

IN THE MATTER OF * BEFORE THE
J. MITCHELL ADOLPH, D.C., * MARYLAND STATE BOARD
Respondent * OF CHIROPRACTIC EXAMINERS
LICENSE NUMBER: 01128 *

* * * * *

CONSENT ORDER

The State of Maryland Board of Chiropractic Examiners (the "Board"), on August 12, 1999 issued Charges against J. Mitchell Adolph, D. C. ("the Respondent") (D.O.B. 01/10/57), License Number: 01128, under the Maryland Chiropractic Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") § 3-101 et seq. (1994).

The pertinent provisions of § 3-313 of the Act provide the following:

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;
- (8) Is unethical in the conduct of the practice of chiropractic;
- (9) Is professionally, physically, or mentally incompetent;
- (11) Misrepresents the effectiveness of any treatment, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (12) Willfully makes or files a false report or record in the practice of chiropractic;

- (16) Grossly and willfully:
 - (ii) Submits false statements to collect a fee for which services are not provided;
- (21) Commits an act of unprofessional conduct in the practice of chiropractic.

The Respondent received notice of Charges and the issues underlying those Charges by certified mail service on or about August 20, 1999. On November 5, 1999, the Board held a Case Resolution Conference ("CRC"). No settlement of the case was reached. Thereafter, a hearing on the Charges commenced on January 11, 2000 and continued on January 13, January 27, and February 3, 2000.

On February 17, 2000, the Board held a second CRC. As a result of negotiations between the Respondent, represented by his attorney Marc K. Cohen, Esquire, Janet Klein Brown, Administrative Prosecutor, and the Board, the Board, in resolution of all complaints and investigations concerning the Respondent pending before the Board as of the date of this Consent Order, 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.

FINDINGS OF FACT

1. At all times relevant to the charges, the Respondent was licensed to practice chiropractic in the State of Maryland. The Respondent owns and operates Adolph Family Chiropractic (also known as White Marsh Chiropractic) at 8817 Bel Air Road, Baltimore, Maryland. The Respondent was originally licensed in the State of Maryland in 1979, being issued License Number 01128.

2. The Charges filed by the Board against Respondent concerned complaints made by Patients A, B, C, D, E, and F¹, who were treated at various times by Respondent from February 1993 through September 1995.

3. The Respondent, in regard to Patients A, B, C, D, E, and/or F:

- a. Failed to perform appropriate initial evaluations, including failed to perform neurological examinations and orthopedic examinations, or complete orthopedic examinations, palpatory examinations, failed to obtain follow-up history regarding significant findings, failed to communicate with prior primary care providers or prior treating chiropractors;
- b. Failed to perform appropriate re-evaluations;
- c. Failed to perform re-evaluations at sufficient intervals;
- d. Diagnosed myofascitis and pelvic sacroiliac syndrome without a palpatory examination; diagnosed cervical brachial syndrome without supporting history or orthopedic examination; diagnosed cephalgia without supporting history or examination;
- e. Treated patients who were asymptomatic without clinical justification;
- f. Performed frequent manipulations;
- g. Recommended excessive manipulations for maintenance care;
- h. Failed to alter patients' treatment plans after the patients did not respond;
- i. Misrepresented the effectiveness of frequent manipulations over an extended period of time;
- j. Altered patients' treatment plans depending on the patients' ability to pay;

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

- k. Required patients to pay for extended treatment prior to determining the need for treatment;
 - l. Misrepresented fees to health insurance companies by filing claim forms that did not acknowledge the reduced fee agreements;
 - m. Imposed financial penalties on patients who elected to terminate treatment prior to the expiration of the extended care programs; and
 - n. Advertised falsely.
4. The Respondent's medical records revealed the following deficiencies in regard to Patients A, B, C, D, E, and/or F:
- a. Performed incomplete radiographic analyses;
 - b. Utilized traction without documenting the area of traction, amount of weight, duration and frequency;
 - c. Failed to maintain medical records which are understandable by a subsequent treating chiropractor;
 - d. Utilized a pain rating scale on every patient visit;
 - e. Performed manipulations without documenting the location of the subluxations; and
 - f. Provided ongoing care without the need substantiated by history, and physical examination.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, under Health Occupations Article § 3-313, the Board concludes as a matter of law that the Respondent is guilty of subsections: (7) soliciting or advertising in a false or misleading manner or in any other manner not approved by the Board; (8) unethical conduct in the practice of chiropractic; (9) professionally incompetent; (11) misrepresenting the effectiveness of any treatment, drugs,

devices, appliances, or goods to a patient so as to exploit the patient for financial gain; (16) grossly or willfully submits false statements to collect a fee for which services are not provided; and (21) commits an act of unprofessional conduct in the practice of chiropractic.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 13th day of March, 2000, by a majority of the Board:

