

**VIRGINIA:**

**BEFORE THE BOARD OF MEDICINE**

**IN RE:       ERIC BERG, D.C.  
              License No.: 0104-001851**

**CONSENT ORDER**

By letter dated August 7, 2007, the Virginia Board of Medicine ("Board") noticed Dr. Berg for an informal conference to inquire into allegations that he may have violated certain laws and regulations governing the practice of chiropractic in the Commonwealth of Virginia. In lieu of proceeding to an informal conference, the Board and Dr. Berg, as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Dr. Berg to practice chiropractic in Virginia.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Board adopts the following findings of fact and conclusions of law in this matter:

1. Dr. Berg was issued license number 0104-001851 by the Board to practice chiropractic in the Commonwealth of Virginia on October 1, 1997. Said license will expire on March 31, 2008, unless renewed or otherwise restricted.
2. From approximately 2000 to 2006, during the course of Dr. Berg's chiropractic practice at The Health and Wellness Center, Alexandria, Virginia:
  - a. Dr. Berg violated former Section 54.1-2915.A(4) of the Code [as it existed prior to its amendment in 2003] and Section 54.1-2915.A(1) and (4) of the Code [formerly Section 54.1-2915.A(1) and (5)] for conduct in the practice prior to July 1, 2003; Section 54.1-2915.A(3) of the Code [formerly Section 54.1-2915.A(4) as amended in 2003] for conduct in the practice from July 1, 2003; Section 54.1-2915.A(13) of the Code [formerly Section 54.1-2914.A(8)]; and Section

54.1-2915.A(16) of the Code [formerly Section 54.1-2914.A(11)], in that, he utilized, in the care, diagnosis, assessment, and treatment of his patients, including Patients A-H, the following techniques, which are outside the scope of the practice of chiropractic; do not constitute acceptable standards of chiropractic care; and have no reasonable scientific or medical research, investigation, study, or data to support their efficacy or therapeutic benefit:

- i. The Body Restoration Technique (“BRT”), a procedure whereby vials of distilled water containing homeopathic imprints are held over certain designated body organs or parts while the practitioner applies tactile pressure through tapping or rubbing acupressure points, allegedly to assist in restoring hormone balance and to address other symptoms;
  - ii. Nambudripad’s Allergy Elimination Technique (“NAET”), a technique that uses pressure points in certain locations of the body allegedly to improve food allergies and environmental and chemical sensitivities;
  - iii. Contact Reflex Analysis (“CRA”), an alleged nutritional analysis that relies on muscle testing and acupuncture points; and
  - iv. Acoustic Cardiograph (“ACG”), an alleged nutritional evaluation based on heart sounds recorded and visualized on a graph.
- b. Dr. Berg violated former Section 54.1-2915.A(4) of the Code [as it existed prior to its amendment in 2003] for conduct in the practice prior to July 1, 2003; Section 54.1-2915.A(3) of the Code [formerly Section 54.1-2915.A(4) as amended in 2003] for conduct in the practice

from July 1, 2003; Section 54.1-2915.A(13) of the Code [formerly Section 54.1-2914.A(8)]; and Section 54.1-2915.A(16) of the Code [formerly Section 54.1-2914.A(11)], in that, contrary to acceptable standards of care:

- i. His medical records for Patients A, C, D, F, G, H, and Z do not have signed consent forms for treatment.
  - ii. At their initial and/or subsequent visits, Dr. Berg failed to take adequate medical histories of Patients A-D, G, and H and failed to perform adequate physical examinations of Patients A-H.
  - iii. Dr. Berg did not properly manage patient records or maintain adequate, legible, and complete records for patients A-H. These records often lacked a description of patient complaints and symptoms, diagnosis, assessment, physical findings, treatment plan, description of treatment or services provided, and progress notes. In some instances, the records of office visits contain little or no information beyond the patient's name.
  - iv. Dr. Berg was unable to locate and provide the records for three (3) patients requested by a Department of Health Professions' ("DHP") Investigator on or about August, 2004.
- c. Dr. Berg violated Section 54.1-2915.A(1) of the Code; Section 54.1-2915.A(12), (15), (16) , and (18) of the Code [formerly Section 54.1-2914.A(7), (10), (11), and (13)]; Section 54.1-2403 of the Code; and 18 VAC 85-20-30.E [as adopted in 1998 and as amended through 2005] of the Board's Regulations, in that, on multiple occasions in various media, including

newspapers and magazines, flyers and brochures, correspondence with patients or prospective patients, and his website, he published or caused to be published advertisements or made or caused to be made statements and representations that were expressly or implicitly false, misleading and/or deceptive. Specifically:

i. Despite the lack of reasonable scientific or medical evidence to support the efficacy or therapeutic benefit of BRT or NAET, Dr. Berg repeatedly advertised or represented to patients and the public, either implicitly or expressly, that BRT and/or NAET were techniques that could be used to prevent, alleviate, diagnose, assess, treat, or otherwise ameliorate a variety of conditions and symptoms, to include, but not be limited to the following: allergies, thyroid problems, infertility, depression, migraines, fibromyalgia, PMS, blood sugar problems, arthritis, sciatica, prostate problems, skin-related symptoms, heart beat problems, stubborn metabolism, as stated in the following:

