

NORTH CAROLINA
NEW HANOVER COUNTY

NORTH CAROLINA BOARD
OF CHIROPRACTIC EXAMINERS

In the Matter of:

AARON RICHARDET, D.C.,
Respondent.

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FINAL AGENCY DECISION

THIS MATTER coming on to be heard before the Board of Chiropractic Examiners at its regular meeting held on January 26, 2008 in Greensboro, North Carolina; and at the call of the case, the attorney for the Board tendered a proposed Decision agreed and stipulated to by the Secretary of the Board and the respondent. Upon recommendation of the Board staff, and with the consent of the parties, the Board makes the following:

Findings of Fact

1. This case was heard by a majority of the Board, Dr. Terry L. Bradley, presiding. Dr. John A. Webster, Secretary of the Board, was present but did not actively participate in the Board's deliberations due to his earlier participation in the formation of the charges against the respondent.

2. The respondent, Dr. Aaron Richardet, is a duly licensed chiropractic physician in North Carolina and maintains a chiropractic office in New Hanover County, North Carolina. The name of Dr. Richardet's office is SpinalCare of Wilmington, and its address is 4024 Oleander Drive, Wilmington, NC 28403. Dr. Richardet has a partner in practice, Jason Graf, D.C. There are no medical doctors on the staff of SpinalCare of Wilmington.

3. This matter comes before the Board upon a formal complaint filed on September 27, 2007 by Dr. Webster in his capacity as Secretary of the Board. The complaint alleges that Dr. Richardet violated numerous statutes and rules governing chiropractic advertising.

4. At a probable cause hearing held in Wilmington on October 18, 2007, Dr. Richardet admitted that he is guilty of the alleged violations.

5. In the summer of 2007, Dr. Richardet caused to be published, in a local newspaper in Wilmington, four separate advertisements touting his ability to treat fibromyalgia. For purposes of this Decision, each advertisement will be identified by its caption and discussed separately.

Advertisement #1: "The Doctors Were Right. . ."

6. This advertisement contains the following declaration: "The Doctors Were Right. . . Fibromyalgia IS All In Your Head!!! (And I Can Get Rid Of It!)" This declaration purports to guarantee a beneficial result from chiropractic treatment.

7. This advertisement contains the following statement: "Dr. Aaron Richardet has expert training in treating fibromyalgia and other chronic pain syndromes." This statement implies that Dr. Richardet, by virtue of additional training, possesses greater expertise in treating fibromyalgia and other chronic pain syndromes than is possessed by chiropractors who have not had additional training.

8. This advertisement offers a "FREE Consult & Exam" without stating Dr. Richardet's usual fee for a consultation and examination and without reciting the three-day disclaimer text.

9. In this advertisement, Dr. Richardet's name appears, but he is not identified as a doctor of chiropractic, chiropractor or chiropractic physician.

Advertisement #2: "FIBROMYALGIA myths revealed. . ."

10. This advertisement contains the following statement: "Dr. Aaron Richardet has expert training in treating fibromyalgia and other chronic pain syndromes." This statement implies that Dr. Richardet, by virtue of additional training, possesses greater expertise in treating fibromyalgia and other chronic pain syndromes than is possessed by chiropractors who have not had additional training.

Advertisement #3: "FIBROMYALGIA?"

11. This advertisement offers a "FREE EXAM & CONSULT" without stating Dr. Richardet's usual fee for examinations and consultations and without reciting the three-day disclaimer text.

12. This advertisement fails to identify Dr. Richardet by name and professional designation or indicate in any manner that SpinalCare of Wilmington is a chiropractic clinic.

Advertisement #4: "Is Your Doctor Making Your Fibromyalgia Worse?"

13. This advertisement contains the following statement: "My name is Dr. Aaron Richardet and I have expert training in treating fibromyalgia and other chronic pain syndromes." This statement implies that Dr. Richardet, by virtue of additional training, possesses greater expertise in treating fibromyalgia and other chronic pain syndromes than is possessed by chiropractors who have not had additional training.

14. This advertisement offers a "Free evaluation" without stating Dr. Richardet's usual fee for an evaluation and without reciting the three-day disclaimer text.

15. In this advertisement, Dr. Richardet's name appears, but he is not identified as a doctor of chiropractic, chiropractor or chiropractic physician.

16. Official notice is taken that Dr. Richardet has not caused to be filed with the Board any certificate confirming that he has completed post-graduate education and passed a national diplomate examination in any recognized chiropractic specialty.

BASED ON the foregoing Findings of Fact, the Board makes the following:

Conclusions of Law

1. The Board of Chiropractic Examiners is duly constituted and has jurisdiction of subject matter and of the person of the respondent. The complaint filed September 27, 2007 is properly before the Board for adjudication on the merits. The burden of proof is borne by the staff of the Board, and the standard of proof is the greater weight of the evidence.

2. N.C.G.S. 90-154(b)(1) states that advertising services in a false or misleading manner is grounds for disciplinary action by the Board.

3. Rule 21 NCAC 10 .0302(c)(1) states that advertising which purports to guarantee a beneficial result from chiropractic treatment is deemed false or misleading advertising.

4. Rule 21 NCAC 10 .0304(a)(1) states that any representation stating or implying that, by virtue of additional training, a licentiate possesses greater expertise in any aspect of health care than is possessed by chiropractic physicians who have not had additional training constitutes a claim of specialization.

5. Rule 21 NCAC 10 .0304(b) states that it is false or misleading advertising for a licentiate to make a claim of specialization if the licentiate has not first completed an approved post-graduate specialty program and passed the national diplomate examination for that specialty.

6. N.C.G.S. 90-154(b)(13) states that advertising any free or reduced rate service without prominently stating in the advertisement the usual fee for that service is grounds for disciplinary action by the Board.

