

IN THE MATTER OF
RAEFORD ELLISON, L.Ac.,
Respondent

* BEFORE THE
* STATE BOARD OF
* ACUPUNCTURE

License Number: U587

CONSENT ORDER
PROCEDURAL BACKGROUND

The State Board of Acupuncture (the "Board") on December 30, 1999, voted to charge Raeford Ellison, L.Ac., (the "Respondent") (D.O.B. 9/19/52), License Number U587, under the Maryland Acupuncture Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §1A-309 (1999 Supp.).

The pertinent provision of the Act under which the Board charged Respondent provides the following:

Subject to the hearing provisions of §1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny a license to practice acupuncture, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

- (3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture[;].

On April 26, 2000, the Respondent, his attorneys Roy L. Mason, Esquire and Kristin Kremer, Esquire, and Janet Klein Brown, Administrative Prosecutor, appeared before the Case Resolution Conference Committee (the "CRC") of the Board. As a result of negotiations, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law and Order, with the terms and conditions set forth below.

AUG 23 2000

FINDINGS OF FACT

The Board makes the following findings of fact:

I. BACKGROUND

1. Respondent, a 47 year old male, is an acupuncturist licensed to practice acupuncture in Maryland. Respondent was originally issued a license to practice acupuncture in Maryland on or about November 14, 1995, being issued license number U587.

2. At all times relevant to these charges, Respondent practiced acupuncture at the Center for Traditional Acupuncture, the faculty/student clinic at Traditional Acupuncture Institute, Inc. ("TAI") in Columbia, Maryland.

3. In fall 1995, Respondent held a "Faculty-in-Training" position at TAI. Subsequently, in spring and summer 1996, Respondent was an assistant teacher at TAI; and was then under an "Instructional Contract" with TAI from fall 1996 through the 1998-99 academic year. Respondent resigned his position at TAI on April 27, 1999.

II. PATIENT SPECIFIC ALLEGATIONS

Patient A¹

4. Respondent provided acupuncture treatment to Patient A from May 1997 through October 1998. Respondent engaged in sexual conduct, including touching, fondling, and intercourse with Patient A, then a thirty-two year old female, on two occasions in November - December 1997, in the treatment room, and in an adjacent room, after first

¹Patient names are confidential and are not included in the Consent Order.

developing a professional, acupuncturist/patient relationship with Patient A. Respondent noted in Patient A's treatment record Patient A's problems with depression, and family and social relationships.

5. Patient A alleges that sexual contact occurred on four occasions, rather than on two occasions as acknowledged by Respondent. Patient A also alleges that in Spring 1998, Respondent attempted to initiate sexual conduct at Patient A's apartment on one occasion.

6. Respondent also participated in a non-sexual social relationship with Patient A while they maintained the acupuncturist/patient relationship. The non-sexual social relationship included going dancing on one occasion, meeting in public places, including going to a State park, and at least one visit by Respondent to Patient A's apartment. Respondent disclosed personal and intimate information to Patient A.

Patient B

7. Respondent, who was a senior acupuncture student at the time, provided approximately 17 acupuncture treatments to Patient B, then a forty year old female, from February 1995 to July 1996. Respondent noted in Patient B's treatment record that Patient B had concerns about her marital relationship.

8. Respondent engaged in a non-sexual social relationship with Patient B despite the fact that Patient B confessed to Respondent to having romantic feelings for Respondent and Respondent informed Patient B that he wished only to maintain a

professional relationship. This non-sexual social relationship included going to lunches and for walks. Respondent also disclosed personal information to Patient B.

9. After Patient B confessed to Respondent on more than one occasion to having romantic feelings for Respondent, Respondent gave Patient B the names of female acupuncturists.

Patient C

10. Patient C, then a twenty-six year old female, was an acupuncture student who received acupuncture treatments from Respondent from January 1998 to May 1998.

11. Respondent noted in his treatment records that Patient C had difficulty with overeating, feelings of loneliness, difficulty with her parents and concern about lack of clarity from her teachers.

12. Patient C alleges that during a treatment session, Respondent told Patient C that she was beautiful and that when Respondent saw Patient C outside the treatment sessions, Patient C alleges that Respondent greeted Patient C with the comments, "Hi beautiful" and "You're so beautiful. I was so glad to see your smiling face."

13. Patient C alleges that Respondent then invited Patient C to join him at a "pub." While having drinks at the pub, Patient C alleges that Respondent disclosed personal information to Patient C.

14. Patient C alleges that in or around April-May 1998, Respondent greeted Patient C with the comment, "You look great. I would date you if you weren't my patient."

15. Patient C alleges that in or around April-May 1998, Respondent indirectly disclosed information to Patient C regarding another female patient of his. Patient C alleges that Respondent became visibly angry, agitated and upset during the discussion.

16. Respondent does not recall making any of the comments and engaging in the conduct as alleged by Patient C.

17. Thereafter, Patient C ceased treatment with Respondent and obtained acupuncture treatment from a female acupuncturist.

