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By: Alicia Stijn
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2002-19936

License No.: CH 2329

JAMES MARTIN, D.C.,

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Chiropractic Medicine (hereinafter the Board) at a duly noticed public meeting on August 25, 2006, in Orlando, Florida. Petitioner initiated an investigation pursuant to a Uniform Complaint Form filed with the Department of Health on or about August 1, 2002. Petitioner was represented by Tobey Schultz, Assistant General Counsel, with the Department of Health. Respondent was not present but was represented by counsel, Robert Zack, Attorney at Law.

Respondent has chosen to voluntarily relinquish Respondent's license to practice as a Chiropractic Physician. By terms of the Voluntary Relinquishment, Respondent agrees to never apply for licensure in Florida as an Osteopathic Physician, Physician, Nurse, Massage Therapist, or Physical Therapist. After considering the presentation of the parties, the voluntary relinquishment, supporting documents, and reviewing the record of the case, the Board voted to accept Respondent's voluntary relinquishment. A copy of the Voluntary Relinquishment is attached to and made a part of this Final Order.

It is therefore **ORDERED** that the Voluntary Relinquishment is adopted.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 31 day of August, 2006.

BOARD OF CHIROPRACTIC MEDICINE

Wikki R. Grant

Joe Baker, Jr.
Executive Director *on behalf of*
Salvatore LaRusso, D.C., CHAIR
Florida Board of Chiropractic Medicine

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **James Martin, D.C.**, 4615 Dee Ridge Road, Sarasota, Florida 34233 and his attorney of record, Robert Zack, Attorney at Law, Post Office Box 50444, Sarasota, Florida 34232; by interoffice mail to **Deborah Bartholow Loucks**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and **Tobey Schultz**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on 1st of September, 2006.

Rachel Brown

Deputy Agency Clerk

Causey, Sherra

From: Baker, Joe Jr
Sent: Wednesday, August 23, 2006 5:34 PM
To: Bess Maxwell; CH; clp; Cozart, Thometta; Deby; DL MQA Board of Chiropractic/Optomety/Med Physicist/Podiatry/O&P/Clinical Lab/NHA; DL MQA Management Team; James Hentz; Jenkins, Diane (MQA); jm; june; Knepton, Jim; 'ladasiah_jackson@oag.state.fl.us'; lag; Lauren Kennedy; Lois; nha; o&p; pod; Sanders, Sylvia (MQA); Stalls, Sue
Subject: Delegations of Authority

During my absence tomorrow, August 24th, thru COB Friday, Sept 8th, the following managers are delegated authority for the board office:

8/24 & 8/28: Michele Jackson (x4395)
8/25: Sharon Guilford (x4396)
8/29-9/1: Vicki Grant (x4394)
9/5-9/8: Sharon Guilford

I will be at meetings of the Boards of Chiropractic Medicine and Optometry and on leave. Thx.

Joe Baker, Jr.

Board Executive Director

Chiropractic Medicine, Clinical Laboratory Personnel, Medical Physicists, Nursing Home Administrators, Optometry, Orthotists & Prosthetists, and Podiatric Medicine

- Florida Department of Health*Division of Medical Quality Assurance*Bureau of Health Care Practitioner Regulation
850.245.4355 (board office switchboard); 850.922.8876 [board office fax]
- 850.245.4393 (direct line); 954.848.0401 [direct fax]
- www.doh.state.fl.us/mqa; joejr_baker@doh.state.fl.us

DOH Mission: To promote and protect the health and safety of all people in Florida through the delivery of quality public health services and promotion of health care standards.

MQA Mission: To protect and promote the health of all persons in Florida by diligently regulating health care practitioners and facilities.

How am I communicating? Please contact my manager

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Hilli Bails*
DATE: 8/30

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2002-19936

JAMES MARTIN, D.C.

Respondent.