7. N.C.G.S. 90-154.1(b) states that any chiropractic advertisement that offers a free or reduced rate service, examination or treatment shall contain the following notice to prospective patients: "If you decided to purchase additional treatment, you have the legal right to change your mind within three days and receive a refund." This quotation constitutes the "three-day disclaimer" referred to elsewhere in this Decision.

8. N.C.G.S. 90-154.2(4) states that a licensee's failure to use the words Chiropractic Physician, Chiropractor or the initials D.C. in conjunction with the use of his name in his capacity as a chiropractor on all advertising constitutes unethical conduct.

9. Advertisement #1 offends the statutes and rules governing chiropractic advertising in the following ways:

- A. It purports to guarantee a beneficial result from chiropractic treatment, in violation of Rule 21 NCAC 10 .0302(c) and N.C.G.S. 90-154(b)(1);
- B. It creates the misleading impression that Dr. Richardet is a specialist in the treatment of fibromyalgia and other chronic pain syndromes, in violation of Rule 21 NCAC 10 .0304 and N.C.G.S. 90-154(b)(1);
- C. It offers a free consultation and examination without stating the usual fee for those services and without reciting the three-day disclaimer, in violation of N.C.G.S. 90-154(b)(13) and N.C.G.S. 90-154.1(b);
- D. It fails to identify Dr. Richardet as a chiropractic physician, in violation of N.C.G.S. 90-154.2(4).

10. Advertisement #2 offends the statutes and rules governing chiropractic advertising in the following ways:

- A. It creates the misleading impression that Dr. Richardet is a specialist in the treatment of fibromyalgia and other chronic pain syndromes, in violation of Rule 21 NCAC 10 .0304 and N.C.G.S. 90-154(b)(1);

- B. It fails to identify Dr. Richardet as a chiropractic physician, in violation of N.C.G.S. 90-154.2(4).

11. Advertisement #3 offends the statutes and rules governing chiropractic advertising in the following ways:

- A. It offers a free examination and consultation without stating the usual fee for those services and without reciting the three-day disclaimer, in violation of N.C.G.S. 90-154(b)(13) and N.C.G.S. 90-154.1(b);
- B. It fails to identify Dr. Richardet as a chiropractic physician, in violation of N.C.G.S. 90-154.2(4).

12. Advertisement #4 offends the statutes and rules governing chiropractic advertising in the following ways:

- A. It creates the misleading impression that Dr. Richardet is a specialist in the treatment of fibromyalgia and other chronic pain syndromes, in violation of Rule 21 NCAC 10 .0304 and N.C.G.S. 90-154(b)(1);
- B. It offers a free evaluation without stating the usual fee for that service and without reciting the three-day disclaimer, in violation of N.C.G.S. 90-154(b)(13) and N.C.G.S. 90 154.1(b);
- C. It fails to identify Dr. Richardet as a chiropractic physician, in violation of N.C.G.S. 90-154.2(4).

13. Under the Chiropractic Disciplinary Guidelines currently used by the Board, violating the statutes and rules governing chiropractic advertising falls within the "Least Serious" category of disciplinary violations. The presumptive sanctions for this category, when neither aggravating nor mitigating factors predominate, range from reprimand to 90-day license suspension. Probation may also be imposed.

14. Part III of the Chiropractic Disciplinary Guidelines sets forth numerous mitigating and aggravating factors commonly considered by the Board in selecting sanctions. Pursuant to Part III, the Board finds as follows:

- A. The mitigating factors present in Dr. Richardet's case are:
 - (1) Dr. Richardet has no prior history of disciplinary violations;
 - (2) Dr. Richardet acknowledged culpability at any early stage of the disciplinary process, cooperated with the Board, and voluntarily undertook remedial measures prior to the disposition of the case;
- B. There are no aggravating factors present in Dr. Richardet's case.

15. In the judgment of the Board the mitigating factors predominate. Therefore, in conformity with the Chiropractic Disciplinary Guidelines, sanctions shall fall within the lower end of the presumptive range for a "Least Serious" violation.

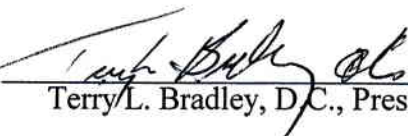
WHEREFORE, BY CONSENT, and upon his plea of guilty, The North Carolina Board of Chiropractic Examiners hereby finds the respondent, Aaron Richardet, guilty of False or Misleading Advertising and the related adverting offenses noted above. It is ordered, adjudged and decreed that Dr. Richardet be sanctioned as follows: "

1. Dr. Richardet's license to practice chiropractic in North Carolina shall be suspended for thirty days. This sanction is stayed and Dr. Richardet shall be placed on probation for one year upon the following terms and conditions:
 - A. Dr. Richardet shall serve an active term of license suspension for three consecutive business days;
 - B. Within the next six months, Dr. Richardet shall attend a jurisprudence seminar offered by the Board of Examiners and successfully complete the Board's jurisprudence examination;
 - C. Dr. Richardet shall not commit any further advertising violations during the probationary period.
2. If Dr. Richardet willfully or negligently fails to comply with the terms of probation, the thirty-day license suspension now stayed shall be invoked.


This Decision shall become effective on the date of ratification. This Decision is a public document and shall be reported to national data banks and to the licentiate body by summary in the Board's next newsletter.

RATIFIED THIS the 26 day of January, 2008.

NORTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS

By: 
Terry L. Bradley, D.C., President

CONSENT:


Aaron Richardet, D.C.
Respondent


John A. Webster, D.C.
Secretary of the Board


Thom Goolsby
Attorney for the Respondent


Vance C. Kinlaw
Attorney for the Board