

**FILED**

JAN 25 2007

**NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS**

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 SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
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ETTORE C. CARCHIA, D.C.	:	FINAL ORDER
License No. MC 3624	:	OF DISCIPLINE
	:	
	:	
TO PRACTICE CHIROPRACTIC	:	
IN THE STATE OF NEW JERSEY	:	

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This matter was opened to the New Jersey State Board of Chiropractic Examiners upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent, Ettore C. Carchia, D.C., is a chiropractic physician in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On August 12, 2005, Respondent appeared, together with counsel, Edward Crisonino, Esq., before the Superior Court of New Jersey, Criminal Part, Camden County Vicinage, the Honorable Linda G. Baxter, J.S.C. presiding, and pleaded guilty to the charge of third degree health care claims fraud, in violation of N.J.S.A. 2C:21-4.3(b), in that he recklessly permitted the submission of health care claims to Allstate Insurance Company and Selective

Insurance Company for the payment of health care services, when such services were in fact not rendered to patients.

3. On October 7, 2005, Respondent was ordered by the Court to immediately surrender to the Attorney General of New Jersey his original Biennial Registration Certificate and his Engrossed Licensing Diploma, and any other documentation issued by the Board of Chiropractic Examiners authorizing him to practice chiropractic in New Jersey.

#### CONCLUSION OF LAW

1. The aforesaid conduct provides grounds for the suspension of Respondent's license to practice chiropractic in New Jersey pursuant to N.J.S.A 45:1-21(e) and (f), in that Respondent has engaged in professional misconduct as determined by the Board, and has been convicted of an offense involving moral turpitude and which relates adversely to the practice of chiropractic.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on October 17, 2006, provisionally ordering respondent to surrender his license to practice chiropractic in the State of New Jersey, with such suspension to be deemed a revocation; prohibiting respondent from seeking reinstatement for a period of five years dating from the issuance of the Order; and requiring respondent to document successful completion of one of a selection of specified ethics courses prior to respondent's applying for reinstatement. A copy of the Order was forward to respondent by certified and regular mail

to respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

A response to the Order was submitted by respondent's counsel dated December 1, 2006, seeking consideration by the Board, and offering arguments in mitigation of penalty. Counsel did not specifically request a mitigation hearing; however the following points were raised in the submission, and have been given due consideration by the Board:

- a) There have been no complaints to the Board about the quality of care rendered by respondent;
- b) Although the Board has taken disciplinary action against respondent in the past, this was for a "minor violation"; and the conduct for which he was penalized in 1999 subsequently became permissible in 2002;
- c) Although through an "administrative mishap" respondent practiced chiropractic medicine for several years without an active license, the issue was resolved without respondent entering into a Consent Order with the Board;

- d) On May 26, 2000, the Executive Director of the Board signed a letter stating that Dr. Carchia was at the time "in good standing" and "his file reveals no derogatory information and or disciplinary action against him";
- e) The penalty imposed on Dr. Carchia is disproportionate to penalties imposed by the Board in other cases;
- f) The Court in the criminal case found as mitigating factors in sentencing respondent's likelihood to respond affirmatively to probation, respondent's cooperation with law enforcement, respondent's lack of a criminal record;
- g) Respondent is a single parent supporting a thirteen year-old son, and he regrets his bad judgment.

#### Discussion

Although respondent's prior disciplinary history with the Board was not cited in the Provisional Order, respondent raises it as an argument in mitigation. The Board does not consider a public reprimand and a \$1,000.00 civil penalty as "minor," and does not consider the conduct raised by respondent (violation of the Board's enabling statute; and engaging in unlicensed practice via "mishap") as mitigating. With regard to the mitigating factors found by the Court in the criminal case, these are factors aimed at determining, inter alia, whether imprisonment is an appropriate penalty; this does not necessarily correspond with the Board's responsibility, which is to determine whether respondent's engaging in the practice of chiropractic corresponds with the public interest. Although it

is argued that respondent is a single parent supporting his thirteen year old son, respondent can work in another capacity to support his son; his parenthood has no bearing on whether it is in the public interest that respondent be only barred from seeking reinstatement for the period of probation imposed by the criminal court. The Board has made its own determination, based upon its knowledge of the practice of chiropractic, and its opinion as to the need for deterrence, both specific and general, of similar misconduct by licensees, that respondent should be barred from reinstatement for at least five years, rather than three years.

This determination is, in light of the conduct admitted to by respondent in the criminal case, recklessness in recordkeeping which led to billing insurance companies for treatments that were not rendered,\* reasonable and within the discretion of the Board.

Finally, disciplinary matters which come before the Board are dealt with on an individual basis; each case is sui generis. The Board finds that in this case, a five year bar to respondent's applying for reinstatement is appropriate. Respondent has admitted to fraud in relation to his profession. His conviction stems from a crime of moral turpitude. The crime relates adversely to the profession of chiropractic, and but for the use of his license, no crime would have occurred. As respondent's counsel indicates,

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\* According to the submission by respondent's counsel, respondent admitted to committing third degree fraud by billing \$6400 for patients that he did not treat between January 1, 1999 and October 20, 2000.

respondent's license was used to enable an entire scheme involving "runners" soliciting patients injured in automobile accidents for the practice. Crimes relating adversely to a profession are of sufficient importance to constitute a specific exception to the Rehabilitated Convicted Offenders Act. See N.J.S.A. 2A:168-2. While respondent argues that there is no evidence that he has not rendered quality care to patients, it is impossible to separate the viability of the delivery of medical care in this State and in the United States from the manner in which such care is paid for; the high cost of medical care is a crucial public policy issue, and it is self evident that fraud exacerbates problems relating to high medical costs. Cf. In the Matter of the Suspension or Revocation of Zahl, 186 N.J. 341, 356-57 (2006) (citing fraud cases where physicians' licenses were revoked despite lack of actual physical patient harm).

ACCORDINGLY, IT IS on this 25<sup>th</sup> day of JANUARY, 2007,

ORDERED that:

1. Respondent's license to practice chiropractic in the State of New Jersey shall be surrendered, to be deemed a revocation; and Respondent shall not seek reinstatement of his license to practice chiropractic in this State for a period of five (5) years from the date of issuance of this Order.

2. Prior to any application by Respondent for reinstatement of his license to practice chiropractic in this State, documentation of his full attendance at, successful completion and

unconditional passage of 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, must be provided to the Board.

3. The Directives of the Board applicable to any Chiropractic Board licensee who is suspended, revoked or whose surrender of licensure has been accepted are incorporated by reference as though fully set forth herein, whether or not they are attached hereto.

NEW JERSEY STATE BOARD OF  
CHIROPRACTIC EXAMINERS

By:



Lawrence O'Connor, D.C.  
Board President