

IN THE MATTER OF  
BRIAN SEYMORE, D.C.  
Respondent

License Number: S03390

\* BEFORE THE STATE BOARD  
\* OF CHIROPRACTIC AND  
\* MASSAGE THERAPY EXAMINERS  
\* Case No. PT-09-63C

\* \* \* \* \*

**FINAL CONSENT ORDER**

Based on information received and a subsequent investigation by the State Board of Chiropractic and Massage Therapy Examiners (the "Board"), and subject to Md. Health Occ. Ann. § 3-101, et seq., (2009 Repl. Vol.) (the "Act"), the Board charged Brian Seymore, D.C., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 3-313:

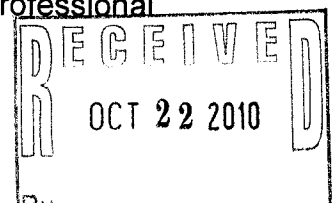
Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the applicant or licensee:

- (12) Makes or files a false report or record in the practice of chiropractic;
- (13) Fails to file or record any report as required by law;
- (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;
- or
- (28) Violates any provision of this title.

The Board further charged the Respondent with violating § 3-404.

Delegation of duties to assistant; qualifications for assistant.

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 also charged the Respondent with violating its Chiropractic Assistants regulations, Code Md. Regs. tit. 10 § 10.43.07 (October 22, 2007).

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" means a person who is undergoing training to become a chiropractic assistant.

(2) "Board" means the Board of Chiropractic Examiners.

(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 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.

.02 Requirements for Achieving Supervising Chiropractor Status.

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

B. Only an active, licensed chiropractor who holds physical therapy privileges and has no outstanding disciplinary orders may qualify for supervising chiropractor status.

C. An applicant for supervising chiropractor status shall:

(1) Submit to the Board the required application and fee; and

- (2) Successfully pass the Board supervising chiropractor examination and interview.

.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;

B. Notify the Board and course instructor or instructors of any change in status of any chiropractic applicant or assistant within 10 days of the change, including:

- (1) Reasons for the change in status;
- (2) Training received by the applicant or assistant;
- (3) Hours completed by the applicant or assistant; and
- (4) The applicant's or assistant's forwarding address;

C. Maintain accurate, legible, and comprehensive records of all clinical training provided to the chiropractic applicant or assistant, including, but not limited to:

- (1) Dates and times and duration of training;
- (2) Modalities;
- (3) Equipment used; and
- (4) Any other information as directed by the Board;

D. Immediately produce the records described in §C of this regulation upon request or audit by the Board;

E. Promptly:

- (1) Report a chiropractic applicant or assistant not making satisfactory training progress; and
- (2) Report before the Board as directed regarding the details of the training program issue;

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

G. Ensure that all patient records accurately and legibly reflect the extent and degree of the involvement or assistance of the chiropractic applicant or assistant;

H. Submit the in-service training hours and verification of chiropractic applicant or assistant competency on a form provided by the Board within 30 days of completion of training or transfer of the chiropractic applicant or assistant to another supervising chiropractor;

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

J. Provide direct supervision to not more than two chiropractic applicants and three chiropractic assistants.

.05 Chiropractic Applicant or Assistant Qualifications and Training.

A. A chiropractic assistant or applicant shall:

(1) Be 18 years old or older and of good moral character at the time of application;

(2) Have proof of satisfactory completion of high school or an equivalent education;

(3) Receive, within 1 year of application, minimum training consisting of:

(a) A minimum of 520 in-service training hours, with:

(i) The initial 40 hours consisting of observation procedures as listed in Regulation .09 of this chapter performed by the supervising chiropractor or registered chiropractic assistant; and

(ii) The remaining 480 hours consisting of direct supervision by a supervising chiropractor in the treatment area;

(b) 24 Board-approved hours in anatomy and terminology;

(c) 76 Board-approved classroom hours in physical therapy modalities, indications, and contraindications;

(d) 3 Board-approved hours in jurisprudence and risk management; and

(e) Certification by the American Red Cross or American Heart Association in cardiopulmonary resuscitation (CPR) at the provider level; and

(4) Successfully complete the Board-approved classroom program and in-service training and Board examination within 1 year of application unless waived on a case-by-case basis due to hardship or extenuating circumstances, as provided in §C of this regulation.

B. The Board shall approve all educational courses, programs, texts, equipment, instructors, and study materials.

C. Waiver of Educational Requirements.

(1) Upon written request to the Board, a licensed, certified, or registered healthcare provider in good standing in a Board-recognized jurisdiction, who otherwise meets the requirements of this chapter, may receive a waiver of the educational requirements of this regulation.

(2) An applicant whose educational requirements are waived shall successfully pass:

(a) Both the chiropractic assistant and jurisprudence examination; and

(b) A discretionary Board interview.

#### .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.

#### .12 Penalties for Violations of This Chapter.

A. Violations of these regulations may result in disciplinary action against the supervising chiropractor as set forth in Health Occupations Article, §3-313, Annotated Code of Maryland.

B. A person practicing as a chiropractic assistant without being registered, except as provided in these regulations, is guilty of a misdemeanor, and may be fined \$5,000 or imprisoned for 1 year, or both.

C. A chiropractic assistant and an applicant for registration is subject to the Board's disciplinary authority under Health Occupations Article, §3-313, Annotated Code of Maryland.

The Board further charged the Respondent with a violation of its Standards of Practice, Code Md. Regs tit. 10 § 10.43.14. (January 9, 2000).

.03 Standards of Practice.

