

**Gregg Battersby, D.C.**

Case Number: 2007 CHR 020

Disciplinary Synopsis: 10 Day Suspension  
April 20, 2007 – April 29, 2007  
Please see a copy of the discipline for complete details.

Date of Action: March 21, 2007



State of Ohio  
**Ohio State Chiropractic Board**

Kelly A. Caudill, Executive Director

Board Members

Earl L. Wiley, D.C., M.A.  
President

Anna Villarreal Jenkins, D.C., Esq.  
Vice-President

Mark A. Korchok, D.C.

Richard J. Maynard, D.C.

Larry Price, B.A.  
Public Member

**BEFORE THE OHIO STATE CHIROPRACTIC BOARD**

IN THE MATTER OF:	)	
	)	Case No. 2007 CHR 020
Gregg N. Battersby, D.C.,	)	
License No. 914,	)	
	)	
Respondent.	)	Issue Date: March 21, 2007.

**ADJUDICATION ORDER**

**INTRODUCTION & PROCEDURAL HISTORY**

On February 22, 2007, the matter of Gregg N. Battersby, D.C. came for hearing in accordance with Ohio Revised Code Chapters 119 and 4734, before the following members of the Ohio State Chiropractic Board: President Earl L. Wiley, D.C., Vice President Anna Villarreal Jenkins, D.C., Richard J. Maynard, D.C. and Mr. Larry Price. Board Vice-President Dr. Anna Villarreal Jenkins presided over the hearing. Although no hearing was requested by Dr. Battersby, a hearing was held pursuant to *Goldman v. State Medical Board of Ohio*, (March 29, 1996) Franklin County Court of Appeals, 95APE10-1358 (unreported). The Board was represented by Todd W. Newkirk, Esq., Assistant Attorney General. McGinnis Court Reporting Services made a stenographic record of the proceedings at the Board's expense.

Only the following Board members deliberated on this matter during executive session and voted to issue this Order at their regular meeting on February 22, 2007: President Dr. Wiley, Vice President Dr. Villarreal Jenkins, Dr. Maynard and Mr. Price. Voting Aye: President Dr. Wiley, Vice President Dr. Villarreal Jenkins, Dr. Maynard and Mr. Price. Voting Nay: None. Abstaining: Mark A. Korchok, D.C.

**TESTIMONY HEARD DURING THE FEBRUARY 22, 2007 HEARING**

**For the State of Ohio:**  
Kelly A. Caudill, Executive Director

### HEARING EXHIBITS EXAMINED

<u>State's Exhibit</u>	<u>Item</u>
1	Notice of Opportunity for Hearing issued to Gregg N. Battersby, D.C. on December 8, 2006 with certified mail receipt reflecting Dr. Battersby's signature of receipt.
2	Letter from Dr. Battersby dated December 20, 2006 addressed to the Board requesting any and all documents, reports, notes or records regarding the Board's investigation.
3	Letter from the Board dated January 5, 2007 addressed to Dr. Battersby in response to his records request dated December 20, 2006.
4	Letter from Dr. Battersby dated February 6, 2007 addressed to the Board regarding the Goldman Hearing Scheduling letter he received from the Board.
5	Goldman Hearing Scheduling Notice dated January 26, 2007 with Certified Mail Receipt reflecting Dr. Battersby's signature of receipt.
6	Certified Copy of the Complaint by Individual from the Mentor Municipal Court, Mentor, Lake County, Ohio in Case NO. 06 CRB 0970 reflecting Dr. Battersby's plea of No Contest and Finding of Guilty of Public Indecency, a misdemeanor of the fourth degree, in violation of ORC § 2907.09 (A)(1).
7.	Copy of Mentor Police Department Case Report in Case No. 2006-00013200 pertaining to Dr. Battersby's arrest for Public Indecency.

### FINDINGS OF FACT

Having heard the testimony of the witnesses and having examined the exhibits admitted into evidence, the Board makes the following findings of fact. To the extent that any findings of fact constitute conclusions of law, they are offered as such. To the extent that any conclusions of law constitute findings of fact, they are so offered.

