

PETER VERNIERO  
Attorney General of New Jersey  
Attorney for the New Jersey  
Board of Chiropractic Examiners  
R.J. Hughes Justice Complex  
CN 117  
Trenton, New Jersey 08625

**FILED**

**JAN 05 1997**

NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS

By: Lee Barry  
Senior Deputy Attorney General  
(609) 984-8469

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC  
SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF CHIROPRACTIC  
EXAMINERS

IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF :           Administrative Action  
: :  
      JESS H. ROSENBERG, D.C. :           CONSENT ORDER  
      LICENSE NO. 3377 :  
: :  
: :  
TO PRACTICE CHIROPRACTIC :  
IN THE STATE OF NEW JERSEY :  
: :  
: :

This matter was opened to the Board of Chiropractic Examiners (hereinafter, the "Board") following an investigation of the chiropractic practices of Steven Verchow, D.C. and Alexander Kuntzevich, D.C. (hereinafter, "Dr. Verchow" and "Dr. Kuntzevich", respectively, or "Drs. Verchow and Kuntzevich", collectively), and the role which Jess H. Rosenberg, D.C. (hereinafter, "Dr. Rosenberg" or "Respondent") performed in these chiropractic practices.

The Board has reviewed various patient files in which Respondent was an examining and/or treating chiropractic physician for Drs. Verchow and Kuntzevich.

The Respondent makes the following admissions or assertions:

1. From March 1991 to December 1991, Respondent practiced as an associate in one or more treatment centers owned by Drs. Verchow and Kuntzevich, including Paterson-Bergen Chiropractic Associates, located in Paterson New Jersey.

2. Respondent failed to exercise his professional duty to make independent chiropractic judgments as to the diagnosis and treatment of his patients, but rather deferred to directions of Drs. Verchow and Kuntzevich and others in their practice; Drs. Verchow and Kuntzevich and these others did not know the specific needs of the patients Respondent examined or treated such that chiropractic decisions were made without reference to the specific needs of these patients.

3. Respondent limited the time he took for initial chiropractic diagnostic examinations and for reexaminations, although he knew or should have known that more time was required to perform effective diagnostic examinations.

4. Respondent did not perform diagnostic evaluations appropriate to each presenting patient and therefore violated N.J.A.C. 13:44E-1.1(b).

5. Respondent aided and abetted in ordering diagnostic tests which were neither chiropractically nor medically necessary in the care of many of the patients he either examined or treated; Respondent treated patients without independently ascertaining whether these patients needed chiropractic treatments; in

participating in these practices, Respondent failed to exercise the independent judgment that is required of a professional chiropractic licensee.

6. Respondent utilized a numbering system for recording the condition of each patient at each visit; numbers were used without regard to the actual physical condition of the patients but merely to justify ongoing chiropractic treatments.

7. Respondent failed to keep accurate contemporaneous patient records in violation of N.J.A.C. 13:44E-2.2(a).

The Board finds that the above-stated conduct, as well as other conduct not specifically recited herein, engaged in by Respondent constitutes:

- a. dishonesty, fraud, deception and misrepresentation in violation of N.J.S.A. 45:1-21(b);
- b. gross and repeated acts of negligence in violation of N.J.S.A. 45:1-21(c) and (d);
- c. professional misconduct in violation of N.J.S.A. 45:1-21(e);
- d. violation of regulations and statutes administered by the Board, in violation of N.J.S.A. 45:1-21(h).

The parties being desirous of resolving this matter without the necessity of formal proceedings, and it appearing that Respondent acknowledges the findings of the Board previously set forth as accurate that his admissions and assertions constitute

grounds for disciplinary action pursuant to N.J.S.A. 45:1-21(b), (c), (d), (e) and (h), and it further appearing that Respondent has read the terms of this Order and understands their meaning, consents to be bound by same, and it further appearing that the Board finds that the within Order is adequately protective of the public interest, and it further appearing that good cause exists for entry of the within Order:

IT IS THEREFORE ON THIS 5<sup>th</sup> DAY OF January, 1997  
ORDERED:

1. Respondent's license be and hereby is suspended for the above stated conduct for two years, said suspension to be stayed and to be deemed a period of probation, the conditions of which shall be that Respondent remains in compliance with all other provisions of this Order and all statutory and regulatory provisions applicable to the practice of chiropractic.

2. Respondent shall pay a civil penalty in the amount of \$2,000.00, by certified check or money, to the New Jersey State Board of Chiropractic Examiners. An initial installment payment on said penalty, in the amount of \$500.00, shall be received by the Board or postmarked on or before January 5, 1997. Thereafter, an additional installment payment of \$500.00 shall be received by the Board or postmarked on or before July 1, 1997, and a final installment payment of \$1,000 shall be received by the Board or postmarked on or before January 1, 1998.

3. Respondent shall submit to ongoing monitoring of his chiropractic practice and shall submit to random and unannounced

audits of the respondent's patient records and billing records as may be conducted by the Board's designees, at the Board's discretion, for a period of two years from the entry date of this Order. On demand made, the respondent shall immediately make available all records in his possession or control necessary to conduct the audit as determined by the Board or its designees.

4. Notwithstanding any provision of this Order, nothing in this Order shall prevent the Board, in its sole discretion, from deciding to initiate any action it deems appropriate and necessary to discipline Respondent or to protect the public health, safety and welfare, consistent with its authority, including but not limited to its authority as set forth in N.J.S.A. 45:1-21 and N.J.S.A. 45:1-22, where such conduct occurred (a) prior to March 1991 or after December 1991; or (b) during 1991, was not conduct relating to the practice of Drs. Verchow and Kuntzevich, as described herein or in the administrative complaint filed with the Board on October 12, 1994 regarding Drs. Verchow and Kuntzevich; or (c) resulted in physical or psychological damage to any patient.

  
Anthony DeMarco, D.C., President  
Board of Chiropractic Examiners

I have read the within Order.  
I understand the Order, and I  
agree to be bound by its terms  
and conditions. Consent is  
hereby given to enter this Order.

Jess H. Rosenberg, D.C.  
Jess H. Rosenberg, D.C.

Consented as to form and entry

Irwin P. Burzynski  
Irwin P. Burzynski, Esq.  
Attorney for Respondent

RECEIVED  
JUN 1 1953  
U.S. DEPARTMENT OF JUSTICE  
WASHINGTON, D.C.