

**FILED**

JUN 08 2006

NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS

ORIGINAL

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

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IN THE MATTER OF THE LICENSE OF

Administrative Action

David G. Harris, D.C.  
License No. MC 5084

ORDER

TO PRACTICE CHIROPRACTIC  
IN THE STATE OF NEW JERSEY

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The above-entitled matter comes before the Board of Chiropractic Examiners ("the Board") upon application by Respondent, David G. Harris, D.C., to resume active practice following the suspension of his license to practice chiropractic in the State of New Jersey by consent for a period of five (5) years, the first eighteen (18) months of which were an active suspension, and the remaining forty-two months of said suspension being stayed to become a period of probation, pursuant to an order dated August 6, 2004, and filed with the Board on August 11, 2004.

Respondent's conviction for Use of a Runner (3<sup>rd</sup> Degree), which he has acknowledged constituted a violation of N.J.S.A. 45:1-21(b), (e) and (f); and his failure to

disclose other arrests and convictions on his initial license application and on his biennial renewal forms, which he has acknowledged constituted violations of N.J.A.C. 13:45C-1.3 and N.J.S.A. 45:1-21(a), (b), (e) & (h), having resulted, in addition to the aforesaid suspension, in the requirements that he successfully complete and pass the ProBE Problem Based Ethics course, and that he pay penalties and costs to the Board totaling \$15,146.40; and Respondent having passed the course, and having paid the penalties and costs; and the Board having found, based on the testimony of Respondent before the Board on May 18, 2006, that Respondent has adequately demonstrated his fitness to resume ownership and control of his practice, with certain conditions protective of the public health, safety and welfare;

IT IS on this ~~8th~~ day of June, 2006,

ORDERED that:

Respondent may henceforth return to the active practice of chiropractic in the State of New Jersey, provided that Respondent's practice shall, at his expense and with his full cooperation, be monitored for at least the remainder of the period of probation established pursuant to the August 6, 2004 Order of the Board, by Affiliated Monitors, Inc., 58 Batterymarch Street, #114, Boston, MA; said monitoring shall be conducted randomly on at least a quarterly basis, and shall include direct observation by the monitor(s) in Respondent's office(s), encompassing any and all treatment, billing, and record keeping, as well as all office procedures occurring in Respondent's practice, for compliance with the standards mandated by the statutes and regulations governing the practice of chiropractic

in New Jersey. Reports shall be provided directly to the Board by Affiliated Monitors, Inc. on at least a quarterly basis for the remaining period of probation; and

IT IS FURTHER ORDERED that Affiliated Monitors, Inc. shall report to the Board, orally and in writing, immediately if practicable, and in all cases within 72 hours, any occurrence or behavior observed which Affiliated Monitors, Inc. in good faith believes to be violative of the statutes or regulations governing the practice of chiropractic in New Jersey.

NEW JERSEY STATE BOARD OF  
CHIROPRACTIC EXAMINERS

By   
Lawrence O'Connor, D.C.  
Board President

**FILED**

**AUG 11 2004**

**NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS**

PETER C. HARVEY  
Attorney General of New Jersey  
Division of Law  
124 Halsey Street  
5<sup>th</sup> Floor  
Newark, New Jersey 07101

By: Daniel S. Goodman  
Deputy Attorney General  
(973) 648-4741

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

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IN THE MATTER OF THE LICENSE OF	:	
	:	
DAVID G. HARRIS, D.C.	:	Administrative Action
License No. MC 5084	:	
	:	
	:	CONSENT ORDER
TO PRACTICE CHIROPRACTIC IN THE	:	
STATE OF NEW JERSEY	:	

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This matter was initially opened to the New Jersey State Board of Chiropractic Examiners ("Board") upon the filing of an Order to Show Cause and Verified Complaint by the Attorney General, dated March 8, 2002, alleging three (3) counts of insurance fraud and one (1) count of use of a runner by David G. Harris, D.C. ("Respondent"). The Order to Show Cause and Verified Complaint were filed following Respondent's criminal indictment in Passaic County on November 27, 2001 on nine (9) counts of Health Care Claims Fraud (2<sup>nd</sup> degree), three (3) counts of Attempted Theft By Deception (3<sup>rd</sup> degree), and two (2) counts of Use of a Runner (3<sup>rd</sup> degree). A temporary suspension hearing was held before the Board

on March 21, 2002. Following the hearing, the Board declined to temporarily suspend Respondent's license, and transmitted the matter for a full plenary hearing.

