

IN THE MATTER OF
F. STEVEN BARON, D.C.
RESPONDENT

* BEFORE THE
* MARYLAND STATE BOARD OF
* CHIROPRACTIC EXAMINERS

* * * * *

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Pursuant to Md. Code Ann., Health Occ. ("H.O.") § 3-315 (a) and Maryland Code of Regulations (COMAR) 10.43.02.07, The Maryland State Board of Chiropractic Examiners (the "Board") hereby renders the following final decision and order:

BACKGROUND

On or about May 22, 2003 the Board charged F. Steven Baron (the "Respondent") with violations of certain provisions of the Maryland Chiropractic Act (the "Act"), H.O. § 3-101, *et seq.* Specifically, he was charged with violations of the following provisions of § 3-313 of the Act:

(a) Subject to the hearing provisions of H.O. § 3-315 of this title, the Board may deny a certificate or registration to any applicant, reprimand and certificate holder or registration holder, place any certificate holder or registration holder on probation, or suspend or revoke the certificate holder or the registration holder if the applicant, certificate holder, or registration holder:

(12) Makes or files a false report or record in the practice of chiropractic;

(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.

The regulations that the Board charges the Respondent violated are Code Md. Regs. (COMAR), title 10, § 43.07.07A and COMAR 10.43.15.03A. COMAR 10.43.07.07A states:

The supervising chiropractor shall ensure that a chiropractic assistant or an applicant performs the authorized procedures or activities under the direct supervision of a licensed chiropractor.

And COMAR 10.43.15.03A states:

The chiropractor shall maintain accurate, detailed, legible, and organized records, documenting all data collected pertaining the patient's health status.

The Board based the charges on the following:

1. The Respondent is licensed by the Board as a chiropractor, License Number S01288. He has been licensed by the Board as a chiropractor since May 29, 1986. His current license expires on September 1, 2003. The Respondent also has physical therapy privileges.
2. During the relevant period, January 2001 to mid-July 2001, the Respondent was employed as a chiropractor at the New Carrollton Therapy Center (New Carrollton) in Landover, Maryland. Enid Cruise-Brooks, D.C. owns New Carrollton; she purchased the practice from another chiropractor in mid-December 2000. Dr. Cruise-Brooks also owns a practice in Oxon Hill. Dr. Cruise-Brooks has rarely practiced at the New Carrollton office. The Respondent was employed as a chiropractor at New Carrollton before Dr. Cruise-Brooks purchased the practice.

3. During the relevant period, the Respondent, except for a limited number of occasions, was the supervising chiropractor at New Carrollton. During this time at New Carrollton, except for the limited days when there was a substitute chiropractic assistant, there were two employees who performed chiropractic assistant duties: Yumika King and Alisa Frazier.

4. Ms. King, as a Board registered chiropractic assistant, performed, therapeutic modalities, such as muscle stimulation/electrotherapy (electrical stimulation), ultrasound, and traction therapies. Generally, after a chiropractic assistant completes these modalities, the patient is seen by the supervising chiropractor. Ms. King was also the office manager of New Carrollton. Ms. King was also responsible for proofreading patient treatment records to ensure that the chiropractic assistant and the chiropractor signed the records, and that the charges for the services matched the therapies performed and the date of therapies.

5. Ms. Frazier started working at New Carrollton in September 1998. She was originally employed at New Carrollton as a clerk whose duties included scheduling appointments, inter alia, but she then began performing therapeutic modalities as a chiropractic assistant applicant.

6. On April 3, 2000, Ms. Frazier applied to the Board to become registered as a chiropractic assistant. As an applicant and as part of her in-services training, Ms. Frazier was permitted, under the Board's regulations, to perform direct patient care. Ms. Frazier performed such therapies as electrical stimulation, ultrasound, and traction.

7. Ms. Frazier took the Board's chiropractic assistant examination three times, and failed each time. Ms. Frazier took the exams in April 2000, November 2000, and April 2001.

8. Under Code Md. Regs., title 10, § 43.07.04E(b)(2): "An applicant who fails the examination twice may not perform in-service training duties in direct patient care or treatment under Regulation .03 of this chapter."

