



JON S. CORZINE  
Governor

ORIGINAL

**New Jersey Office of the Attorney General**

Division of Consumer Affairs  
State Board of Chiropractic Examiners  
124 Halsey Street, 6<sup>th</sup> Floor, Newark, NJ 07102



ANNE MILGRAM  
Attorney General

DAVID M. SZUCHMAN  
Director

August 6, 2008

**FILED**

AUG 15 2008

**NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS**

Mailing Address:  
P.O. Box 45004  
Newark, NJ 07101  
(973) 504-6395

By Certified and Regular Mail

Todd Carnucci, D.C.  
Westfield Health and Rehabilitation, LLC  
226 North Avenue E  
Westfield, NJ 07090

Re: Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Carnucci:

This letter is to advise you that the New Jersey State Board of Chiropractic Examiners (the "Board") has had an opportunity to review information concerning your advertisement and rendering of decompression services at Westfield Health and Rehabilitation, LLC.

It appears from that review that you included in your February 28, 2008 advertisement in the *Suburban News* the claim of an "86% Success Rate," without being in a position to provide factual substantiation of the truthfulness of that assertion, and that the ad included the offer of a "Free Consultation" without designating the value of the service being offered for free. In addition, the advertisement identified you as "Dr. Todd Carnucci," but failed to specify that you are a chiropractor.

Moreover, it appears to the Board from your testimony in connection with the advertised services that the decompression modality was administered by you to some patients in isolation as a stand alone treatment; and was not performed in conjunction with chiropractic care to facilitate, enhance and/or prolong the effects of a chiropractic adjustment, contrary to N.J.A.C. 13:44E-1.1(e).

At this juncture, the Board has preliminarily concluded that probable cause exists to support a finding that you violated N.J.A.C. 13:44E-2.1(d) by advertising an unsubstantiated claim of providing an 86% Success Rate; N.J.A.C. 13:44E-2.1(g) by offering a free consultation without indicating its value; N.J.S.A. 45:9-14.5 by using the title doctor or its abbreviation without specifying that you are a chiropractor; and N.J.A.C. 13:44E-1.1(e) by administering physical modalities to some patients without the procedures being in conjunction with chiropractic care to facilitate, enhance and/or prolong the effects of a chiropractic adjustment.

The above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should you consent to:

1. cease and desist from the aforesaid violations;
2. the issuance of a formal reprimand;
3. pay a penalty in the amount of \$1,500.00 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter by certified check or money order made payable to the State of New Jersey), comprised of \$1,000.00

for three separate advertising violations and \$500.00 for rendering services contrary to N.J.A.C. 13:44E-1.1(e);

4. pay costs incurred by the Board in the amount of \$222.33;

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office together with any required payment at the address set forth above. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General John D. Hugelmeyer, who may be reached at (973) 693-5056.

If you elect to settle this matter now you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD  
CHIROPRACTIC EXAMINERS

By:   
Jonathan Eisenmenger  
Executive Director

ACKNOWLEDGMENT: I, Todd Carnucci, D.C., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$1,500.00 (to be paid upon signing of this acknowledgment), as well as the costs incurred by the Board in the amount of \$222.33, and to comply with all other requirements set forth in the settlement letter.

Dated:

  
Todd Carnucci, D.C.

cc: John D. Hugelmeyer, Deputy Attorney General  
Vincent N. Buttaci, Esq.