MOTION FOR FINAL ORDER
ACCEPTING VOLUNTARY RELINQUISHMENT OF LICENSURE

COMES NOW, the Petitioner, by and through its undersigned counsel, and moves the Board of Chiropractic Medicine for entry of a Final Order in the above-styled cause. As grounds therefore, the Petitioner would state the following:

1. On or about August 1, 2002, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated Sections 460.413(1)(m), 460.413(1)(r), 460.413(1)(n), 460.413(1)(s), and 460.413(1)(ff), Florida Statutes (2001)-(2002); and Rule 64B2-17.0065, F.A.C., with respect to his care and treatment of patient MD in which the Subject utilized nutri-scan, plate zapping and ozone therapy. Complainant

alleges that Respondent promotes and provides nutri-scan testing. Complainant states that the services she received from the Respondent were over-utilized. Complainant alleges that scare tactics were used to manipulate her into purchasing a wide range of treatments and nutritional supplements.

2. If these allegations are proven true, they would constitute grounds for disciplinary action by the Board of Chiropractic Medicine.

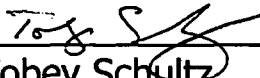
3. The Respondent is aware of the allegations set forth in the Uniform Consumer Complaint.

4. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of License in which the Respondent agrees to never again reapply for licensure as a chiropractic physician in the State of Florida.

5. Respondent is hereby advised by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board in support of this Motion.

WHEREFORE the parties respectfully request the Board of Chiropractic Medicine enter a Final Order accepting the Voluntary Relinquishment of Licensure.

Respectfully submitted,



Tobey Schultz
Florida Bar #0542131
DOH - Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
(850) 245-4640 Telephone
(850) 245-4681 Facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S. Mail this 3rd day of August, 2006, to: Robert Zack, Esq., P.O. Box 50444, Sarasota Florida 34232-7735



Tobey Schultz
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case Nos. 2002-19936

JAMES MARTIN, D.C.,

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent James Martin, D.C., license no. CH 2329, hereby voluntarily relinquishes Respondent's license to practice chiropractic medicine in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Chiropractic Medicine (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.
2. Respondent agrees to never reapply for licensure pursuant to Chapters 459, 460, 458, 464, 480, or 486, in the State of Florida.
3. Respondent agrees to voluntarily cease practicing chiropractic medicine immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of chiropractic medicine until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

5. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

6. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 24 day of July, 2006.

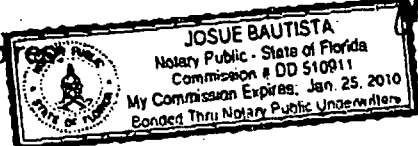
[Signature]
JAMES MARTIN, D.C.

STATE OF FLORIDA
COUNTY OF:

Before me, personally appeared JAMES MARTIN, whose identity is known to me by FL DL (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 24 day of July, 2006.

[Signature]
NOTARY PUBLIC

My Commission Expires





STATE OF FLORIDA
DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

Office: Area VI Tampa		Date of Complaint: 08-01-02		Complaint Number: CH 2002-19936	
Subject: JAMES MARTIN, DC 4615 Bee Ridge Road Sarasota, Florida 34233-1413 Tele: 941-371-1991			Source: PATIENT - M.D.		
Prefix: CH	License #: 2329	Profession: Chiropractor	Board: Chiropractic Medicine	Report Date: 11-04-02	
Period of Investigation: 08-19-02 through 11-04-02			Type of Report: FINAL		
<p>Alleged Violation: F.S. 460.413 (1) (k) (n) (ff) 64B2-17.005 (1) F.A.C., making misleading, deceptive, untrue, or fraudulent representations in the practice of chiropractic medicine or employing a trick or scheme in the practice of chiropractic medicine, exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain</p>					
<p>Synopsis: This investigation is predicated upon a Uniform Complaint Form (UCF) generated by M.D. dated 07-29-02. M.D. indicated that she presented to MARTIN for treatment related to fatigue factors. M.D. alleged that MARTIN promotes and provides NurtriScan testing and that chiropractic services and treatments received are over-utilized. M.D. revealed that she spent roughly \$10,000.00 due to scare tactics used by MARTIN. M.D. related that MARTIN used the words "abnormal tissue growth" and "cancer" to manipulate and exploit her for financial gain resulting with M.D. purchasing a range of nutritional supplements and other treatments (EXH 1).</p> <p>MARTIN was notified of the commencement of this investigation by letter dated 08-19-02. MARTIN was provided with a copy of the UCF and the attached documents (EXH 2).</p> <p>The Department computer records (EXH 3) revealed that MARTIN has a current chiropractic physician's license.</p> <p>MARTIN is represented by Robert ZACK, Attorney, 1885 Porter Lake Drive, Suite D-4, Sarasota, Florida 34232-0303. Tele: (941) 341-9607 (EXH 4). <u>ZACK requests a copy of the investigative file.</u></p> <p>MARTIN denies the allegations. <i>- 3773200</i></p>					
Related Complaints		None Known			
Investigator/Date: <i>[Signature]</i> Kelly B. Reynolds, MMI, 11-42			Approved By/ Date: <i>[Signature]</i> 11-06-02 Richard Hess, OMC Manager		
Distribution: HQ/ISU					00855 Page No 1