9. Consequently, the Board sent a letter to Ms. Frazier, May 7, 2001, notifying her that she had failed the exam again, and that, under the regulations, someone who has failed the examination twice may not provide direct patient care.

10. In May 2001, Ms. King, Dr. Cruise-Brooks, and the Respondent were made aware that Ms. Frazier had failed the April 2001 exam, that Ms. Frazier had failed the exam at least twice, and that Ms. Frazier was not permitted to perform direct patient care. In May 2001, Dr. Cruise-Brooks asked Ms. King to call the Board to determine whether Ms. Frazier had failed the April 2001, Board chiropractic assistant examination. Ms. King called the Board and was told that Ms. Frazier had failed, and that Ms. Frazier was not permitted to perform direct patient care. This information was told to the Respondent.

11. Despite the Board's regulations prohibiting Ms. Frazier from performing direct patient care, Ms. Frazier continued to perform direct patient care on a regular basis; Ms. King's signature, however, was on each of the treatment records documenting treatment actually performed by Ms. Frazier. Ms. King's signature was on each of these treatment records in order for it to appear

as though Ms. King had performed the treatment. Sometimes Ms. Frazier had signed Ms. King's name on these records, and other times Ms. King signed her own name. Each of the treatment records were also signed by the Respondent when he was the supervising chiropractor.

12. The following chart lists the dates Ms. Frazier treated patients after New Carrollton was informed that Ms. Frazier was prohibited from treating patients. It also describes the treatment the patients received by Ms. Frazier, and who signed Ms. King's name on the patient's treatment record. Each of these patients received treatment from Ms. Frazier on the days listed. On both June 27, 2001, and June 29, 2001, Ms. King did not appear for work at New Carrollton. On each of the other listed days Ms. King was there with Ms. Frazier. The Respondent was the supervising chiropractor on each of the cases referenced in the chart.

	<u>Date of Treatment</u>	<u>Therapy by Frazier</u>	<u>Yumika King's name signed by:</u>
Patient A¹	6/12/01	Ultrasound (u.s.) Electrical stimulation (e.s)	King
	6/27/01	mechanical traction (m.t.), u.s.	King
Patient B	6/27/01	e.s., u.s.	King
Patient C	6/27/01	e.s., u.s.	King
	6/28/01	e.s., u.s.	Frazier
Patient D	6/29/01	e.s., u.s.	King
	7/5/01	e.s., u.s.	King
	7/13/01	e.s., u.s.	King

¹ The identity of each of the patients is confidential, and therefore, not disclosed in this document. However, the names of the patients are available to the Respondent upon request to the Board Counsel.

Patient E	6/27/01	u.s.	King
Patient F	6/27/01	e.s., u.s.	King
	7/2/01	e.s., m.t.	Frazier
Patient G	6/25/01	e.s., u.s.	King
	6/27/01	e.s., u.s.	King
	6/28/01	e.s., u.s.	no signature
	7/2/01	e.s., u.s.	Frazier
	7/9/01	e.s.	Frazier
	7/12/01	e.s.	King
Patient H	6/8/01	e.s., u.s.	Frazier
	6/18/01	m.t.	Frazier
	6/27/01	m.t.	King
Patient I	6/5/01	e.s., u.s.	Frazier
	6/13/01	e.s., m.t.	King
	6/29/01	m.t.	King

13. Patient J was treated on 10 occasions at New Carrollton from June 26, 2001, through August 13, 2001. His initial examination was on June 26, 2001, and he received treatment from a chiropractic assistant on July 5, 6, 9, 12, 17, 24, 25, 27, 2001. Ms. Frazier treated Patient J at least four times. The Respondent signed Patient J's treatment records as the chiropractor on July 5, 6, and 12, 2001. Patient J was discharged on August 13, 2001.