1. On December 8, 2006 the Board issued a Notice of Opportunity for Hearing to Gregg N. Battersby, D.C. This document was sent via certified mail to Dr. Battersby with the certified mail receipt reflecting Dr. Battersby's signature of receipt.
2. On January 26, 2007 the Board issued a Goldman Hearing Scheduling Notice setting Dr. Battersby's adjudication hearing for February 22, 2007 at 12:45 p.m. This document was sent via certified mail to Dr. Battersby with the certified mail receipt reflecting Dr. Battersby's signature of receipt.
3. The Board did not receive a request for hearing from Dr. Battersby in response to the Notice of Proposed Refusal of License Reinstatement and Notice of Opportunity for Hearing issued December 8, 2006. In his correspondence to the Board dated February 6, 2007 regarding the

Goldman Hearing Notice he received, Dr. Battersby states "my refusal to request a public hearing in no way abrogates my due process rights."

4. On or about October 16, 2006 in the Mentor Municipal Court, Lake County Ohio, Dr. Battersby pled no contest to and was found guilty of Public Indecency, in violation of Ohio Revised Code Section 2907.09 (A)(1), a misdemeanor of the fourth degree.

### CONCLUSIONS OF LAW

Based upon the testimony of the witness, the exhibits admitted into evidence, and the above-listed Findings of Fact, the Board makes the following Conclusions of Law. To the extent that any Findings of Fact constitute Conclusions of Law, they are offered as such. To the extent that any Conclusions of Law constitute Findings of Fact, they are so offered.

1. Based upon the evidence shown, the Board concludes that Dr. Battersby pled no contest to and was found guilty of Public Indecency, in violation of Ohio Revised Code Section 2907.09 (A)(1), a misdemeanor of the fourth degree.
2. The Board concludes that Dr. Battersby's conviction of Public Indecency, in violation of Ohio Revised Code Section 2907.09 (A)(1), a misdemeanor of the fourth degree, is a misdemeanor involving moral turpitude.
3. The Board's allegation as described in Count 1 of the Notice of Opportunity for Hearing issued to Dr. Battersby has been proven by the state by reliable, probative and substantial evidence. Accordingly, the Board may discipline Dr. Battersby in accordance with Ohio Revised Code § 4734.31 (C)(3), which in pertinent part states:
  - (A) The state chiropractic board may take any of the actions specified in division (B) of this section against an individual who has applied for or holds a license to practice chiropractic in this state if any of the reasons specified in division (C) of this section for taking action against an individual are applicable. Except as provided in division (D) of this section, actions taken against an individual shall be taken in accordance with Chapter 119. of the Revised Code. The board may specify that any action it takes is a permanent action. The board's authority to take action against an individual is not removed or limited by the individual's failure to renew a license.
  - (B) In its imposition of sanctions against an individual, the board may do any of the following:
    1. Refuse to issue, renew, restore, or reinstate a license to practice chiropractic;
    2. Reprimand or censure a license holder;
    3. Place limits, restrictions, or probationary conditions on a license holder's practice;
    4. Impose a civil fine of not more than five thousand dollars according to a schedule of fines specified in rules that the board shall adopt in accordance with Chapter 119. of the Revised Code;
    5. Suspend a license for a limited time or indefinite period;

6. Revoke a license.
- (C) The board may take the actions specified in division (B) of this section for any of the following reasons:
3. A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter.

### ORDER

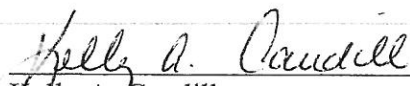
On the basis of the above Findings of Fact and Conclusions of Law, it is hereby Ordered that:

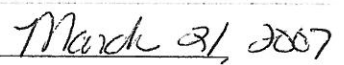
1. Dr. Battersby's chiropractic license, number 914, is Suspended for a term of 10 days. Said suspension shall be effective thirty days from the date of this Order.
2. Dr. Battersby shall submit to a psychological assessment and evaluation with the Center for Marital and Sexual Health to determine if he is a danger to himself or the public. Said assessment and evaluation shall be at Dr. Battersby's expense and be completed prior to the conclusion of Dr. Battersby's 10 day suspension. Further, Dr. Battersby shall cause the Center for Marital and Sexual Health to submit their Report of Findings from the assessment and evaluation directly to the office of the State Chiropractic Board.

### APPEAL PROCESS

Ohio Revised Code Section 119.12 authorizes an appeal from this Order. Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the Ohio State Chiropractic Board and to the Court of Common Pleas of Franklin County, Ohio within fifteen days of the mailing of this notice, in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

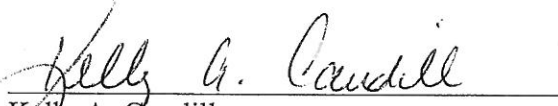
**BY ORDER OF THE OHIO STATE CHIROPRACTIC BOARD**

  
\_\_\_\_\_  
Kelly A. Caudill  
Executive Director

  
\_\_\_\_\_  
Date

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Adjudication Order was sent via certified mail number 7004 2510 0006 9806 0639, return receipt requested, to Gregg N. Battersby, D.C., 8515 Mentor Avenue; Mentor, OH 44060 on this 21<sup>st</sup> day of March 2007.

