

FILED

MAR 18 2004

**NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS**

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101
By: Joan D. Gelber
Deputy Attorney General
Tel. 973-648-2972

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 :
WILLIAM F. ITTNER, D.C. :
LICENSED TO PRACTICE CHIROPRACTIC :
IN THE STATE OF NEW JERSEY :

ADMINISTRATIVE ACTION
FINAL ORDER

An Administrative Complaint was filed in this matter on September 18, 2003 by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, before the State Board of Chiropractic Examiners against William F. Ittner, D.C., who holds license number MC 3451.

The five-count Complaint, which is incorporated by reference, alleged numerous violations of statutes, regulations and accepted standards of practice regulated by the Board. The conduct was alleged to constitute violations of N.J.S.A. 45:1-21(b), (c), (d), (e), (f), and (h), and N.J.S.A. 45:9-41.5, and of N.J.A.C. 13:44E-1.1, -2.2, -2.3, -2.4, -2.6, -2.7, -2.11, and -3.9.

Respondent, whose address of record with the Board is in Seaside Park, formerly practiced as an employee of Thomas Haveron, D.C. at "Haveron Total Health, P.A." at 2813 Bergenline Avenue, Union City, NJ 07087 and thereafter conducted his own practice under the name "Health First Chiropractic Center, Inc." at the same address. He has currently been practicing at "Chiropractic Health Center" in Paterson. Formerly represented by Adolph J. Galluccio, Esq., respondent is

currently represented by Anthony F. LaBue, Esq., who submitted a “general denial” to the allegations and a Motion to Dismiss the allegations in the Complaint, which shall be accepted as an Answer to the Complaint. The Motion was opposed by the Attorney General.

Hearing before the State Board of Chiropractic Examiners was originally scheduled to commence January 29, 2004. Adjournment was granted at respondent’s request. Motions were filed by each party and addressed by the Board. The hearing was rescheduled to commence March 18, 2004.

Respondent, having had the opportunity to confer with counsel, has determined to waive his opportunity for plenary hearing before the Board. In the interests of amicable resolution of the matter, he admits the allegations of Count 1 involving use and payment of the runner¹, and enters a plea of nolo contendere to the allegations of Counts 2, 3, 4 and 5 of the Complaint except as set forth below.

Respondent, in conjunction with his admission, denial and plea of nolo contendere to the various allegations as noted, has asked the Board to take into account his role as an employee of “Haveron Total Health, P.A.”. He asserts that his conduct, as alleged in the Complaint, was that which was expected of him at that office, and that billing determinations - including those alleged in the Complaint as violations of accepted standards of practice, were determined and implemented by others as well, and he acknowledges having acquiesced. He further acknowledges that his July 28, 2000 Amendment to Employment Agreement designated him as the Associate Chiropractic Director of the office with responsibility for the day-to-day management of the Union City office as

¹On June 19, 2003, respondent pled guilty to violation of N.J.S.A. 2C:21-22.1(a) in State v. William Ittner, Indictment No. 1-01-06-01318-1. He has been permitted to participate in the State’s Pre-Trial Intervention Program in lieu of further criminal proceedings.

well as management of the office staff and responsibility for enforcing Haveron Total Health, P.A.'s policies and protocols as they relate to the chiropractic practice conducted at that office, for which he received 30% of the net income of the office in addition to his salary. Respondent represents that he is currently in straitened financial circumstances and has requested Board lenience in imposing financial assessments. He has offered to undertake remedial education, and has agreed to the settlement terms set forth below.

The Board has considered the matter, including the representations offered by respondent in mitigation of possible remedies in light of the allegations and supporting material, and respondent's plea. For good cause shown:

IT IS, ON THIS 18th DAY OF MARCH 2004.

ORDERED:

1. The license of respondent William F. Ittner, D.C. to practice chiropractic in the State of New Jersey is hereby suspended for a period of five years, effective as of April 1, 2004. The first 18 months shall be an active suspension with the remainder stayed, contingent upon respondent's compliance with all of the terms set forth below. He shall deliver his license and biennial registration to the Board office, 124 Halsey Street, 6th floor, Newark, New Jersey 07101, by April 1, 2004.

2. Respondent shall assure orderly transfer of his patients and availability to them of their patient records, pursuant to the requirements of N.J.A.C. 13:44E-2.2(g).

3. Respondent shall assure that all professional entities in which he holds an ownership interest, including but not necessarily limited to "Health First Chiropractic Center", are promptly dissolved, and that all New Jersey office signs and letterhead on which his name appears in conjunction with any professional office location, shall be promptly destroyed or removed, and that

all advertising offering his services shall be cancelled and withdrawn.

4. With regard to any form or component of professional practice or services for New Jersey patients alleged by respondent to have been performed by him or by or on behalf of "Haveron Total Health, P.A.", "Health First Chiropractic Center", and any practice entities in which he has a financial interest at any other location in New Jersey, for which he has not yet billed or for which he has not received payment as of this date, he shall forego any attempt to bill or to collect for such alleged services and shall withdraw all claims for payment for such alleged services.