- I. Letter to Patient Z dated June 21, 2002;
- II. Marketing advertisement in the October 2002 edition of *Dynamic Chiropractic*, entitled “Learn the Body Restoration Technique;”
- III. Marketing advertisement in the August 14, 2005 edition of *Dynamic Chiropractic*, entitled “Get Faster & Longer Lasting Results with Tough Cases! Learn the Body Restoration Technique;”,
- IV. Undated marketing advertisement to practitioners, entitled “Create HUGE effects in patient results BY RESTORING HORMONE BALANCE”,

V. As of December 2006, Dr. Berg's website stated that "BRT gets Major Results With" a variety of medical conditions and symptoms, while also claiming that:

BRT is a specialized method of removing blockages originating from non-spine areas. It is a method of checking all the body's pathways with an emphasis on the endocrine system's acupressure-like points ...If the right source is found and corrected results will be immediate, even within seconds after the correction.

ii. Volume 1, Issue 1 of a publication from The Health and Wellness Center, dated August 2002 and sent to Patient Z, included the following claims which are not supported by reasonable scientific or medical evidence:

I. "My observation and clinical testing found that this synthetic estrogen is the main causative factor in sluggish thyroid cases as well as prostate enlargement, fibroids, ovarian cysts, fibrocystic breasts, adrenal burnout and high blood pressure." However, Dr. Berg did not provide the DHP investigator with the clinical tests referenced in the preceding statement, and there is no reasonable scientific or medical evidence that BRT ameliorates these conditions or that synthetic hormones are the main causative factor in the conditions listed.

II. "I would recommend a product called Cal Ma Plus for people who wanted to prevent osteoporosis." However, the information sheet on Cal Ma Plus indicates that it is a supplement containing Bovine Parathyroid Gland,

that it has not been evaluated by the Food & Drug Administration, and that it is not intended to diagnose, treat, cure or prevent illness.

III. "The Body Restoration Technique will help ... strengthen the adrenals so they can do their job again ... and when you improve that area, the adrenal bounce back and menopausal symptoms greatly improve."

IV. A 5-year old boy with a rare blood disorder, Idiopathic Immune Thrombocytopenic Purpura ("IITP"), received muscle testing which revealed that "his body was reacting with the chicken pox vaccine", and, after treatment with NAET, the boy's platelets shot up, he was energetic, and he had no further bruising. Further, the story of a 47-year old woman suffering from sluggish thyroid is described. Testing revealed that "she was weak on mumps" and she was successfully treated with BRT. However, there is no reasonable scientific or medical evidence of a causal connection between chicken pox vaccine and IITP or between mumps and sluggish thyroid.

iii. In an undated flyer sent to Patient Z entitled "Long Time No See", Dr. Berg stated that "Incidentally, one of the biggest known side effects of the mumps vaccine is diabetes (pancreas problem). . . ." However, there is no reasonable scientific or medical evidence supporting that claim.

iv. On numerous occasions, Dr. Berg used the designation "Dr." without clarifying that he is a doctor of chiropractic, including in correspondence to Patient Z dated June 21, 2002, in October 2002 and August 2005 advertisements in *Dynamic*

*Chiropractic*, and on his website. In addition, on Dr. Berg's letterhead and other documents, in advertisements, and on his website, he repeatedly identified his practice as The Health and Wellness Center, without clarifying that it is a chiropractic practice. Further, in an undated flyer sent to Patient Z, entitled "Long Time No See", Dr. Berg used the designation "Dr." with respect to four individuals in his practice who are certified in BRT, without clarifying that these individuals are doctors of chiropractic.

v. Dr. Berg's website claims that he developed BRT approximately 8 years ago. However, a letter from his counsel to the DHP investigator dated August 3, 2004, attributes his use of BRT to a continuing education seminar that he attended in 1998 entitled "Nambudripod Allergy Elimination Technique."

vi. An undated promotional flyer advertising a marketing seminar for practitioners states that "[i]t has been established that BRT gets an 84% success rate for most endocrine conditions." However, there is no data to support the claim of an 84% success rate.

vii. An undated advertisement in *The Washington Post*, entitled "Are Hormones Making You Fat & Tired?", offering a free seminar states that the seminar "is based on several medical textbooks including a book called Dr. Berg's Body Shape Diets." However, describing Dr. Berg's book as a medical textbook is false and/or misleading in that there is no evidence that this book has undergone the level of

scientific scrutiny necessary to be considered a physician level healthcare medical text, rather than a lay publication.