Prior to the scheduling of a full plenary hearing, on or about September 30, 2002, Respondent plead guilty in Passaic County to one (1) count of Use of a Runner (3<sup>rd</sup> degree), in violation of 2C:21-22.1(b). All of the other counts of the criminal indictment against Respondent were dismissed. On or about February 14, 2003, a Judgment of Conviction was entered in Passaic County, whereby Respondent received probation for three (3) years and a one (1) day jail sentence. Respondent was also assessed a fine in the amount of \$5,000.00, along with other court costs.

During the course of its investigation, the Board also received information that Respondent had previously been arrested/convicted for committing Arson in 1988 and for Drinking in Public in 1993. However, when asked on his initial license application and/or biennial renewal forms, Respondent neglected to inform the Board of these convictions on at least three (3) separate occasions.

Respondent hereby acknowledges that his conviction for Use of a Runner (3<sup>rd</sup> degree) constitutes a violation of N.J.S.A. 45:1-21(b), (e) and (f), and further demonstrates the absence of good moral character, a continuing requirement for licensure pursuant to N.J.S.A. 45:9-41.4. In addition, Respondent

acknowledges that his failure to inform the Board of his prior convictions/arrests on his initial license application and on his biennial renewal forms constitute violations of N.J.A.C. 13:45C-1.3 and N.J.S.A. 45:1-21(a), (b), (e) & (h).

It appearing that Respondent now wishes to resolve this matter without the necessity for a full plenary hearing, and the Board finding that the disposition of the matter, as set forth herein, is adequately protective of the public health, safety and welfare,

IT IS, therefore, on this 6<sup>th</sup> day of August, 2004,

ORDERED THAT:

1. Respondent's license to practice chiropractic in the State of New Jersey is hereby suspended for a period of five (5) years, effective immediately upon the entry date of this Order, except that the first eighteen (18) months shall be an active suspension and the remaining forty-two (42) months of said suspension shall be stayed and shall be a period of probation. Such stayed period of suspension shall be activated upon a showing of Respondent's non-compliance with any of the terms and conditions set forth herein.

2. During the period of active suspension, Respondent shall not practice chiropractic and shall successfully complete and pass the ProBE (Professional Problem Based Ethics) course offered by The Ethics Group, 89 Summit Avenue, Suite 185, Summit, New Jersey 07901, or the PRIME (Professional Renewal in Medicine through

Ethics) course offered by the Center for Continuing Education in the Health Professions at UMDNJ-Robert Wood Johnson Medical School, 97 Paterson Street, Room 124, New Brunswick, New Jersey 08903. Documentation of the full and successful completion of the course shall be provided to the Board within thirty (30) days of its completion.

3. Respondent shall return his original New Jersey license and current biennial registration to: Kevin B. Earle, Executive Director, Board of Chiropractic Examiners at 124 Halsey Street, Sixth Floor, P.O. Box 45004, Newark, New Jersey 07101, upon his receipt of a filed copy of this Order.

4. Prior to resuming active practice in New Jersey, Respondent shall be required to appear before the Board (or a committee thereof) to demonstrate his fitness to resume practice. Any practice in this State prior to formal reinstatement of licensure by the Board shall constitute grounds for a charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on Respondent's practice should his license be reinstated.

5. The Board's records reflect that Respondent received three (3) years probation for his criminal conviction in Passaic County. Respondent hereby agrees to comply with all of the terms of his probation and agrees to provide proof to the Board of his successful completion of this probation.