5. Respondent has expressly agreed to abide by the Disciplinary Directives attached hereto.

6. Respondent shall be responsible for assuring reimbursement of the sum of \$2,520.00, within ten days of the entry of this Order, to AIG Claim Services, Inc. Payment shall be made by transmitting a certified check or U.S. Postal Money Order payable to the carrier and delivered to the Board office, which will record the payment and arrange for delivery to the carrier.

7. Respondent is assessed investigative costs of \$6,752.00, and an aggregate civil penalty of \$5,000.00 for the offenses set forth in Counts 1 through 5², totaling \$11,752.00, to be paid within 10 days of the entry of this Order, to the Board office at P.O. Box 45004, Newark, New Jersey 07101. Failure to so pay the assessments set forth in paragraphs 6 and 7³ herein within ten days of the entry of the Order shall result in the filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24,

² The Attorney General, in the interests of settlement, has withdrawn the allegations of Count 3, paragraph 8, (N.J.A.C. 13:44E-2.3), acknowledging that respondent denies those allegations as an intentional act and asserts his belief that his examination technique was misinterpreted by the patient.

³For good cause shown, respondent may arrange installment payments for the penalty portion only, on such written terms as shall be permitted by the Board. However, the Board will not consider any petition for reinstatement of license until payment in full has been completed.

which shall be binding upon respondent and his heirs and assigns. Interest shall accrue in accordance with Rule of Court 4:42-11.

8. During the active suspension period and prior to the resumption of active practice during probation, respondent shall submit proof of the following:

(a) Completion of 100 hours of continuing chiropractic education having the prior approval of the Board, divided among the following: 20 hours in radiology, 20 hours in recordkeeping, 20 hours in physical examination and diagnosis, 20 hours in application of physical modalities, 20 hours in ethics (for example, full attendance and attainment of an unconditional passing grade at the PRIME or PROBE courses). Respondent shall then successfully complete the Board's jurisprudence examination and the SPEC examination in chiropractic.

(b) Full payment of all assessments/reimbursements listed in paragraphs 6 and 7.

(c) Respondent shall appear, on notice, before a Committee of the Board for a status conference prior to the conclusion of the period of active suspension..

9. This Order is intended to resolve all administrative and license issues arising with respondent, which were specifically alleged as violations by the Attorney General in the Administrative Complaint with regard to Dr. Ittner's responsibility to the New Jersey State Board of Chiropractic Examiners. The entry of this Order shall not limit the authority of the AttorneyGeneral or of any other person or agency, to initiate any other action permitted by law, whether administrative, civil or criminal, in any court of competent jurisdiction or other forum.

THIS ORDER IS EFFECTIVE UPON FILING.

STATE BOARD OF CHIROPRACTIC EXAMINERS

BY: Mary Ellen Rada, D.C.
Mary-Ellen Rada, D.C., President

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

William F. Irner, D.C.
William F. Irner, D.C.

~~Witness~~
Anthony F. LaBuc, Esq.
Anthony F. LaBuc, Esq.
Counsel to Dr. Irner

**DIRECTIVES APPLICABLE TO ANY CHIROPRACTIC BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner who is the subject of a disciplinary order of the Board is required to provide the information required on the addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to a licensee who is the subject of an order which, while permitting continued practice, contains a probation of monitoring requirement.

1. Document Return and Agency Notification

The practitioner (hereinafter, sometimes "licensee") shall promptly deliver to the Board office at P.O. Box 45004, 124 Halsey Street, 6th floor, Newark, New Jersey 07101, the original license and current biennial registration certificate. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of chiropractic in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted.

**3. Practice Income Prohibitions/Divestiture of Equity Interest
in Professional Service Corporations and Limited Liability Companies**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/her or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44 shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, the licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

**NOTICE OF REPORTING PRACTICES OF
BOARD OF CHIROPRACTIC EXAMINERS
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Chiropractic Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a chiropractor:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the Federation of Chiropractic Licensing Boards of the United States, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.

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

CERTIFICATE OF DEBT

TO THE CLERK OF THE SUPERIOR COURT OF NEW JERSEY:

I, KEVIN EARLE, Executive Director for the New Jersey BOARD OF CHIROPRACTIC EXAMINERS, pursuant to N.J.S.A. 45:1-24, hereby certifies that:

William Ittner, D.C. whose last known address was 64 G. Street, Seaside Park, NJ 08752 is indebted to the State of New Jersey, Division of Consumer Affairs, BOARD OF CHIROPRACTIC EXAMINERS under the aforementioned Consumer Fraud Act by reason of failure to pay costs / penalties / restitution, as set forth below, in accordance with a Court/Consent/Administrative Order filed and entered by the BOARD OF CHIROPRACTIC EXAMINERS on March 18, 2004.

Under said Order, a copy of which is annexed hereto and made a part hereof, the above named person / business entity is obligated to pay in the following sums presently due and owing to the State of New Jersey:

Restitution:	\$ 2,520.00
Penalty:	\$
Costs:	\$

You are hereby requested to enter upon your record of docketed judgements against said defendant: William Ittner, D.C. in favor of the State of New Jersey and in favor of the named individual(s) / business entity in the amounts set forth next to his / their name(s) as currently due, with the party being liable for said amount. For so doing, pursuant to N.J.S.A. 45:1-24, this Certificate shall be your warrant.

By: _____
KEVIN EARLE, Executive Director

Date: May 11, 2004