

IN THE MATTER OF	*	BEFORE THE STATE BOARD
W. GREGORY BELCHER, D.C.	*	OF CHIROPRACTIC
License No. 01356	*	EXAMINERS
Respondent	*	Case Number: 16-69C

* * * * *

FINAL ORDER OF REVOCATION OF CHIROPRACTIC LICENSE

On February 12, 2018, the Maryland State Board of Chiropractic Examiners (the "Board") notified W. Gregory Belcher, D.C. (the "Respondent"), License Number 01356, of its **Intent to Revoke** his license to practice chiropractic in the State of Maryland based on charges under the Maryland Chiropractic Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 3-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.). The Notice informed Respondent that unless he requested a hearing in writing within 30 days of the date of the mailing of the Notice, the Board intended to sign this Final Order, which was enclosed. More than 30 days have elapsed and Respondent has failed to request a hearing. Therefore, the revocation of Respondent's license to practice chiropractic is final.

The basis for the Board's action was pursuant to the following provisions of Health Occ. § 3-313:

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:

...

- (5) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction

- or plea set aside;
- ...
- (19) Violates any rule or regulation adopted by the Board;
- ...
- (21) Commits an act of unprofessional conduct in the practice of chiropractic; [and]
- ...
- (28) Violates any provision of this title[.]

Regarding the use of chiropractic assistants, Respondent is specifically charged with violating Health Occ. § 3-404 – Delegation of duties to assistant; qualifications for assistant – which provides:

A licensed chiropractor may delegate duties to an assistant to the extent permitted by the rules and regulations of the Board if the assigned duties do not require the professional skill and judgment of a licensed chiropractor. The rules and regulations shall also establish qualifications for the position of chiropractic assistant.

The Board further charges Respondent with violating Code Md. Regs. (COMAR) 10.43.07.01 *et seq.* which provide in pertinent part:

10.43.07.01 Definitions.

...

B. Terms Defined

...

- (3) "Chiropractic assistant" means an individual who is registered by the Board to perform the duties authorized under this chapter.
- (4) "Direct supervision" means supervision provided by a supervising chiropractor who is personally present and immediately available in the treatment area where the procedures are performed to give aid, direction, and instruction when certain procedures or activities are performed.

- (5) "Supervising chiropractor" means a chiropractor licensed by the Board in chiropractic with the right to practice physical therapy as set forth in Health Occupations Article, § 3-301(c), Annotated Code of Maryland, and approved as a supervising chiropractor by the Board.

10.43.07.02 Requirements for Achieving Supervisor Chiropractor Status.

- A. Only a supervising chiropractor may work with or train a chiropractic assistant or applicant.

...

- C. An applicant for supervising chiropractor status shall:

- (1) Submit to the Board the required application and fee;
- (2) Successfully pass the Board supervising chiropractor examination and interview; and
- (3) Satisfactorily follow Board regulations and statutes.

10.43.07.03 Responsibilities of the Supervising Chiropractor.

The supervising chiropractor shall:

- A. Submit:

- (1) The required Board Request to Employ form before undertaking any hands on training or coursework with any chiropractic assistant applicant[.]

...

- F. Maintain competency in knowledge of applicable laws and regulations and successfully complete any jurisprudence requirements that may be directed by the Board;

...

- I. Be fully responsible for the safe and competent performance of the chiropractic applicant or assistant at all times[.]

10.43.07.09 Activities that May be Performed by Chiropractic Assistants and Applicants Under Direct Supervision of a Supervising Chiropractor.

A chiropractic applicant or assistant may perform the following activities under direct supervision:

- A. Functional activities of daily living and hygiene;
- B. Gait practice and ambulation;
- C. Demonstration, administration, and observation of therapeutic exercises as prescribed by a supervising chiropractor;
- ...
- F. Hot and cold packs; [and]
- ...
- J. Electrotherapy[.]