AGREED that effective **FORTY-FIVE (45) DAYS** from the date of this Order or **APRIL 1, 2000**, whichever comes later, the Respondent shall **VOLUNTARILY SURRENDER** his license to practice chiropractic; and be it further

ORDERED that upon petition by the Respondent, the Board will reinstate the Respondent's license to practice chiropractic, provided the Respondent demonstrates successful completion of the following conditions:

1. Take and pass with a score of 75% or better the SPEC examination administered by the National Board of Chiropractic Examiners;
2. Take and pass the Board examination on Maryland law and regulations;
3. Complete a minimum of twelve (12) hours of a Board-approved course in recordkeeping, which would be in addition to the continuing education credits necessary for license renewal;
4. Complete a minimum of twenty five (25) hours of a Board-approved course in ethics, which would be in addition to the continuing education credits necessary for license renewal;
5. Authorize the Board to submit a copy of the non-public Charging Document

and this Consent Order to the recordkeeping instructor, in condition 3 above, and the ethics instructor, in condition 4 above; and

6. Perform one hundred (100) hours of community service with an agency pre-approved by the Board; and be it further

ORDERED that upon reinstatement, the Respondent shall be subject to the following terms and conditions for two (2) years from the date of reinstatement:

1. The Respondent shall:

- a. meet with a Board-approved supervisor/mentor, for 4 hours per month, to review a random sample of the Respondent's records;
- b. authorize the Board to submit a copy of the non-public Charges and this Consent Order to the supervisor/mentor;
- c. ensure that the supervisor/mentor submits quarterly written reports to the Board; and
- d. be responsible for payments to the supervisor/mentor at a rate of \$175.00 per hour.

2. The Respondent shall pay to the Board, for payment into the General Fund of this State, a **PENALTY** in the amount of **TEN THOUSAND DOLLARS** (\$10,000.00), payable in twenty four (24) equal installments;

3. The Respondent shall pay to the Board the cost for the court reporting services as provided by H.O. § 3-315(g);

4. The Respondent shall not engage in the practices as described in the Findings of Fact; and be it further

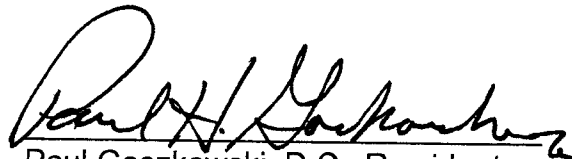
ORDERED that if the Respondent does not satisfactorily comply with the terms 1 through 4 above, for a period of two years after reinstatement, the Board may take

immediate action or impose any lawful disciplinary sanction it deems appropriate, including, but not limited to, revocation or suspension of the Respondent's license to practice chiropractic; provided that the Board provides the Respondent with adequate notice and an opportunity to be heard by Show Cause Hearing only; and be it further

ORDERED that Respondent shall be responsible for all costs in fulfilling the terms and conditions incurred under this Consent Order; 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., resulting from formal disciplinary proceedings.

3/17/00
Date


Paul Goszkowski, D.C., President
Board of Chiropractic Examiners

CONSENT

I, J. Mitchell Adolph, D.C., acknowledge that I am represented by legal counsel, Marc K. Cohen, Esquire, and I have had the opportunity to consult with counsel before entering into this document. By this Consent, without admitting the truth of any of the Findings of Fact and the Conclusions of Law, but admitting that the Board has sufficient evidence to support its Findings of Fact and Conclusions of Law, I submit to the foregoing Consent Order consisting of nine (9) 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.

3-7-00

Date

J. Mitchell Adolph, D.C.
J. Mitchell Adolph, D.C.
Respondent

Reviewed by:

Marc K. Cohen
Marc K. Cohen, Esquire
Respondent's Counsel

STATE OF MARYLAND

~~CITY~~/COUNTY of Baltimore

I HEREBY CERTIFY that on this 7th day of March, 2000, before me, a Notary Public of the State and County aforesaid, personally appeared J. Mitchell Adolph and made oath in due form of law that the foregoing was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

Cooper M. Stone (Kiz)
Notary Public

My Commission Expires: 7/1/04

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March 3, 2000 (1:06PM)