6. Respondent shall pay a civil penalty to the Board in the amount of \$5,000.00 for the above violations. In addition, Respondent shall pay the Board's costs of investigation in this matter in the amount of \$10,146.40. The total amount of \$15,146.40 shall be memorialized in a Certificate of Debt duly recorded in the State of New Jersey. Respondent hereby agrees to pay \$5,000.00 of this amount no later than ten (10) days from the entry of this Order. The remaining balance shall be paid at the Court rule rate of interest (2%) in twelve monthly installments of \$854.72, to be received by the Board by the fifteenth (15th) day of each month, commencing August 15, 2004 and ending July 15, 2005. Payments shall be made by certified check or money order made payable to the State of New Jersey, and shall be sent to: Kevin B. Earle, Executive Director, Board of Chiropractic Examiners at 124 Halsey Street, Sixth Floor, P.O. Box 45004, Newark, New Jersey 07101. Subsequent violations will subject Respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

7. Respondent shall comply with the standard form of "Directives Applicable to Any Chiropractic Board License Who Is Suspended, Revoked, Or Whose Surrender Of Licensure Has Been Accepted," which is attached hereto and made a part hereof.

8. The parties hereby stipulate that entry of this Order is without prejudice to further action by this Board or other law

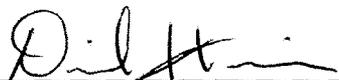
enforcement entities resulting from Respondent's conduct prior to entry of this Order.

9. Failure to comply with any provisions of this Order or remit any and all payments required by this Order may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

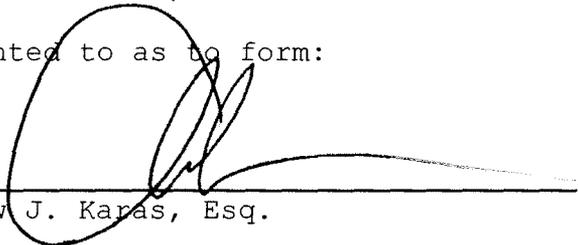
NEW JERSEY STATE BOARD OF CHIROPRACTIC EXAMINERS

By:   
Thomas Senatore, D.C.  
President

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

  
David G. Harris, D.C.

Consented to as to form:

  
Andrew J. Karas, Esq.

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

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board, shall conduct him/herself as follows:

**1. Document Return and Agency Notification**

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, 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 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**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself 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). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture, a 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.

### **5. Probation/Monitoring Conditions**

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status

and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

**NOTICE OF REPORTING PRACTICES OF BOARD  
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.

FILED

JUN 04 2002

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

NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS

ORIGINAL

IN THE MATTER OF A DISCIPLINARY  
ACTION AGAINST THE LICENSE OF

Administrative Action

DAVID G. HARRIS, D.C.  
License No. MC 5084

ORDER

TO PRACTICE CHIROPRACTIC  
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey Board of Chiropractic Examiners (hereinafter the "Board") pursuant to a Verified Complaint and application for the temporary suspension of the license to practice chiropractic of David G. Harris, D.C. (hereinafter "Respondent"). The application was predicated upon allegations that Dr. Harris had knowingly submitted false bills to insurance carriers for care not rendered to three undercover investigators in the aggregate amount of \$3,500. It was also alleged that Dr. Harris had unlawfully made use of a "runner," who brought the three "patients" to his office for a fee.

A hearing was held on March 21, 2002, at which Deputy Attorney General Eleanor G. Bernstein presented the matter on behalf of the State. Respondent was represented by Andrew J. Karas, Esq. The following documents were introduced:

1. Five Certifications of George Wall, Senior Investigator;
2. Certification of Investigator Luz Escobar;
3. Certification of Investigator Virginia Navarro;
4. Certification of Investigator Antonio B. Ureno;
5. Portions of Grand Jury Transcript; and
6. Inventory Receipt for Search Warrant.

No live witnesses were presented by either party. The Deputy Attorney General argued that the evidence presented demonstrated an intricate scheme by Respondent to defraud insurance carriers through the use of false patient records and fraudulent billings. Certifications of three undercover investigators, which alleged that they were billed for certain services not rendered over months of treatment and totaling \$3,500 in the aggregate, were argued to be an adequate basis upon which the Board should infer a large pattern of ongoing fraudulent conduct. Taken together with the evidence presented of Respondent's use of a "runner" to procure patients, the Deputy Attorney General argued that this pattern demonstrated a clear and imminent danger to the public by virtue of both the gross dishonesty and flawed judgment displayed by Respondent, and by his knowing diversion of dollars from the legitimate health care system through a large scale economic fraud. She suggested that such fraud would continue absent suspension of his license.

