

THE WITHIN IS CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL.

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FILED

MAY 02 1994

NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS
OAL DOCKET NO. BDS-52628-93S

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
A. RICHARD POLINO, D.C.	:	CONSENT ORDER
Lic. no. 1784	:	
TO PRACTICE CHIROPRACTIC	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of CHIROPRACTIC Examiners by the Attorney General of New Jersey (Linda S. Ershow-Levenberg, Deputy Attorney Genral, appearing) by the filing of an Administrative Action Complaint alleging that respondent had engaged in gross or repeated acts of negligence, malpractice or incompetence and professional misconduct and had violated N.J.A.C. 13:35-7.1 in that he exceeded the scope of practice and failed to make appropriate referrals. Two patients were involved, M.E. and L. D. The matter was transferred to the Office of Administrative Law as a contested case (Hon. Jeff Masin, A.L.J., presiding). The conduct at issue took place in 1989 at respondent's offices at 200 Bridgeboro Road, Delran, New

Jersey. Respondent is represented by Carl D. Poplar, Esq. (Poplar & Eastlack, attorneys). Respondent filed an Answer denying the allegations of the Complaint.

It appears to the board that respondent accepted two patients (L.D. and M.E.) for treatment and treated their medical conditions with nutritional recommendations, in the absence of any bona fide chiropractic condition or diagnosis, and that he failed to refer these two patients to medical practitioners who could more appropriately treat their presenting conditions, and that therefore respondent was negligent on repeated occasions with regard to these two patients and violated the scope of practice rule which was then in effect, N.J.A.C. 13:35-7.1. The board has continued to enforce these limitations on scope of practice through its current regulations, N.J.A.C. 13:44E-1.1.

It appearing that the parties wish to settle this matter without the necessity of further litigation, and it appearing that respondent agrees to abide by the terms of this order and to conform his practice to the provisions of law governing his chiropractic practice, and the Board being satisfied that the entry of this order adequately protects the public health, safety and welfare, and for good cause shown,

IT IS THEREFORE, ON THIS 9th DAY of March , 1994,

ORDERED:

1. The license of A. Richard Polino to practice chiropractic in the state of New Jersey is hereby suspended for three (3) years, the entirety of which shall be stayed and serve

as probation, provided he complies with each and every term of probation and of this Order set forth herein.

2. Respondent is hereby assessed a civil penalty of \$10,000 payable in full upon his tendering of his signed copy of this order. In the event a payment plan is requested, he shall submit no less than one-third of this amount contemporaneously with his tendering of his signed copy of this Order, and must submit a sworn financial statement on a form to be provided to him by the Board. If a payment plan is approved by the Board, interest at 7% per annum from the filing date of the Order shall be added to the amount due.

3. Respondent is hereby assessed investigative costs in the amount of \$5,499.76 which shall be payable in accordance with all of the terms relating to payment of the civil penalty set forth in parag. 2 above.

4. Respondent shall engage a monitor acceptable to the Board who shall retrieve 10 of respondent's charts at random on a quarterly basis and evaluate them for compliance with this order, the appropriateness of respondent's acceptance of patients and his referral of patients to appropriate other health care practitioners. The monitor's fee shall be paid by respondent and disclosed to the Board. The monitor shall sign a separate private letter agreement with the board which outlines his or her responsibilities. Included among those responsibilities shall be that the monitor will submit a report to the Board within ten (10) days of the file review. This monitoring shall continue throughout the period of stayed suspension. Respondent shall do

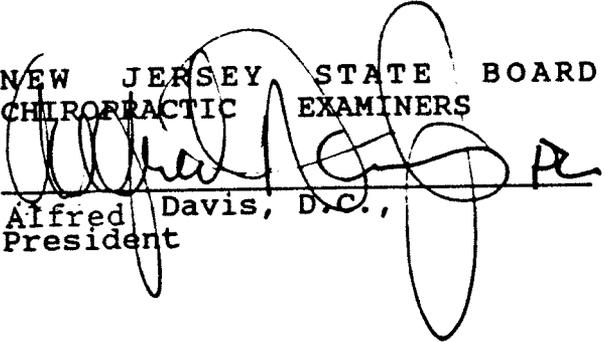
all that is necessary to facilitate the monitor's activities in this effort and shall make his records available to the monitor on demand.