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* Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057 (8), Florida Statutes

1. INVESTIGATIVE DETAILS**SUMMARY OF RECORDS**

- a. This investigation is predicated upon a UCF generated by M.D. dated 07-29-02. M.D. indicated that she presented to MARTIN for treatment related to fatigue factors. M.D. alleged that MARTIN promotes and provides NurtriScan testing and that chiropractic services and treatments received are over-utilized. M.D. revealed that she spent roughly \$10,000.00 due to scare tactics used by MARTIN. M.D. related that MARTIN used the words "abnormal tissue growth" and "cancer" to manipulate and exploit her for financial gain resulting with M.D. purchasing a wide range of nutritional supplements and other treatments.
- b. MARTIN's patient records (EXH 7) regarding M.D. were received pursuant to request letter (EXH 6) and patient release (EXH 5).
- c. The records revealed that M.D. completed a questionnaire supplied urine and saliva samples via mail to MARTIN's office. M.D. was charged \$150.00 dollars for the initial testing. The test results are dated 09-19-01. M.D. then participated in a one-hour telephone consult with MARTIN and his nutritionist.
- d. MARTIN recommended that M.D. travel to his clinic for 10-12 hours of plate zapping (\$735.00/10 hours) and 6 ozone treatments (\$270.00). Additionally, MARTIN supplied M.D. with supplements (\$2,174.40 for 3 week supply).
- e. M.D. presented to MARTIN for a three-day treatment on 11-12-01 through 11-14-01.
- f. M.D. received plate zapping and ozone treatments plus additional supplements during her three days visiting the MARTIN's clinic.
- g. M.D. spent more than \$7,000.00 for treatment with MARTIN over a six-month period. M.D. only presented to MARTIN's clinic in November 2001.
- h. M.D. discontinued with MARTIN's service in March 2002 due to lack of any improvements in her conditions.

2. STATEMENT/INTERVIEW OF: M.D. - PATIENT/SOURCE

- a. M.D. was interviewed intermittently throughout this investigation. M.D. reflected that MARTIN continued to scare and manipulate her into purchasing different supplements.
- b. M.D. related that since this complaint was filed that MARTIN contacted her and indicated that he would refund the money if she would attempt to withdraw the complaint with DOH. M.D. stated that she is unwilling to withdraw the complaint.
- c. M.D. indicated that she felt worse during the treatment process and taking the supplements.

3. STATEMENT/INTERVIEW OF: JAMES MARTIN, DC - SUBJECT

- a. MARTIN responded via letter (EXH 8) dated October 2002. MARTIN denies the allegations.
- b. MARTIN indicated that M.D. sent thank you cards regarding how happy she was with the treatments. MARTIN stated that M.D. voluntarily came to utilize the services that MARTIN offers.
- c. MARTIN indicated that all evaluations and services offered to M.D. were appropriate, justifiable, and with in recognized standards as practiced by chiropractors in Florida.