

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

FILED

OCT 09 2008

**NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS**

By: David M. Puteska
Deputy Attorney General
Tel. (973) 648-4742

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

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

**SEAN NISIVOCIA, D.C.
LICENSE NO. 38MC00531100**

TO PRACTICE CHIROPRACTIC
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL CONSENT ORDER

This matter was opened to the State Board of Chiropractic Examiners (the "Board") in or about February 2005, upon receipt of information that Sean Nisivoccia, D.C. ("Respondent") was accused by New Jersey Manufacturer's Insurance Company ("NJM") and related entities in a civil insurance fraud Complaint of various violations of the Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. Specifically, Respondent was accused of fraudulently billing for EMG/NCV testing which he was not authorized by the Board to perform pursuant to N.J.A.C. 13:44E-3.5; participating in illegal reciprocal referrals with physicians in violation of N.J.S.A. 45:9-27.4 and 45:9-22.5; and using pre-printed templates and forms to fraudulently bill for services.

On December 13, 2005, New Jersey Superior Court Judge Paul T. Koenig awarded summary judgment to NJM regarding Dr. Nisivoccia's unauthorized performing of EMG/NCV testing. In May 2007 the parties to the civil suit reached a settlement in which Dr. Nisivoccia agreed to the entry of Judge Koenig's summary judgment findings regarding the unauthorized EMG/NCV testing as final factual findings. Dr. Nisivoccia also agreed to the entry of a final monetary judgment against him in the amount of one million dollars (\$1,000,000). This figure represents insurance payments received by Dr. Nisivoccia for EMG/NCV testing performed when he was not approved by the Board to conduct such testing. All other allegations against Dr. Nisivoccia were dismissed.

The Board is also aware of the pending insurance fraud litigation filed against Dr. Nisivoccia by Liberty Mutual Insurance company in the Superior Court of New Jersey, Morris County. The Complaint in this matter, which is pending as of the date of this Consent Order, alleges various violations against Dr. Nisivoccia and others related to the unauthorized performance of NCV testing.

In addition to the above litigations, the Board is also aware that in April 2008, Dr. Nisivoccia entered a plea of guilty in the Commonwealth of Massachusetts to charges of insurance fraud and conspiracy to commit insurance fraud related to his Massachusetts chiropractic practice.

The Board being satisfied that entry of the within Order is adequately protective of the public health, safety, and welfare, and being satisfied that good cause exists for entry of the within Order,

IT IS on this 3rd day of October, 2008.

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice chiropractic in the State of New Jersey shall be suspended for a period of five (5) years. No credit toward the period of suspension shall be given for any period of time during which respondent engages in the practice of chiropractic in any other

state or jurisdiction. The period of suspension shall be retroactive to August 1, 2008, the date Dr. Nisivoccia closed his New Jersey practice.

2. Prior to the end of the active suspension period, and before resuming any form of chiropractic practice in New Jersey, respondent shall submit to the Board proof that within six (6) months of the date of his application for reinstatement:

- (a) respondent has taken and successfully passed the Special Purposes Examination for Chiropractic ("SPEC") administered by the National Board of Chiropractic Examiners ("NBCE");
- (b) respondent has taken, successfully completed, and unconditionally passed 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, and provided documentation of same to the Board;
- (c) respondent has taken and successfully completed a course pre-approved by the Board in chiropractic ethics offered by an accredited college of chiropractic; and
- (d) respondent has taken and unconditionally passed the ethics and boundaries examination offered by the NBCE.

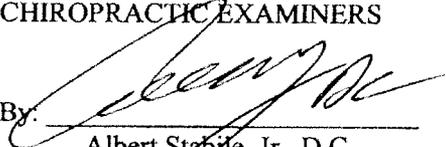
3. Respondent shall return his original New Jersey licenses and any biennial registration cards in his possession to the New Jersey State Board of Chiropractic Examiners, 124 Halsey Street, 6th Floor, P.O. Box 45004, Newark, New Jersey 07101 upon his receipt of a filed copy of this Order.

4. Respondent shall completely and successfully fulfill all of the requirements of his criminal sentence and parole or probation.

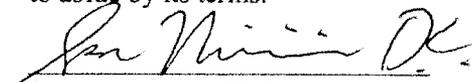
5. Prior to resuming any practice in New Jersey, Respondent shall be required to appear before the Board (or a committee thereof) to demonstrate his fitness to do so; and any practice in this State prior to said appearance shall constitute grounds for a charge of unlicensed practice.

6. 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

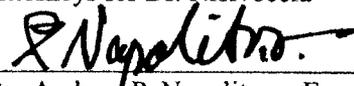
By: 
Albert Stabile, Jr., D.C.
Board President

I have read and understand
the above Order and I agree
to abide by its terms.


Sean Nisivoccia, D.C.

Dated: 9/26/08

Consented to as to form:
Dreier, L.L.P.
Attorneys for Dr. Nisivoccia


By: Andrew P. Napolitano, Esq.

Dated: 01 Oct 08.