FINDINGS OF FACT

The Board makes the following findings of fact:

I. BACKGROUND OF THE LICENSEE

1. At all times relevant hereto, Respondent was licensed to practice chiropractic in Maryland, with a specialty in Physical Therapy ("PT"). Respondent has been continuously licensed to practice chiropractic in Maryland since May 4, 1987. Respondent's license expired on September 1, 2017.
2. From on or about October 15, 1997 through on or about May 1, 2007, Respondent operated his own chiropractic business in Salisbury, Maryland. On or about May 1, 2007, Respondent dissolved his practice and began operating a chiropractic business in an individual capacity ("Individual Practice"). From 2008 to 2015, Respondent received income from the Individual Practice.
3. From in or about January 2015 to in or about July 2016, Respondent was employed at an office in Baltimore, Maryland ("Baltimore Office") for the practice of chiropractic. The Baltimore Office is owned by Chiropractor A.¹ In or about 2015,

¹ The names of Chiropractor A and all parties involved are confidential and are not disclosed in the charging document. Respondent will be provided a Confidential Identification List upon request to the

Respondent received income from his work in the Baltimore Office.

4. Thereafter, Respondent was employed at an office in Southern Maryland for the practice of chiropractic ("Southern Maryland Office"). On October 11, 2016, Respondent was terminated from the Southern Maryland Office based on a verbal altercation with a patient.

II. CHARGES

A. Internal Revenue Services – Fraud and False Statements

5. On or about March 9, 2017, a Grand Jury for the District of Maryland indicted Respondent for violating Internal Revenue laws 26 U.S.C. §§ 7206(1)² and 7212(a).³

6. From on or about March 28, 2008 through on or about April 15, 2016, Respondent was found to have filed false U.S. Individual Income Tax Returns, Forms

Administrative Prosecutor.

² 26 U.S.C. § 7206(1) provides in pertinent part:

Any person who --

(1) **Declaration under penalties of perjury.** --Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter

...

shall be guilty of a felony ...

³ 26 U.S.C. § 7212(a) provides:

(a) **Corrupt of forcible interference.**--Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than 1 year, or both. The term "threats of force", as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

1040. For the years 2008 through 2015, Respondent reported a business income of \$0 when, in fact, Respondent was paid "substantially in excess" of \$0.

7. Between in or about March 2008 and in or about January 2016, Respondent mailed approximately 79 threatening letters and made threatening statements to insurance companies, third parties, and accountants to prevent the reporting and filing of his actual income with the Internal Revenue Service.

8. On December 11, 2017, Respondent's criminal jury trial began in the United States District Court for the District of Maryland; and on December 15, 2017, Respondent was found guilty by the jury on Count 1 ("corruptly endeavoring to impair and impede the due administration of the internal revenue laws") and Counts 2 - 7 (willfully filing a false tax return for 2010, 2011, 2012, 2013, 2014 and 2015). Each of the counts is a felony conviction.

9. Respondent will be sentenced on March 9, 2018.

B. Failure to Obtain Adequate Licensure

Complaint

10. On September 19, 2016, the Board received a complaint from the Maryland Insurance Administration (the "MIA"), alleging that Respondent was using Chiropractic Assistants (CAs)⁴ without the proper licensing.

11. On July 10, 2015, the Special Investigation Unit (the "SIU") of a Maryland insurance company conducted a random inspection of the Baltimore Office. The SIU submitted a record of the inspection to the MIA which included names of two of Respondent's patients and the phrase "provider/facility improperly licensed." The SIU

⁴ At all times relevant, all Chiropractic Assistants involved retained valid and appropriate licensing in the State of Maryland.

report indicated that:

- a. Respondent was working for the owner of the Baltimore Office, Chiropractor A, on the day of the inspection;
- b. Respondent was using CAs to conduct electrical stimulation, hot pack treatment, and therapeutic exercises for his treatments, even though Respondent does not have supervising status; and
- c. Treatments for at least two patients were unable to be validated because Respondent "does not have a supervisor's license."

Board Investigation

12. On October 5, 2016, Respondent was interviewed, under oath, by the Board investigator. Respondent testified that he:

- a. Worked for Chiropractor A at the Baltimore Office from January 2015 to July 2016;
- b. Admitted to never obtaining supervising chiropractic status since becoming a chiropractor;
- c. Admitted to engaging the services of the CAs working at the Baltimore Office to conduct electrical stimulation, hot pack treatments, and therapeutic exercises;
- d. Was unaware that he needed to obtain a supervising chiropractic status to utilize the CAs. Respondent only became aware that he needed such a status to work with CAs after he transferred to his current place of employment; and
- e. At the time of the interview, was planning on taking the required examination to obtain his supervising chiropractic status.

