

IN THE MATTER OF

DOLORES ZUMBADO, D. C.

LICENSE NUMBER: SO1665

RESPONDENT

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BEFORE THE STATE
BOARD OF CHIROPRACTIC
AND MASSAGE THERAPY
EXAMINERS
CASE NUMBER: 08-37-C

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CONSENT ORDER

The State Board of Chiropractic Examiners and Massage Therapy Examiners ("the Board") charged Dolores Zumbado, D.C. ("the Respondent"), D.O.B., License Number. SO 1665, with violating certain provisions of the Maryland Chiropractic & Massage Therapy Act ("the Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 3-101 *et seq.* (2005 Repl. Vol. and 2008 Supp.). Specifically, the Board charged the Respondent with violating the following:

H.O. §3-313. Denials, reprimands, probations, 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:

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

(21) Commits an act of unprofessional conduct in the practice of chiropractic;

(28) Violates any provision of this title:

H.O. §3-407. Trade names.

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;
- (3) The name of the licensed chiropractor providing chiropractic services appears on the billing invoices, stationery, and on any receipt given to a patient;
- (4) Treatment records are maintained that clearly identify the licensed chiropractor who has performed the chiropractic service for the patient; and
- (5) The use of a trade name is preapproved by the Board before use.

Code Md. Regs. tit. 10, § 43.07.03: Responsibilities of the Supervising Chiropractor.

The supervising chiropractor shall:

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.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant herein, the Respondent was licensed to practice chiropractic in the State of Maryland. The Respondent was initially issued a license to

practice chiropractic on January 10, 1994.

2. At all times relevant herein, the Respondent owned chiropractic practices in Gaithersburg, Maryland.¹

3. On or about June 1, 2008, the Board discovered that the Respondent was using an unapproved trade name, BodyTech Rehab & Longevity, for her practice.

4. Body Tech Rehab & Longevity is located at 811 B Russell Avenue, Gaithersburg, Maryland.

5. On or about September 27, 2006, the Respondent informed the Board that she had failed to register the name of her practice and that she was currently using the trade name BodyTech Rehab & Longevity.

6. In or around October 2006, the Board informed the Respondent that it voted to "disapprove" the trade name "BodyTech Rehab & Longevity". The Board described the trade name as "vague and misleading to the public".

7. The Board also indicated that it was denying use of the trade name BodyTech Rehab & Longevity, because the name failed to identify the Respondent's practice as chiropractic.

8. The Board also informed the Respondent that she could submit to a new trade name for Board approval.

9. In or around June 2008, the Board learned that the Respondent was still using the trade name BodyTech Rehab & Longevity.

10. On June 19, 2008, the Board investigator went to visit the Respondent's practice.

¹ The Respondent's practices are currently known as Gaithersburg Spinal Rehab & Wellness Center, Delores Zumbado, D.C. and BodyTech Rehab & Longevity, Delores Zumbado, D.C.

11. During his visit to the Respondent's practice, the Board investigator noticed that the name BodyTech Rehab & Longevity was located on the front door and above the entranceway to her practice.

12. While inside the Respondent's practice, the Board investigator observed one of the Respondent's employees, preparing patients for traction therapy.

13. Further investigation by the Board revealed that, in the spring of 2008, the Respondent hired M.S. and T.W. Even though M.S. and T.W. were not certified to do so, the Respondent allowed M.S. and T.W. performed chiropractic assistant duties for approximately two (2) months.²

14. The Board's investigation also revealed that the Respondent failed to submit to the Board, a Notice of Employment of Chiropractic Assistant (CA) Applicant ("Notification of Employment") for M.S. and T.W., which is required before a chiropractor can undertake the hiring and training of employees as chiropractic assistant applicants.

15. During an interview with the Board's investigator, the Respondent admitted that she had trained and subsequently allowed M.S. and T.W. to perform the duties of a chiropractic assistant.

16. By a letter dated June 19, 2008, the Respondent submitted a request to the Board, for approval to use the trade name "BodyTech Rehab & Longevity Delores Zumbado, DC", as her practice trade name.

