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**NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS**

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STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF LICENSE OF
DANIEL J. CATANZARO, D.C.
TO PRACTICE CHIROPRACTIC
IN THE STATE OF NEW JERSEY :

ADMINISTRATIVE ACTION
FINAL ORDER BY CONSENT

This matter was presented to the State Board of Chiropractic Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General by way of Administrative Complaint filed January 15, 2002 against respondent Dr. Catanzaro.

Dr. Catanzaro, who holds New Jersey license number MC2522, currently resides in Cartersville, GA. He is represented in this matter by Anthony F. LaBue, Esq. As alleged in the Complaint and further explained herein, Dr. Catanzaro established a business corporation, NAC Management, Inc. ("NAC") on March 4, 1997. On March 14, 1997, his attorney filed incorporation papers for an entity named "Quality Care Physicians, P.C.", to do business under the trade name "Physicians Plus, P.C.". The entity was listed as under the ownership of Alphonso L. Smith, M.D.

On the same date of March 14, 1997, Dr. Catanzaro obtained Dr. Smith's consent to an inter-related premises lease, an equipment lease, and an Administrative Services Agreement, all in connection with a medical office at which Dr. Smith was to engage in professional practice at 150 Hinchman Avenue, Wayne, NJ 07470. That office had previously been utilized by Dr. Catanzaro for his solo chiropractic practice, which he closed down when the new entity was established. Although Dr. Catanzaro's name does not appear as an owner or employee or treatment provider at the said Physicians Plus office, he did in fact render chiropractic services to patients on the premises.

The Complaint alleges, among other offenses, that respondent Dr. Catanzaro (in association with Alphonso L. Smith, M.D.,^{*}) regularly violated numerous laws and rules regulating the practice of chiropractic and engaged in multiple forms of professional conduct which failed to conform to accepted standards of practice. The alleged

^{*}Alphonso L. Smith, M.D. is the subject of a Final Disciplinary Order filed February 13, 2002 before the State Board of Medical Examiners.

conduct included, but was not necessarily limited to, (a) establishing a sham medical entity designed to utilize the medical doctor as the nominal provider of services but which remained under the control of respondent Dr. Catanzaro; (b) fraudulently billing for paravertebral nerve blocks under CPT code 64441 when only a form of electrical stimulation had been provided; (c) knowingly submitting bills for patient treatment services which required the attendance and/or supervision of an appropriately licensed physician but without assuring that such attendance or supervision was provided; (d) performing and/or billing for medical diagnostic procedures without adequate justification therefor; (e) failing to document himself as a treating chiropractor of record on the patient chart and on the bills, all of which were submitted falsely listing Alphonso L. Smith, M.D. as the provider; (f) submitting insurance claims fraudulently stating the date of first treatment." Respondent Dr. Catanzaro allegedly engaged in one or more forms of the above unlawful conduct regarding numerous patients of the Physicians Plus practice, including but not limited to the 10 exemplar patients cited below.

Among the other forms of misconduct alleged, Dr. Catanzaro billed or allowed billing of an amount in excess of \$28,000 to various insurance carriers, for "paravertebral nerve block injections", CPT code 64441^{***}, charging \$375 for each such alleged service, although in fact, no nerve block injections were administered. Instead, the patients were given so-called "electroceutical nerve blocks", a form of electrical stimulation provided by a "Synaptic 2000" machine via electrodes placed on the patients' bodies, for which the patients handled the controls to administer such intensity of stimulation (if any) as they desired." The said claims were submitted and represented as medical services rendered to patients including, but not limited to, Mr. F. A., Mr. F. C., Ms V. D., Ms D. D., Ms C. K., Ms M.C. K., Ms G. M., Mr. B. M., Ms G. V., and Ms L. V." The Complaint alleged that said billings were false and fraudulent. Other forms of billing misconduct were alleged as well.

The various forms of misconduct were alleged to constitute misrepresentation as well as professional misconduct and failure to comply with rules of the State Board of Chiropractic Examiners including rules requiring the preparation of accurate patient records and records which truthfully account for the services rendered by a chiropractor, and to promote patient safety by assuring that certain services not be delegated to unlicensed persons. The Complaint alleged violation of N.J.S.A. 45:1-21(b), (e) and (h), and N.J.S.A. 45:41.4 and 41.18, and of

^{**}The Attorney General has withdrawn the allegations of Count 4.