13. On November 7, 2016, Chiropractor A was interviewed, under oath, by the Board investigator. Chiropractor A was licensed in Maryland on August 4, 1993 to practice chiropractic. Chiropractor A maintained a valid supervising chiropractic status in Maryland that expired on September 1, 2017. According to Chiropractor A:

- a. Respondent worked for Chiropractor A from January 2015 to July 2016;

- b. Chiropractor A “didn’t think about it or didn’t think that it was an issue” regarding Respondent’s lack of supervising status;
- c. Chiropractor A admitted to thinking that “almost everyone was a supervising chiropractor”;
- d. The two CAs who worked for Chiropractor A at the Baltimore Office would see anywhere between 5 and 20 patients a day;
- e. At the Baltimore Office, the CAs would “do electrical stim, heat, showing patients [how to do] different . . . activities of daily living”; and
- f. It is “well known” at the Baltimore Office that “the CAs do certain activities and they are supervised by the chiropractor that’s there.”

14. On January 26, 2017, CA 1 was interviewed, under oath, by the Board investigator. CA 1 was originally licensed as a chiropractor assistant in Maryland on May 30, 1997. CA 1’s license is scheduled to expire on March 31, 2019. According to CA 1:

- a. CA 1 worked for Chiropractor 1 for 25 years;
- b. CA 1 conducted electrical stimulation, hot pack, and therapeutic exercises for Respondent’s patients while Respondent was working at the Baltimore Office;
- c. CA 1 was unaware of any licensing issue until it was mentioned by Chiropractor A a few weeks prior to the date of the interview; and
- d. CA 1 never saw or looked at Respondent’s license and therefore was unaware as to if it had an “S,” denoting supervising chiropractor status, on it.

15. On January 31, 2017, CA 2 was interviewed, under oath, by the Board investigator. CA 2 was originally licensed as a chiropractor assistant in Maryland on November 16, 2004. CA 2’s license is scheduled to expire on March 31, 2019. According to CA 2:

- a. CA 2 had been working for Chiropractor A since 2009 (CA 2 recently left her position for personal reasons);

- b. The CAs saw between 15 and 20 patients a day for Respondent when Chiropractor A was not in the office;
- c. When CA 2 performed treatments such as electrical stimulation, hot, pack or therapeutic exercises, she would document the treatment in a "SOAP" note;
- d. CA 1 and CA 2 were the only CAs to work with Respondent while he was employed at the Baltimore Office;
- e. CA 2 did not look at Respondent's license to see if it denoted supervising status or not; and
- f. CA 2 first learned of an issue regarding Respondent's license when the Board investigator called her.

III. SUMMARY OF FINDINGS

16. Respondent's criminal conviction for "corruptly endeavoring to impair and impede the due administration of the internal revenue laws" and "willfully filing a false tax return for 2010, 2011, 2012, 2013, 2014 and 2015" is evidence of violation of Health Occ. § 3-313(5) (Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.)

17. Respondent's conduct of delegating duties to chiropractic assistants for the practice of chiropractic without the requisite supervising chiropractic status is evidence of violation of Health Occ. § 3-313 (19)(violation of any rule or regulation adopted by the Board), (21)(commits an act of unprofessional conduct in the practice of chiropractic), (28)(violating any provision of this title), and/or § 3-404 (delegation of duties with regard to assistants) in that there is evidence that Respondent violated COMAR 10.43.07.02, .03, and/or .09 by delegating certain duties to chiropractic assistants without first obtaining the necessary supervising chiropractor status.

CONCLUSIONS OF LAW


Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent violated Md. Code Ann., Health Occ. §§ 3-313 (5), (19), (21), (28), and/or § 3-404 in that Respondent violated COMAR 10.43.07.02, .03, and/or .09.

ORDER

It is, on the affirmative vote of a majority of the quorum of the Board, hereby **ORDERED** that the license of W. Gregory Belcher, D.C., is **REVOKED**; and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §4-101 *et seq.* (2014 & 2017 Supp.)

4-12-18
Date


Robert G. Frieman, D.C.
President
Board of Chiropractic Examiners

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408, Respondent has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Decision and Order. The cover letter accompanying this final decision and order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Respondent files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

Maryland State Board of Chiropractic Examiners
Laurie Sheffield-James, Executive Director
4201 Patterson Avenue, 3rd Floor
Baltimore, Maryland 21215

Notice of any petition should also be sent to the Board's counsel at the following address:

Grant Gerber
Assistant Attorney General
Department of Health and Mental Hygiene
300 West Preston Street, Suite 302
Baltimore, Maryland 21201