14. While the Respondent was the predominant supervising chiropractor, Ms. Frazier performed direct patient therapy from January 2001, until the Respondent left New Carrollton in July 2001. Ms. Frazier's direct treatment of patients was a routine and significant part of the New Carrollton practice, and it was a regular practice of New Carrollton for Ms. King's signature to be on each of the patient treatment records for patients treated by Ms. Frazier. In addition to June 27 and 29, 2001, when Ms. King was not at work, Ms. King

was not at work on May 21, 2001, yet, in order for it to appear as though Ms. King performed the chiropractic assistant therapy actually performed by Ms. Frazier, Ms. King signed patient treatment records patients treated by Ms. Frazier on that day. On one patient's record, Patient K, one of Ms. Frazier's nine patients on May 21, 2001, Ms. King, without consulting Ms. Frazier, filled in the section of the treatment record describing the treatment Patient K received.

15. On all of the aforementioned dates, the Respondent was the supervising chiropractor and signed the pertinent patient records.

16. The conduct set forth above in the preceding paragraphs constitutes violations of Section 3-313(12) of the Act, making or filing a false report or record in the practice of chiropractic; Section 3-313(18) of the Act, practicing chiropractic with an unauthorized person or supervising or aiding an unauthorized person in the practice of chiropractic; Section 3-313(19) of the Act, violating any rule or regulation adopted by the Board, namely COMAR 10.43.07.07A, ensuring that a chiropractic assistant or applicant performs authorized procedures under the direct supervision of a licensed chiropractor; and COMAR 10.43.15.03A, maintaining accurate records.

A hearing on the merits was held on May 13, 2004 and June 10, 2004. Present were the following Board members, which constituted a quorum: Dr. E. Brian Ashton, President of the Board, who presided at the hearing, Dr. Jack Murray, Jr., Issie Jenkins, Esquire, Dr. Paula Lawrence, Ivy Harris, Dr. Margaret Renzetti and Dr. Marc Gamerman. Also present were David Wagner, Assistant Attorney General and Administrative Prosecutor, Richard Bloom, Assistant Attorney General, Board Counsel, Paul Weber, Esquire, F. Steven Baron, D.C., Respondent.

EXHIBITS

The following exhibits were admitted into evidence:

STATE'S EXHIBITS

1. Time Cards, Yumika Kings, New Carrollton Therapy Center, L.L.C. (New Carrollton), May 14, 2001, through August 24, 2001; **(PP. 1-15)**
2. Time Cards, Alisa Frazier, New Carrollton Center, May 7, 2001, through August 24, 2001; **(16-31)**
3. Time Cards, Wanda Brown, May 14, 2001, through May 25, 2001; **(32-33)**
4. Osman Andrade, Patient A, Patient Records, New Carrollton: Statement of Account; Initial Report and Re-Examination Report by Dr. Baron; Subjective, Objective, Action, Plan (SOAP) Records, June 6, 2001, through June 28, 2001; Message ?; **(34-48)**
5. Reginald Chase, Patient B, Patient Records, New Carrollton: Statement of Account; Initial Report by Baron; SOAPs June 26, 2001, through August 6, 2001; **(49-65)**
6. Janet Stevens, Patient C, Patient Records, New Carrollton: Statement of Account; Initial Report by Baron; SOAPs, June 27, 2001, through July 31, 2001; **(66-88)**
7. Janice Dawkins-Parker, Patient D, Patient Records, New Carrollton: Statement of Account, Initial Report by Baron; SOAPs, June 28, 2001, through September 5, 2001; **(89-112)**