^{***} The CPT code definition for such service is:

Introduction/Injection of Anesthetic Agent (Nerve Block), Diagnostic or Therapeutic; somatic Nerves: paravertebral services, multiple levels (e.g. regional block). CPT 64441 has since been deleted. The replacement codes are 64480 (Injection, anesthetic agent and/or steroid, transforaminal epidural, (cervical or thoracic, single level), or 64484 (lumbar or sacral, single level).

^{*}Such form of electrical stimulation should have been billed, if at all, under a CPT code such as 97014 (supervised application of electrical stimulation, unattended), which would have been reimbursed at a maximum of \$33 in Northern New Jersey under the PIP schedules. (In fact, respondent on occasion billed for both CPT 64441 and 97014 on the same day.)

^{**}Patient identity, provided to respondent, has been redacted herein to protect confidentiality.

N.J.A.C. 13:44E-2.2 and -2.8. Trial was scheduled to commence January 30, 2003.

Respondent Dr. Catanzaro has been advised that, pursuant to N.J.S.A. 45:1-25 as amended, each act committed by a licensee in violation of any provision of an act or regulation administered by a Board shall constitute a separate violation and shall be deemed a second or subsequent violation in circumstances including where an administrative or court order has been entered in a prior, separate and independent proceeding; or where, within a single proceeding, the respondent is found to have committed more than one violation of any provision of an act or regulation administered by a Board, or where the respondent is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a Board.

Respondent Dr. Catanzaro has considered the allegations of the Complaint, and the evidence supporting the allegations, and has consulted with his counsel. He asserts that, on the advice of (prior) counsel and in reliance thereon, he established a management company which contracted with a professional association to provide non-professional services to a physician (Alphonso L. Smith, M.D.). Based upon advice of the equipment manufacturer's representative, he prepared and submitted bills for "electroceutical nerve blocks" using CPT Code 64441 on behalf of "Physicians Plus". Dr. Catanzaro represents that he had an employment contract with Quality Care, P.C. to render chiropractic services, separate from the "Administrative Services Agreement" and not cited elsewhere in the integrated documents package, but he did not document himself as a treating chiropractor of record on the patient chart, and Alphonso L. Smith, M.D. was listed on the bills for those services as the provider. Dr. Catanzaro denies that he intended, personally or through his company NAC Management, Inc., to defraud any person or carrier. Dr. Catanzaro neither admits nor denies the factual allegations of the Complaint, and recognizes that, within the construct of the various agreements, he was in effective control of the enterprise. Dr. Catanzaro is desirous of avoiding further litigation, and seeks an amicable resolution of this matter.

Dr. Catanzaro has also represented that his current financial resources are limited, and has requested consideration by the Board with regard to the statutorily authorized remedies of assessment of full investigative costs including expert and fact witness costs, penalties, attorney fees and reimbursement to defrauded payors. He has also represented that he will fully cooperate, if asked, in the further investigation and contemplated prosecution involving one or more other persons who participated in the scheme, and that he will testify fully and truthfully in any such proceeding.

The Board has considered the circumstances of this matter. Respondent, as a licensed chiropractor, was and is at all times responsible for professional services rendered by him personally as a practicing chiropractor or under his direction. He was and is required by law, rule and accepted standards of practice to clearly identify himself as such on the treatment and billing record of each patient he treated. Here, he had separately undertaken the responsibility for non-professional administrative services including preparation of truthful and accurate bills in his role as manager of the medical service entity Quality Care, P.C., d/b/a Physicians Plus. The Board has also considered respondent's representation that he had relied upon an equipment salesman to advise the use of CPT code 64441 when billing for the form of electrical stimulation advertised as "electroceutical nerve blocks", notwithstanding the definition in the standard CPT Manual. Pursuant to the contract with Quality Care/Physicians

Plus, Dr. Catanzaro was not to provide professional health care services to or at that entity. Further, within the construct of the integrated Agreement and Leases, he was in effective control of the enterprise. The Board finds that the factual acknowledgments do constitute statutory and rule violations as alleged, and warrant the following disciplinary disposition. In light of the circumstances, and for sufficient cause shown,

IT IS, ON THIS 30th DAY OF JANUARY 2003

ORDERED:

1. That the license of respondent Daniel J. Catanzaro to practice chiropractic in the State of New Jersey shall be and it is hereby suspended for five years, the first three years of which shall be an active suspension and the remainder of which shall be stayed and deemed a probation period, conditioned upon his compliance with all other provisions of this Order.