A. A chiropractor and chiropractic assistant shall concern themselves primarily with the welfare of the patient.

C. A chiropractor and chiropractic assistant shall:

(2) Be professional in conduct, with honesty, integrity, self-respect, and fairness;

(4) Provide accurate fee information to the patient, the individual responsible for payment for treatment, and the insurer;

(6) Practice chiropractic only as defined in the scope of practice set forth in Health Occupations Article, §3-101(f) and (g), Annotated Code of Maryland;

D. A chiropractor or chiropractic assistant may not:

(1) Misrepresent credentials, qualifications, or affiliations and shall attempt to correct others who misrepresent the chiropractor's or the chiropractic assistant's credentials, qualifications, or affiliations;

(2) Knowingly engage in or condone behavior that is fraudulent, dishonest, or deceitful, or involves moral turpitude [;].

The Respondent was given notice of the issues underlying the Board's charges by a letter dated May 13, 2010. Accordingly, a Case Resolution Conference was held on August 26, 2010, and was attended by Stephanie Chaney, D.C., and Michael Fedorczyk,

D.C., Chiropractic Board members, James Vallone, Executive Director of the Board, and Grant Gerber, Assistant Attorney General, Counsel to the Board. Also in attendance were the Respondent and his attorney, Paul Weber, and the Administrative Prosecutor, Roberta Gill.<sup>1</sup>

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

### **FINDINGS OF FACT**

At all times relevant to the charges herein, the Respondent was licensed to practice chiropractic in the State of Maryland. The Respondent was first licensed on January 6, 2004. The Respondent's license expires on August 31, 2011.

2. At all times relevant hereto, the Respondent practiced chiropractic at his office in Bel Air, Maryland. The Respondent is authorized as a supervising chiropractor.

3. While investigating a complaint that Patient A<sup>2</sup> was treated by an unlicensed chiropractor in the Respondent's office, the Board's Investigator visited the Respondent's office on September 9, 2009<sup>3</sup>. At that time, the Respondent admitted that he allowed Seth Gray, an applicant for a Maryland chiropractic license, to treat 10-15 patients a day for over a month, while Dr. Gray's application was pending.

4. Patients A and B filed a complaint with the Board regarding the Respondent's billing. Upon review, it was discovered that the Respondent had signed off on the

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<sup>1</sup>Britton Gore, an Associate Attorney, was present in an observational capacity.

<sup>2</sup>Patients' names are confidential.

<sup>3</sup>The Board's investigator had just returned from Bertucci's restaurant where Dr. Gray had given a "seminar", open to the public, whereby the attendees would receive a free meal and could ask questions

records and billed as though he had provided the services that Patients A and B received, when, in fact, except on one occasion, they had been provided for by Dr. Gray.

5. In addition to allowing Dr. Gray to treat patients while knowing that he was not licensed in Maryland, the Respondent allowed Krystal Wagner to perform PT on patients. Ms. Wagner is not authorized to perform the activities of a Chiropractic Assistant.

6. As set forth above, the Respondent violated the Act and regulations thereunder.

### CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 3-315 (12), (13), (18), (19) and (28); §3-404; 10.43.07.01A, B (1), (2), (3), (4), (5); .02 A, B, C (1), (2); .03 A (1), (2), B (1), (2), (3), (4), C (1), (2), (3), (4), D, E,(1), (2), F, G, H, I, J; .05 A (1), (2), (3) (a) (i), (ii), (b), (c), (d), (e), (4), B, C (1), (2) (a), (b); .11 A, B; .12 A, B, C;10.43.14.03 A, C (2), (4), (6), D (1) and (2).

### ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 25<sup>th</sup> day of October, 2010, by a majority of a quorum of the Board,

**ORDERED** that the Respondent's license to practice is hereby **REPRIMANDED**; and be it further

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of Dr. Gray about how chiropractic could help their medical symptoms/conditions.



**ORDERED** that the Respondent shall be placed on **PROBATION** for a period of two years, during which the following conditions shall be met:

- A. The Respondent shall take and pass, with the requisite percentage, the Board's jurisprudence examination within one year of the effective date of the Order;
- B. The Respondent shall take and pass, with the requisite percentage, the Board's Supervising Chiropractic examination, within one year of the effective date of the Order;
- C. The Respondent shall take and pass, and document same to the Board, within one year of the effective date of the Order, a Board-pre-approved healthcare ethics course;
- D. The Respondent shall pay a fine to the Board of \$5000 within one year of the effective date of the Order;
- E. The Respondent is responsible for all costs incurred in complying with the conditions of the Order.

**ORDERED** that the Consent Order is effective as of the date of its signing by the Board; and be it

**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 of chiropractic in Maryland; and be it further

**ORDERED** that, at the end of the Probationary period, the Respondent may petition the Board have all conditions or restrictions removed from his license, provided that he 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 for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.

*J. O'Hara For/By*  
*Director of*

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Kay O'Hara, D.C., President  
State Board of Chiropractic and Massage  
Therapy Examiners

**CONSENT OF BRIAN SEYMORE, D.C.**

I, Brian Seymore, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Paul Weber, and have been advised by him of the legal implication of signing this Consent Order;
2. I am aware that without my consent, my license to practice chiropractic in this State cannot be limited except pursuant to the provisions of § 3-313 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2009 Repl. Vol.).
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 3-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 3-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice chiropractic in the State of Maryland.

10/13/10

Date



Brian Seymore, D.C.

STATE OF Maryland :

CITY/COUNTY OF Harford :

I HEREBY CERTIFY that on this 13<sup>th</sup> day of October, 2010, before me, Andrea Strunkstein, a Notary Public of the foregoing State and (City/County),  
(Print Name)

personally appeared Brian Seymore, License No. S03390, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Andrea Strunkstein  
Notary Public

My Commission Expires: 3/31/12