8. Keith Martin, Patient E, Patient Records, New Carrollton: Statement of Account, Re-examination Report and Initial Report by Baron; SOAPs, May 31, 2001, through July 23, 2001; **(113-133)**
9. Danalee Robb, Patient F, Patient Records, New Carrollton: Statement of Account; Initial Report by Baron; SOAPs, June 13, 2001, through August 23, 2001; **(134-156)**
10. Keith Robb, Patient G, Patient Records, New Carrollton: Statement of Account; Initial Report by Baron; SOAPs June 13, 2001, through July 18, 2001; **(157-182)**
11. Adrian Thornton, Patient H, Patient Records, New Carrollton: Statement of Account, Initial Report by Baron, SOAPs May 31, 2001, through July 11, 2001; **(183-203)**
12. Armentha Cruise, Patient I, Patient Records, New Carrollton: Statement of Account; Initial Report by Baron; Re-Examination Report by Baron, SOAPs May 22, 2001, through August 31, 2001; **(204-231)**
13. Timothy Stevens, Patient J, Patient Records, New Carrollton: Statement of Account; Initial Report by Baron, 6/26/01; Re-Examination Report by Douglas Sims, Jr., D.C., 7/17/01; Final Report by Sims, 8/13/01; SOAPs July 5, 2001, through August 13, 2001; **(232-248)**
14. Statements of Account and SOAPs of May 21, 2001: Patients Francis Attakora (SOAP with Yumika King's name signed on bottom for CA); Tara Barner (King); Belinda Booth (SOAP with Wanda Brown's name on bottom); Edgar Calderon (King); Toneika Carter (King); Pierre Dawkins (King); Antonio DuBose, Re-Examination Report by Baron, 5/21/01; Fatima Ibrahim (Brown); Khadija Ibrahim (King); Iyabode Irekoya (King); Thaddeus Iwu (Brown); Lisa Jackson (Brown); Wanda Jackson (King); Ayo Jimoh (King); Jeffrey John (Brown); Calvin Stover (King); Darlene Thorns (King); Karen Vestal (Brown); Cindy Wright (Brown); Demond Applewhite (Brown); **(249-322)**
15. The State Board of Chiropractic Examiners Licensure Records for F. Steven Baron;
16. Board of Chiropractic Examiners letters to Alisa Frazier, November 21, 2000, and May 7, 2001;
17. Dr. Enid Cruise Brooks, DC, letter to Alisa Frazier, October 9, 2001;
18. Board of Chiropractic Examiners, Certificate of True Copy of Original Document, Consent Agreement for Yumika King, CA/R;

19. Report of Investigation, Board of Chiropractic Examiners;
20. Letter, October 11, 2002, from Enid-Cruise-Brooks, D.C. to David M. Ford, Board Investigator; Letter January 29, 2003, from Enid Cruise, D.C., to Mr. Ford;
21. Patient Records (**260, 278, 289, 292, 303, 315, 318, 322**).

RESPONDENT'S EXHIBITS

- R1. Letter, January 11, 2002, from Enid-Cruise Brooks to Alisa Frazier;
- R2. Letter, January 21, 2003, from Tyrone Perkins;
- R3,4 Frazier Complaint;
- R5. Patient Records (**96, 100, 103, 104, 221, 226, 219, 228, 229, 72, 73, 79, 81, 84, 165, 166, 169, 170, 171, 172, 174, 176, 240, 245, 56, 58**);
- R6. Patient Records, Robb, Thornton, Andrade, Chase, Stevens and Dawkins;
- R7. King Interview with Mr. Ford;
- R8. Baron CV;
- R9. Thorton Records.

BOARD EXHIBITS

1. Charging Document.

SYNOPSIS OF CASE

Preliminarily, Mr. Weber asked the Board to re-visit a pre-hearing Order in which the Board granted the State's Motion to Exclude Testimony of Respondent's Expert Witness. Mr. Weber had timely identified Dr. Paul Goszkowski as the Respondent's expert witness and indicated the areas in which he would testify. In a February 11, 2004 letter, which was confirmed faxed to Mr.

Weber, Mr. Wagner, pursuant to Code of Maryland Regulations (COMAR) 10.43.02.04E, requested a copy of the Dr. Goszkowski's curriculum vitae and a report summarizing his testimony, including the opinion offered and the factual basis and reasons for it. On February 13, 2004 Mr. Weber provided the requested curriculum vitae, but not the expert's report. Mr. Weber stated that he had not received Mr. Wagner's February 11, 2004 letter and that the curriculum vitae was sent in response to a verbal request made by Mr. Wagner at the time of the previously held complaint resolution conference. Dr. Ashton affirmed the Board's Order granting the State's motion to exclude the Respondent's expert witness, Dr. Goszkowski.