2. Respondent, whose license is currently inactive and lapsed, shall immediately deliver his license to the Board, and shall not seek to reinstate the license until the completion of the active suspension period.

3. Respondent is assessed costs of investigation of \$10,000 and penalty of \$5,000, totalling \$15,000 pursuant to N.J.S.A. 45:1-22 and N.J.S.A. 45:1-25. All of the said costs and penalties shall be paid to the State Board of Chiropractic Examiners within 10 days of the entry of this Order, by certified check or money order. Failure to make payment within said time shall result in the filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24. Respondent may request installment payments, in which event he shall pay \$5,000 on February 1, 2003 and shall pay \$1,000/per month thereafter, due on the first day of each succeeding month. Interest shall accrue in accordance with R. 4:42-11(a). In the event that the initial payment or any monthly payment is not received within five days of its due date, the entire balance of the costs shall become due and owing.

4. Respondent shall immediately arrange for dissolution of all enterprises incorporated as professional service corporations in which he holds a financial interest in this State and for dissolution of NAC Management, Inc., Physicians Plus and Quality Care, P.C.. He shall also assure prompt dissolution of all other general business corporations in which he holds a financial interest (other than a publicly registered stock company) offering any form of health care service. Proof of the dissolution of each such entity shall be provided to the Board, ~~within 30 days of the entry of this Order.~~ AJC BA

5. With regard to any form or component of professional practice or services alleged by respondent to have been performed by him or by or on behalf of any of his practice entities in this State, including Physicians Plus, for which he or his agent had not yet billed as of this date, respondent shall forego any attempt to bill or to collect for such alleged services and shall withdraw all claims for payment for such alleged services. With regard to prior billings for purported paravertebral nerve blocks which have not been paid as of the date of this Order, respondent shall forego any attempt to bill or to collect for such alleged services and shall withdraw all claims for payment for such alleged services, irrespective of the provider name under which the claims were

submitted.

6. The Disciplinary Directives attached hereto are incorporated in this document.

7. Prior to any petition for reinstatement of license following the active suspension period, Respondent shall submit to the Board proof of completion of the financial assessment stated above. Respondent shall then appear, on notice, before a Committee of the Board which will determine what, if any, additional terms should be required prior to allowing reinstatement, which terms may include completion of assessment of professional competence, remedial ethics program, instruction in diagnosis and appropriate utilization of physical modalities, recordkeeping including preparation of accurate bills, and supervision of practice.

8. It is intended by the parties that this Order shall resolve all administrative and license issues raised by the Attorney General in connection with the rendering of professional services by Respondent personally at "Quality Care Physicians, P.C." and at "Physician Plus", and in connection with NAC, with regard to his responsibilities to the State Board of Chiropractic Examiners for bills submitted by Quality Care Physicians, P.C./Physicians Plus to the third party payors of the patients of that practice, including those whose redacted names are referenced in this Order, for preparation of treatment records and of bills; and for such other issues as are specifically addressed herein, all and solely in connection with professional Board laws and rules.

9. In the event of further proceedings in any forum, including but not limited to administrative proceedings before any Professional Board within the Division of Consumer Affairs, respondent shall comply with his representation to fully cooperate in any investigation, and to testify fully and truthfully as to the matters within his knowledge regarding the operation of the enterprises "Quality Care Physicians, P.C." and "Physicians Plus, P.C." and any others of which he has knowledge.

10. A copy of this Order shall be served upon the Respondent through his attorney within five days of the filing thereof.

THIS ORDER IS EFFECTIVE UPON FILING.

STATE BOARD OF CHIROPRACTIC EXAMINERS

By: *Brian Atkisson, DC*
Brian Atkisson, D.C.
President

Witness:

By: _____

I have read the within Order and understand its terms. I consent to the filing of the Order by the Board

of Chiropractic Examiners.
Daniel J. Catanzaro, DC
Daniel J. Catanzaro, D.C.

Anthony F. LaBue, Esq.
Counsel to Dr. Catanzaro