PATIENTS A, B AND C

18. Respondent's conduct with Patients A and B, and as alleged by Patient C, as described in paragraphs 4 through 17 constitutes immoral and unprofessional conduct in the practice of acupuncture in violation of the Maryland Acupuncture Act, §1A-310(3).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent committed prohibited acts under the Act, Health Occupations Article § 1A-309. Accordingly, the Board concludes as a matter of law that the Respondent is guilty of immoral or unprofessional conduct in the practice of acupuncture.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is the 29th day of August 2000, by a majority of the full authorized membership of the Board considering this case:

ORDERED that Respondent's license to practice acupuncture, including auricular detoxification, in the State of Maryland be **SUSPENDED** for a period of **one year from the effective date of the Consent Order**, and it is further

ORDERED that after one year from the effective date of the Consent Order, Respondent may petition the Board for termination of his **SUSPENSION** after Respondent has successfully completed the following conditions:

1. Respondent shall be evaluated by a Board-approved psychotherapist who specializes in boundary violations by health care providers. The written complaints filed by Patients A, B and C, the investigative report, the charging document, and this Consent Order shall be made available to the evaluating psychotherapist prior to the evaluation.

2. If recommended by the evaluating psychotherapist, Respondent shall undergo treatment with a Board-approved psychotherapist who specializes in treating health care providers who have engaged in boundary violations with patients. The written complaints filed by Patients A, B and C, the investigative report, the charging document, this Consent Order and the evaluating psychotherapist's report shall be made available to the treating psychotherapist.

3. Respondent shall ensure that the treating psychotherapist submits quarterly reports to the Board. Respondent shall sign a release of confidential information form so that the treating psychotherapist may provide quarterly reports to the Board.

4. Respondent shall successfully complete a Board-approved course in professional ethics specifically focused on boundary violations by health care providers.

AND BE IT FURTHER ORDERED that upon reinstatement of Respondent's license, Respondent shall be placed on **three (3) years probation** and that Respondent shall comply with all the terms and conditions of probation as follows:

1. Respondent shall provide acupuncture treatment only to male patients and may not treat female patients unless and until he is approved to do so by the Board-approved evaluating psychotherapist and the Board.

2. Respondent shall notify the Board of all settings in which he provides acupuncture treatment.

3. Respondent shall comply with all recommendations for treatment made by the Board-approved evaluating psychotherapist, including continuing treatment with the Board-approved treating psychotherapist until his discharge from treatment, which shall be subject to review and approval by the Board.

4. Respondent shall ensure that the treating psychotherapist submits quarterly written reports to the Board. Respondent shall sign a release of confidential information form so that the treating psychotherapist may provide quarterly reports to the Board.

5. Respondent shall, at the discretion of the Board, undergo re-evaluation by the Board-approved evaluating psychotherapist upon his petition for any modification of the terms and conditions of probation and prior to petition for termination of probation by Respondent.

6. **Three (3) years** from the effective date of the Consent Order, Respondent

may petition the Board for termination of probation and full reinstatement of his license, provided there are no complaints or other disciplinary actions pending against Respondent and the Board-approved evaluating psychotherapist agrees that Respondent may resume the unrestricted practice of acupuncture. The Board will not approve the termination of probation and the reinstatement of Respondent's license without restrictions unless and until recommended by the evaluating psychotherapist.


7. Respondent shall be responsible for all costs necessary to fulfill the conditions of this Consent Order.

AND BE IT FURTHER ORDERED that if Respondent violates any of the terms of this Consent Order or fails to comply with the terms of this probation, the Board after notice and a hearing, and a determination of a violation, may impose any other disciplinary sanctions it deems appropriate, said violation of probation being proved by a preponderance of evidence; and be it further

ORDERED that if the Board has probable cause to believe that the public health safety or welfare imperatively requires emergency action, the Board **WITHOUT PRIOR NOTICE AND AN OPPORTUNITY FOR A HEARING, MAY SUMMARILY SUSPEND THE RESPONDENT'S LICENSE**, provided that Respondent is promptly given written notice of the Board's action and an opportunity for a hearing within thirty (30) days after requesting same in accordance with Md. Code Ann., State Gov't, § 10-226(c) (1999 Repl. Vol.); and be it further

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., State Gov't § 10-611 et seq.

8/29/00
Date


Penny Heisler, Executive Director
Maryland State Board of Acupuncture

CONSENT

I, Raeford Ellison, L.Ac., acknowledge that I am represented by legal counsel, Roy L. Mason, Esquire and Kristin Kremer, Esquire, and I have had the opportunity to consult with counsel before entering into signing this document. By this consent, I hereby admit the Findings of Fact and Conclusions of Law, and submit to the foregoing Consent Order consisting of ten (10) pages.

I acknowledge the validity of this Consent Order as if entered 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 acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this 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 an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

8-22-00
Date

[Signature]
RaeFord Ellison, L.A.C.

Reviewed by:
[Signature]
Roy L. Mason, Esquire
Counsel for Respondent

STATE OF MARYLAND

CITY/COUNTY of ATLANTIC N.J

I HEREBY CERTIFY that on this 22 day of AUGUST, 2000, before me, a Notary Public of the State and County aforesaid, personally appeared RAEFORD ELLISON and made oath in due form of law that the foregoing was his/her voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

PATRICE M. MCCALL
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires July 20, 2004
Notary Public

[Signature]

My Commission Expires: 7-20-2004
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July 19, 2000 (10:50AM)