Discussions ensued regarding the admission of a Consent Order dated August 14, 2003 entered in to by the Board and Umika King, a witness for the Respondent. Ms. King, a licensed chiropractic assistant ("CA"), had been charged with the same violations as Dr. Baron. The matter was resolved by way of a Consent Order, which contained the Findings of Fact. Mr. Weber argued as to the relevancy of the document stating that Ms. King is not a party to the matter at hand and is unrelated to the charges pertaining to the Respondent. He argues further that Ms. King made no admission as to the factual findings contained in the Consent Order. Mr. Wagner argues to the contrary, that entering into the Consent Order is an admission by Ms. King of the factual findings set out in that Order, and further that the document pertains to all of the witnesses testifying, including the Respondent and supports the allegations made against Dr. Baron and therefore relevant. The Consent Order was admitted as State's Exhibit 18.

Called by the State, Enid Cruise-Brooks testified that Dr. Baron, Alisa Frazier and Yumika King were working at New Carrollton Therapy at the time she purchased the practice on December 11, 2000 at which time each remained with the practice. Dr. Baron was the lone chiropractor for the office and the supervising chiropractor, Ms. King was the CA and Ms. Frazier covered the front desk and performed those procedures, which an applicant for CA status is eligible to perform. COMAR 10.43.07.08.

Dr. Cruise-Brooks was not based at the New Carrollton location, did no work there and saw no patients there.² Ms. King was responsible for ensuring the accuracy of patient records at that office. Dr. Cruise-Brooks was aware that in April 2001 Ms. Frazier took and failed the examination to become a chiropractic assistant.³ In May 2001, Dr. Cruise-Brooks, believing this was the second time Ms. Frazier had failed the examination⁴, barred Ms. Frazier from hands on patient care. According to Dr. Cruise-Brooks, this was immediately communicated to Dr. Baron and Ms. King. (T Vol1 48 11-21, 49 1-7).⁵ Dr. Cruise-Brooks terminated Ms. Frazier on October 9, 2001 because she had not obtained CA status. (T Vol. 1 140 8-13).

On cross-examination Dr. Cruise-Brooks testified that when she purchased the New Carrollton practice Dr. LaDuca gave her no information

² Dr. Cruise-Brooks worked out of her Oxon Hill office.

³ Should an applicant fail the chiropractic assistant examination a second time, the individual may no longer perform hands on patient procedures.

⁴ In fact Ms. Frazier failed the examination on three occasions. (T Vol. 1 207 5-9). Twice prior to Dr. Cruise-Brooks purchasing the practice.

⁵ "T" refers to the hearing transcripts.

regarding the CA status of Ms. King or Ms. Frazier. She understood that each were chiropractic assistants.

Ms. Frazier's testimony contradicts that of Dr. Cruise-Brooks. On May 7, 2001 the Board notified Ms. Frazier that she had once again failed the chiropractic assistant examination. According to her, she told Ms. King that she had failed the test again and Ms. King in turn informed Dr. Cruise-Brooks. Ms. Frazier states that neither Ms. King nor Dr. Cruise-Brooks told her to cease hands on work with patients, nor that her duties were limited to the front desk. (T Vol. 1 163-165).

Regarding Dr. Baron, Ms. Frazier states that Ms. King informed him that Ms. Frazier could no longer do therapy. (T Vol. 1 168 5-11, 169 17-21, 170 1-9). In spite of this she continued to perform therapies including ultrasound, electrical stimulation and traction up to the time she was terminated in October 2001. (T Vol. 1127 20-21, 128 1-21, 129 1-21, 130 1-21, 131 1-3). Dr. Baron's last day at New Carrollton Therapy was July 15, 2001. (T 550 17-21).

Ms. Frazier went on to testify that Dr. Cruise-Brooks, upon learning that Ms. Frazier had again failed the test, told Ms. Frazier not to sign off on patient treatment records as the treating CA when she performed therapy, instead she was to sign Ms. King's name as the CA who performed the treatment. According to Ms. Frazier, she did just that.

(T Vol. 1 131-140, 169 17-21, 170 1-9). (ES 5, 6, 7, 10,).⁶ There were occasions when Ms. King was out of the office leaving Ms. Frazier to provide the therapy. (T 170 1-3).

Ms. Frazier pointed out instances where she provided therapy and either she or Ms. King signed Ms. King's name as CA. Examples are on June 5, 2001, June 13, 2001, June 18, 2001, June 27, 2001, June 28, 2001, June 29, 2001, July 5, 2001, July 9, 2001, July 12, 2001, and July 14, 2001. (T 132, 133, 134 1-14, 135, 136, 137, 139 2-5).