  
\_\_\_\_\_  
Kelly A. Caudill  
Executive Director



State of Ohio

# Ohio State Chiropractic Board

Kelly A. Caudill, Executive Director

## BEFORE THE OHIO STATE CHIROPRACTIC BOARD

IN THE MATTER OF:

Gregg N. Battersby, D.C.,  
License No. 914,

Respondent.

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Case No. 2007 CHR 020

Issue Date: December 8, 2006

### NOTICE OF OPPORTUNITY FOR HEARING

#### INTRODUCTION & JURISDICTION

In accordance with the provisions of Sections 119.06 and 119.07 of the Ohio Revised Code, you are hereby notified that you are entitled to a hearing before the State Chiropractic Board on the question of whether or not your doctor of chiropractic license, which was issued under the provisions of Chapter 4734 of the Ohio Revised Code, should be disciplined for your alleged violation of § 4734.31 (C)(3) of the Revised Code, to wit:

#### COUNT 1

On or about October 16, 2006 in the Mentor Municipal Court, Lake County Ohio, you pled no contest to and were found guilty of Public Indecency, in violation of Ohio Revised Code Section 2907.09 (A)(1), a misdemeanor of the fourth degree.

#### LAWS AND RULES AT ISSUE

Ohio Revised Code § 4734.31 in pertinent part states:

- (A) The state chiropractic board may take any of the actions specified in division (B) of this section against an individual who has applied for or holds a license to practice chiropractic in this state if any of the reasons specified in division (C) of this section for taking action

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website: <http://www.chirobd.ohio.gov> • e-mail: [chirobd@mail.peps.state.oh.us](mailto:chirobd@mail.peps.state.oh.us)

against an individual are applicable. Except as provided in division (D) of this section, actions taken against an individual shall be taken in accordance with Chapter 119. of the Revised Code. The board may specify that any action it takes is a permanent action. The board's authority to take action against an individual is not removed or limited by the individual's failure to renew a license.

- (B) In its imposition of sanctions against an individual, the board may do any of the following:
1. Refuse to issue, renew, restore, or reinstate a license to practice chiropractic;
  2. Reprimand or censure a license holder;
  3. Place limits, restrictions, or probationary conditions on a license holder's practice;
  4. Impose a civil fine of not more than five thousand dollars according to a schedule of fines specified in rules that the board shall adopt in accordance with Chapter 119. of the Revised Code;
  5. Suspend a license for a limited time or indefinite period;
  6. Revoke a license.
- (C) The board may take the actions specified in division (B) of this section for any of the following reasons:
3. A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter

### HEARING PROCEDURES

Under Section 119.07 of the Ohio Revised Code, you have a right to request a hearing on these allegations. If you request such a hearing, **the request must be received in the office of the Ohio State Chiropractic Board within thirty (30) days of the time of the mailing of this notice.**

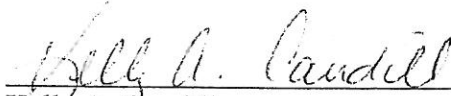
If a request for hearing is not received in the office of the Ohio State Chiropractic Board within thirty (30) days of the time of the mailing of this notice, the Board, upon consideration of the charges cited, may in its discretion, discipline your license without such a hearing. If no hearing is requested by you within 30 days of the mailing of this notice of intent, the final adjudication order shall be issued by the board consistent with this notice.

You are hereby notified that you may appear at such hearing in person, represented by your attorney, or by such other representative as is permitted to practice before an agency. You may present your position, arguments, or contentions in writing. Furthermore, you may, at such hearing, present evidence and examine witnesses who may appear for or against you.

Ohio Revised Code § 119.07 in pertinent part states:

Whenever a party requests a hearing in accordance with this Section and Section 119.06 of the Revised Code, the agency shall immediately set the date, time, and place for the hearing and forthwith notify the party thereof. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the party has requested a hearing unless, otherwise agreed to by both the agency and the party.

**BY ORDER OF THE OHIO STATE CHIROPRACTIC BOARD**



Kelly A. Caudill  
Kelly A. Caudill  
Executive Director