17. On or about June 23, 2008, the Respondent submitted also a Notification of Employment for M.S. and T.W.

18. On June 23, 2008, the Respondent was granted permission by the Board

to employ and train M.S. and T.W. under Code Md. Regs. tit. 10, § 43.07.

19. On or about July 14, 2008, the Board informed the Respondent that it had approved her request to use the trade name BodyTech Rehab & Longevity Delores Zumbado, D.C.

20. By using a trade name that was not approved by the Board, the Respondent violated H.O. §3-313 (7), (19), (21), and (28) and H.O. §3-407.

21. By failing to submit to the Board a Notification of Employment or M.S. and T.W. and allowing M.S and T.W. to perform the duties of a chiropractic assistant, the Respondent violated H.O. §3-313 (7),(18), (19), (21), and (28) and Code Md. Regs. tit. 10, § 43.07.03.

CONCLUSIONS OF LAW

22. Based on the foregoing findings of fact, the Board concludes that Respondent is in violation of H.O. §3-313 (7), (19), (21), and (28), H.O. §3-407 and Code Md. Regs. tit. 10, § 43.07.03.

ORDER

Based on the foregoing findings of fact and conclusions of law, it is this 13th day of October 2009, the Board, by a majority of the full authorized membership of the Board hereby:

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

ORDERED that the Respondent shall be placed on **PROBATION** for a period of one (1) year subject to the following conditions:

² The names of the Respondent's employees have been omitted to protect their identity.

1. The Respondent shall pay a fine in the amount of two thousand dollars (\$2000).
2. The Respondent shall take and pass a Board approved ethics course.
3. The Respondent shall take and pass the Board jurisprudence examination.

ORDERED that, should the Board receive a report that the Respondent has violated the Act or if the Respondent violates any conditions of this Order or of probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice chiropractic in Maryland; and be it further

ORDERED that, at the end of the probationary period, the Respondent may file a written petition with the Board to be reinstated without any conditions or restrictions on her license, provided that she can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of probation, as it deems necessary;

ORDERED that the Respondent shall be responsible for all costs incurred under this order; and it is further

ORDERED that the effective date of this order is the date that it is signed by the Board; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2005 Repl. Vol. and 2008 Supp.), 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 a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 et seq. (2005 Repl. Vol. and 2008 Supp.).

OCT 13 2009

Date

K. O'Hara *Exc. dir. for (by direction)*
Dr. Kay B. O'Hara, D.C., President
State Board of Chiropractic and
Massage Therapy Examiners

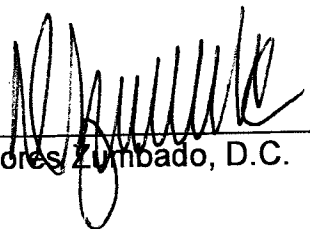
CONSENT OF DOLORES ZUMBADO, D.C.

I, Dolores Zumbado, D.C., by affixing my signature hereto, acknowledge that:

1. I have decided not to be represented by an attorney.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 3-315 (2005 Repl. Vol.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2004 Repl. Vol. and 2008 Supp.).
3. I acknowledge the validity and enforceability of this consent order as if entered after 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 am waiving those procedural and substantive protections.
4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth herein as a resolution of the Board's case based on the findings set forth herein.
5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this consent order as set forth in Md. Health Occ. Code Ann. § 3-315 (2004 Rep. Vol. and 2008 Supp.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2004 Rep. Vol. 2004 and 2008 Supp.).
6. I acknowledge that by failing to abide by the terms and conditions set forth in this consent order, and, following proper procedures, I may be subject to disciplinary action, which may include revocation of my license to practice chiropractic in the State of Maryland.

7. I sign this consent order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this order.

10-2-09
Date


Dolores Zumbado, D.C.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Montgomery

I hereby certify that on this 5th day of Oct, 2009, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Dolores Zumbado, D.C. and made oath in due form of law that the foregoing pre-charge consent order was her voluntary act and deed.

AS WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: 9-1-10