Ms. Frazier testified, on cross-examination, that the Board notified her on November 21, 2001, that she had failed the examination a second time. She advised Ms. King of this and, according to Ms. Frazier, Ms. King, in turn, told her to continue doing therapy.

David Ford the Board's investigator testified that Ms. Frazier initiated a complaint regarding the New Carrollton Therapy Center. Mr. Ford interviewed Ms. Frazier who suggested that he compare time cards to patient records. She indicated that she signed Ms. King's name to patient records on dates and times that Ms. King was not in the office and did not provide the therapy. Upon review of time cards and patient records for May 21, 2001 through May 25, 2001, a period when Dr. Baron was the chiropractor on duty, Mr. Ford found that Ms. King was off on May 21st yet her name appeared on patients' records as the CA who provided the therapy. Ms. Frazier told Mr. Ford that it was she who provided the therapy, not Ms. King. (T Vol. 1 207 10-21, 208 1-21, 209 1-21, 210 1-21, 211 1-4). (ES 1 p2, 14 p252, p263, p267).

⁶ ES Refers to State's Exhibits

Mr. Ford's review of time cards and patients' records for June 25, 2001 through June 29, 2001 revealed a similar pattern of conduct on the part of Ms. King. The time cards for June 27th and 29th revealed that Ms. King was not at work yet she was the CA of record. On direct examination, Ms. King testified that she took the day off on the 27th in order to close on her house and that Dr. Baron was told to do the therapy. (T Vol. 2 369 14-20, 373 4-9). Ms. Frazier previously testified that it was she who provided the therapy on June 27th and that Ms. King signed the patient records as the CA. Ms. King further testified that, although she intended to take off on June 29th, she did not. She explained that she had planned to move that day, but was unable to get a truck so she went into work around 10:00. Again, according to Ms. Frazier, it was she who provided therapy that day. (T Vol. 1 132 6-20).

Ms. King testified that there were times she missed signing off on treatment records and when Ms. Frazier pointed this out to her, she gave her permission to sign her name. There were also instances where Ms. King did the therapy and Ms. Frazier filled out the record in its entirety. (T Vol. 2. 400 15-21, 401 1-21).

Concluding her direct testimony and continuing into cross-examination, Ms. King recanted her acceptance of the factual findings of the Consent Order (ES 18) entered into by she and the Board as a resolution to the charges brought against her for conduct based upon the same allegations as those made against Dr. Baron. (T Vol. 2 408, 409, 410, 411, 412, 413, 414, 454, 455, 456, 457, 458).

Dr. Baron began salaried employment at New Carrollton Therapy in

December 2000. Ms. Frazier and Ms. King had been employed there prior to his arrival. It was his impression and assumption that each was a CA. At the time of his employment Dr. Baron applied for supervising chiropractor status, listing each Ms. Frazier and Ms. King as a CA. He heard nothing from the Board to the contrary regarding Ms. Frazier and was granted supervising chiropractor status.

At some point in late May 2001, Ms. King told Dr. Baron that Ms. Frazier could no longer provide therapy to patients. Subsequent to that either he or Ms. King was to provide the therapy. On days Ms. King was out of the office either he or Wanda Brown from the Oxen Hill office were to provide therapy. Dr. Baron recalls that there were two occasions when he intervened as Ms. Frazier attempted to begin therapy sessions. To his knowledge she did not perform therapy again. He acknowledges that while he was with patients in his office/treatment area, he was unable to observe who may be rendering therapy. (T Vol.2 54812-21, 569 11-21).

