings and to issue and enforce the Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

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

terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

12-6-2011
Date

[Signature]
Douglas Weaver, D.C.

Read and approved by:

See attached
←

Paul Weber, Esq., Attorney for the Respondent

NOTARY

DE
STATE OF ~~MARYLAND~~

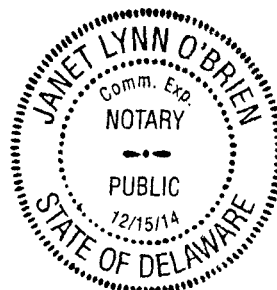
CITY/COUNTY OF *Sussex*:

I HEREBY CERTIFY that on this *6th* day of *December*, 2011, before me, a Notary Public of the foregoing State personally appeared Douglas Weaver, D.C. License Number S01908, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

[Signature]
Notary Public

My Commission Expires: *12/15/14*

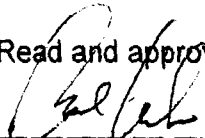


terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

Date

Douglas Weaver, D.C.

Read and approved by:



Paul Weber, Esq., Attorney for the Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF _____:

I HEREBY CERTIFY that on this ____ day of _____, 2011, before me, a Notary Public of the foregoing State personally appeared Douglas Weaver, D.C. License Number S01908, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Notary Public

My Commission Expires: _____