Respondent rejoined that the complaint was insufficient because it was not truly verified, as required for temporary suspension pursuant to N.J.S.A. 45:1-22. The complaint lacked the verifying certification of a person with personal knowledge of the factual allegations it contained. Moreover, Respondent challenged the credibility of the investigators asserting in their certifications that he had billed for dates of service on which they did not appear in his office. He pointed out that even though the chief investigator had testified before the Grand Jury that no sign-in sheets were found during the search of his office, the search warrant inventory listed four binders of sign-in sheets which would exculpate him.

Respondent also argued that no evidence at all had been presented in support of the allegation that he had knowingly engaged in false billing, since it was uncontroverted that it was his office staff, and not Respondent, who had recorded modalities rendered to patients on their travel cards, and had processed the billing from those travel cards.

Respondent further argued that there had been no palpable showing of imminent harm to the public justifying temporary suspension of his license because there was no allegation of improper treatment being rendered to any patient and because such relief would be grossly disproportionate to the economic impact to the health care system caused by alleged over billing of \$3,500 in the aggregate. Respondent asserted that the entirety of the evidence offered by the Deputy Attorney General was hearsay, which although admissible in an administrative forum, was too unreliable in this case to provide an adequate basis for such drastic relief at this juncture of the proceedings.

The Board has considered the evidence presented and makes the following preliminary findings: With respect to charges that Respondent over billed an insurance carrier in the aggregate of approximately \$3,500.00, the Board concludes at this juncture of the proceedings that there is evidence this occurred; however, the Board finds insufficient proof presented to conclude at this time that such over billing was a pervasive practice of the Respondent sufficient to palpably demonstrate a clear and imminent danger to the public health, safety and welfare by undermining the integrity of the public health care system.

The Board is also concerned that four binders of patient sign-in sheets which were apparently seized pursuant to a search warrant were unavailable, either to corroborate the certifications of the investigators regarding the frequency of their patient visits, or to support a potentially broader allegation of improper billing. Senior Investigator Wall was also not available to explain his apparently inaccurate testimony before the Grand Jury that no sign-in sheets were seized, or to be cross-examined.

With regard to the allegation that Respondent unlawfully used a "runner," who cooperated with the investigation, the Board likewise concludes at this juncture of the proceedings that there is evidence that this occurred on at least one occasion; but again, the Board finds at this time that

such an occurrence would not suffice to justify temporary suspension of Respondent's license as a palpable demonstration of a clear and imminent danger to the public health, safety and welfare.

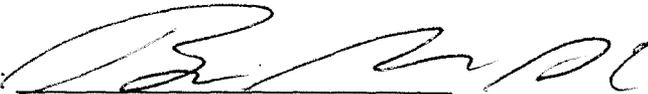
Based on the record presently before it, the Board is unwilling to curtail Respondent's practice on an interim basis.

IT IS THEREFORE on this *17<sup>th</sup>* day of *June*, 2002

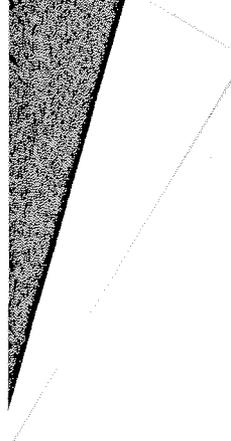
ORDERED that:

1. The application of the State for temporary suspension of Respondent's license pursuant to N.J.S.A. 45:1-22 is denied; and that
2. This matter shall be referred to the Office of Administrative Law to be scheduled for plenary hearing.

NEW JERSEY STATE BOARD OF  
CHIROPRACTIC EXAMINERS

BY: 

Brian Atkisson, D.C.  
President



**PUBLIC  
RECORD**