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. That F. Steven Baron is a licensed chiropractor in Maryland;
2. That Dr. Baron is recognized by the Board as a supervising chiropractor;
3. That Dr. Baron began employment at New Carrollton Therapy Center in December 2000;

4. That Dr. Baron terminated his Employment at New Carrollton Therapy Center on July 15, 2001;

5. That New Carrollton Therapy Center is owned by Dr. Enid Cruise-Brooks;

6. That Dr. Baron was the sole supervising Chiropractor employed at New Carrollton Therapy Center during his tenure there;

7. That Yumika King was the sole licensed chiropractic assistant employed at New Carrollton Therapy Center during Dr. Baron's tenure there;

8. That Alisa Frazier was employed at New Carrollton Therapy Center as a front desk clerk;

9. That Ms. Frazier, as an applicant for chiropractic assistant status provided direct patient care;

10. Both Ms. King and Ms. Frazier pre-dated Dr. Baron's employment at New Carrollton Therapy Center;

11. That in May 2001 Dr. Baron, Dr. Cruise-Brooks and Ms. King were made aware that Ms. Frazier, once again failed the chiropractic assistant examination and could no longer perform direct patient care;

12. That Dr. Cruise-Brooks instructed Ms. Frazier to sign Ms. King's name to patient records instead of her own;

13. That Ms. Frazier continued to provide direct patient care;

14. That Ms. Frazier routinely signed Ms. King's name to the records of patients for whom Ms. Frazier provided therapy;

15. That Ms King routinely signed her own name to the records of patients for whom Ms. Frazier provided therapy services;

16. The on August 8, 2003 Ms. King executed a Consent Order acknowledging that she was not at work on May 21, 2001, June 27, 2001 and June 29, 2001, dates in which Ms. Frazier performed direct patient care and Ms. King signed the patient records,

17. That Dr. Baron signed off on each patient record;

18. That there were two (2) instances where Dr. Baron intervened when he observed Ms. Frazier begin therapy treatment;

19. That Ms. Frazier provided therapy services at New Carrollton Therapy Center during Dr. Baron's entire tenure there;

20. That Dr. Baron, while seeing patients in his office, could not observe therapy treatment area.

OPINION

In May of 2001 Dr. Baron learned that Alisa Frazier could no longer provide direct patient care, yet she continued to do so up to the time he separated from New Carrollton Therapy. He argues that as an employee of New Carrollton Therapy he his somehow relieved of the responsibility for Ms. Frazier's actions. He was the supervising chiropractor at that location, the individual responsible for direct supervision of chiropractic assistants and applicants who are in training to become chiropractic assistants. In that capacity, he is required to be personally present and immediately available in the treatment area where

the chiropractic assistant provides direct patient care. COMAR 10.43.07.01B. Had he met this requirement, he would have known that Ms. Frazier was providing therapy services to patients subsequent to May 2001.

Nor can the Board accept the implication that since Dr. Baron was unable to observe the treatment area from his office he cannot be held responsible for Ms. Frazier's actions. Dr. Baron was fully aware that patients were being treated with therapy. It was his responsibility to inform himself as to who was providing the care.

Finally, Dr. Baron signed off on records that were false. In many instances Ms. Frazier provided treatment and either she or Ms. King signed Ms. King's name.

The Board may use its "experience, technical competence, and specialized knowledge in the evaluation of evidence" in determining whether or not the standards of a profession have been breached. Md. Code Ann., State Gov't § 10-213(i).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Opinion, the Board concludes, as a matter of law that Dr. Baron violated H.O. § 3-313(12), (18) and (19) and COMAR 10.43.07.07A and COMAR 10.43.15.03A.

ORDER

Based on the foregoing Findings of Fact, Opinion and Conclusions of Law, it is, this 14th day of October, 2004, by the Maryland State Board of Chiropractic Examiners hereby

ORDERED that, pursuant to the authority vested in the Board of Chiropractic Examiners by Md. Code Ann., Health Occ. Article, § 3-313, the Respondent is hereby **REPRIMANDED**; and be it further

ORDERED that the Respondent, reimburse the Board its hearing costs in the amount of \$2,872.00; and be it further

ORDERED that this document is a public record, pursuant to Md. Code Ann., State Gov't Article, and § 10-617(h).

OCT 14 2004

Date

E. Brian Ashton, D.C.

E. Brian Ashton, D.C.
Board President

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Code Ann., Health Occ. Article, § 3-316, you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Findings of Fact, Conclusion s of Law and Order and shall be made as provided for judicial review of a final decision in the

Maryland Administrative Procedure Act, Md. Code Ann., State Gov't Article, §§
10-201 *et seq.*, and Title 7 Chapter 200 of the Maryland Rules.