### CONSENT

I, Eric Berg, D.C., by affixing my signature hereto, acknowledge that:

1. I have been advised specifically to seek the advice of counsel prior to signing this document and am represented by Jonathan W. Emord, Esquire;
2. I am fully aware that without my consent, no legal action can be taken against my license, except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq. of the Code of Virginia;
3. I have the following rights, among others:
  - a. the right to an informal conference before the Board; and
  - b. the right to appear in person or by counsel, or other qualified representative before the Board.
4. I waive all rights to an informal conference;
5. I neither admit nor deny the truth of the above Findings of Fact, but agree not to contest them in any subsequent Board proceeding; and
6. I consent to the following Order affecting my license to practice chiropractic in the Commonwealth of Virginia.

### ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and with



the consent of the licensee, it is hereby ORDERED that Eric Berg, D.C., be and hereby is, issued a REPRIMAND.

It is further ORDERED that a MONETARY PENALTY be imposed upon Dr. Berg in the amount of One Thousand Five Hundred Dollars (\$1,500.00), with said monetary penalty to be paid to the Board within ninety (90) days of entry of this Order, and that Dr. Berg's license shall be subject to the following terms and conditions:

1. Dr. Berg shall cease and desist the use of, and any and all advertising pertaining to, BRT, NAET, CRT, and ACG.
2. Within six (6) months from the date of entry of this Consent Order, Dr. Berg shall complete at least six (6) hours of Board-approved continuing medical education ("CME") in the subject of medical recordkeeping. All CME shall be approved in advance of registration by the Executive Director of the Board. Within twenty-one days (21) days of completion of the CME, Dr. Berg shall submit a certificate or other evidence, satisfactory to the Board, of completion of each course. Any CME hours obtained in compliance with this term shall not be used towards compliance with the Board's continuing education requirements for license renewal.
3. Within twelve (12) months of entry of this Consent Order, but subsequent to the completion of the CME required above, Dr. Berg's practice shall be the subject of an unannounced inspection by an inspector/investigator of the Department of Health Professions. Such inspection shall be conducted during normal business hours and shall include a review of Dr. Berg's office and equipment, current advertising, and may include an interview with staff. Dr. Berg shall make his patient medical and billing records available to the inspector/investigator. The

inspector/investigator shall obtain and copy a random sample of ten of Dr. Berg's patient records/billing records for review by the Board.

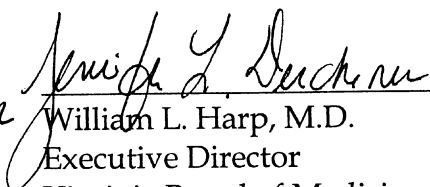
Upon receipt of evidence that Dr. Berg has complied with the requirements of this Consent Order, the Committee authorizes the Executive Director of the Board to close this matter without further proceedings.

Dr. Berg shall maintain a course of conduct in his practice of chiropractic commensurate with the requirements of Title 54.1, Chapter 29 of the Code and all laws of the Commonwealth.

Clear and convincing evidence of a violation of this Consent Order shall constitute grounds for the suspension of Dr. Berg's license. In the event Dr. Berg violates any of the terms and conditions of this Consent Order, a formal administrative hearing shall be convened to determine whether his license shall be suspended.

Pursuant to Section 54.1-2400.2 of the Code, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.

FOR THE BOARD:

*for*   
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William L. Harp, M.D.  
Executive Director  
Virginia Board of Medicine

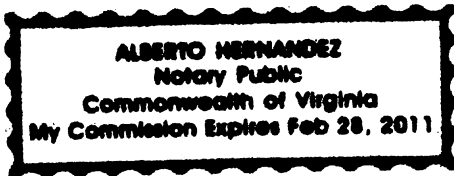
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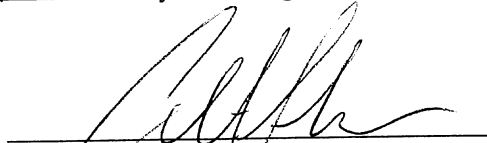
SEEN AND AGREED TO:

  
Eric Berg, D.C.

COMMONWEALTH OF VIRGINIA  
COUNTY/CITY OF FARFAX, TO WIT:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Virginia, at large, this 7 day of SEPTEMBER, 2007, by Eric Berg, D.C.



  
Notary Public

My commission expires: 2/28/2011  
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