5. Respondent shall complete 20 hours of Continuing Professional Education ^{in differential/physical diagnosis} during the period of probation, and shall document his completion of these hours to the Board in a timely manner.

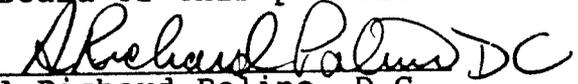
6. During the period of probation, respondent shall comply with all laws governing the practice of chiropractic and the general laws of the State of New Jersey and United States.

7. Failure to comply with any term of this Order shall constitute grounds for the activation of the entirety of the stayed suspension by way of a summary proceeding initiated by the Attorney General, wherein the issue shall be limited to respondent's compliance or noncompliance with the terms of this Order.

NEW JERSEY STATE BOARD OF
CHIROPRACTIC EXAMINERS


Alfred Davis, D.C.,
President

I have read the above order
and I understand and agree to be
bound by its terms. I consent
to its entry by the State
Board of Chiropractic Examiners.


A. Richard Polino, D.C.

MONITORS AGREEMENT

FILE

I, Stanley Pilton, D.C., agree to serve as a monitor of the chiropractic practice of A. Richard Polino, D. C., for 36 months (3 years) starting on June 1, 1994. In that capacity, I will make quarterly site visits to respondent's office(s), will retrieve 10 of respondent's charts at random each visit, and will evaluate them for compliance with the Consent Order filed with the Board of Chiropractic Examiners on May 2, 1994 and for the appropriateness of respondent's acceptance of patients and his referral of patients to appropriate other health care practitioners.

At each site visit, I will personally select at random 10 charts whether written by Dr. Polino or written under his supervision, for review and comment. Dr. Polino has agreed to facilitate these efforts.

I will submit a report to the Board of Chiropractic Examiners via the assigned Deputy Attorney General (presently, Linda S. Ershow-Levenberg) within ten (10) business days of each site visit. I will also send a copy of the report to Dr. Polino or his counsel. No one else is to receive a copy of the reports.

In writing the reports, I will identify patients without using names. My reports will provide a short summary of the purpose for which the patient sought care, Dr. Polino's diagnosis, tests ordered, length of the treatment and progress (or lack thereof) noted in the chart. Additionally, I will comment on Dr. Polino's cooperation with the monitoring effort

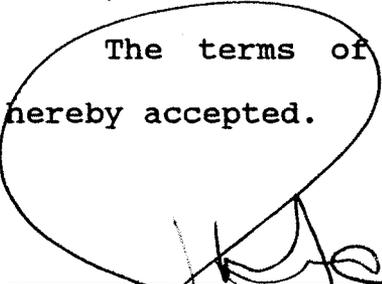
and his compliance with the provisions of the Consent Order.

I agree to disclose to the Board any substantial deviation from generally accepted standards which I discover during the monitoring process. Additionally, I agree to disclose to the Board in a forthright manner any problems encountered with the conduct of the monitoring. In all respects my reports will contain a candid and forthright assessment of the matters reviewed, as I agree to faithfully discharge my obligations to the Board and the public by participating in this monitoring agreement.

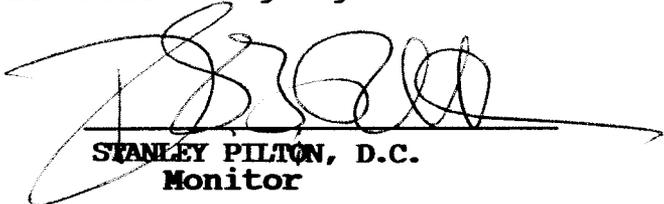
During the period of monitoring, Dr. Polino and I, Dr. Pilton, will not refer patients to each other except in the case of a documented emergency.

The fee for my services, to be paid by Dr. Polino, will be \$100 /hour.

The terms of this confidential monitoring agreement are hereby accepted.

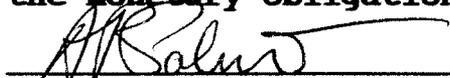


Robert Tarantino, D.C. **President**
State Board of Chiropractic Examiners



STANLEY PILTON, D.C.
Monitor

I acknowledge receipt of a copy of this agreement and confirm that I will assume the monetary obligations reflected herein.



A. Richard Polino, D.C.