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**NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS**

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

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF : Administrative Action
:
CHARLES A. FERRANTE, D.C. : FINAL ORDER OF DISCIPLINE
License No. 38MC00180500 : AFTER MITIGATION HEARING
:
TO PRACTICE CHIROPRACTIC :
IN THE STATE OF NEW JERSEY :

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, Charles A. Ferrante, D.C., is a chiropractic physician in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On May 23, 2007, Respondent entered into a civil administrative Consent Order with the Office of Insurance Fraud

Prosecutor that assessed a civil administrative penalty against Respondent in the amount of \$7,500.00, in that he did knowingly give false and misleading information concerning his disability status to UNUM Provident Corporate Insurance Company relative to policy nos. 0102335227 and 0102220494; and that he did as a consequence of his material misrepresentations to the insurance company receive \$79,488.48 in disability benefits to which he was not entitled, constituting multiple violations of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 *et seq.* . (Copy of the Consent Order made a part hereof, and attached hereto as "Exhibit A.")

CONCLUSIONS OF LAW

1. The aforesaid findings provide grounds for the suspension or revocation of Respondent's license to practice chiropractic in New Jersey pursuant to N.J.S.A. 45:1-21(k) in that Respondent has violated provisions of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 *et seq.*; has been adjudicated as having committed said violations in civil proceedings; and has been the subject of a consent order entered in those civil proceedings imposing civil penalties under that act.

Based on the foregoing findings of fact and conclusions of law, a Provisional Order of Discipline provisionally suspending Respondent's license to practice chiropractic in the State of New

Jersey for not less than five years was issued on March 10, 2009, and a copy was forwarded to Respondent by means of both regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th 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.

By correspondence dated May 28, 2009 from Respondent's counsel, Kimberley Kluchnick, Esq., Respondent requested a hearing to explain the circumstances of his conduct to the Board. Subsequently, a two-page certification of Respondent, dated June 9, 2009, was submitted, outlining his settlement of the civil actions and the disposition (PTI) of the criminal prosecution that had been brought against him as a consequence of his violations of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 *et seq.*

By letter dated June 23, 2009, Bindi Merchant, Deputy Attorney General, who was assigned to prosecute the matter on behalf of the Board, consented to Respondent's request for a hearing in mitigation of sanction, so long as there would be no attempt to re-litigate the facts underlying the administrative consent order forming the basis of the Board's disciplinary action.

On November 19, 2009, Respondent appeared with counsel before the full Board and was heard in mitigation of the proposed sanction. Respondent did not dispute the Board's Findings of Fact or Conclusions of Law in any respect. Respondent's counsel read into the record a prepared statement, and Respondent answered the questions put to him by members of the Board. In addition, the following documents were offered by Respondent for the Board's consideration:

a. An Order of Expungement dated June 12, 2009, regarding Respondent's arrest for violation of N.J.S.A. 2C:20-4.

b. Letters of support from three long-term patients of Respondent.

In his testimony, Respondent stated that he did not dispute the facts underlying the Board's action, but appreciated being permitted to inform the Board of his circumstances; that is, that he had no savings or retirement fund, and no health insurance; and that his daughter and ex-wife depend on him financially. He testified that he is currently unemployed.

In response to a question from a member of the Board, Respondent described the circumstances, from his perspective, of his dispute with his disability carrier, and asserted that he had not had the resources to contest the charges brought against him. He stated that he had been made aware by his attorney that the consent agreement he entered into with the Office of the Insurance Fraud Prosecutor could subject him to disciplinary action by the

Board. Respondent nevertheless asked the Board not to suspend his license.

Discussion

The Board has considered the evidence and the arguments of Respondent, including his testimony in mitigation of the proposed sanction, and finds by a preponderance of the credible evidence that Respondent has violated provisions of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq.; has been adjudicated as having committed the violations in civil proceedings; and has been the subject of a consent order entered in those civil proceedings imposing civil penalties under that act.

Respondent does not dispute these facts, but submits that he has already suffered severe consequences for his actions. The Board concludes, nevertheless, that disciplinary sanctions against Respondent's license by the Board are required and necessary; albeit reduced from those proposed in its Preliminary Order.

The Board is charged by statute with regulating the practice of chiropractic to protect the citizenry of this State by maintaining and ensuring standards of competency and integrity of the profession. N.J.S.A. 45:9-41.18 Chiropractic licensees are required to maintain good moral character, N.J.S.A. 45:9-41.4, and as physicians, to be trustworthy and honest. Meaningful consequences to a licensee of the Board are essential to deter

behavior that is as deleterious to the entire system of providing health care as insurance fraud, whether the fraud involves the treatment of patients or the personal benefits of the practitioner.

Based on the foregoing findings of fact and conclusions of law, and for good cause shown, the Board has determined that Respondent's license should be suspended for a period of time.

ACCORDINGLY, IT IS on this 23rd day of December, 2009,

ORDERED that:

1. Respondent's license to practice chiropractic in the State of New Jersey shall be, and hereby is suspended for a period of four and one-half (4.5) years commencing November 19, 2009, except that the initial eighteen (18) month period shall be an active suspension and the remaining thirty-six (36) month period of suspension shall be stayed and become a period of probation. Such stayed period of suspension shall be activated upon a showing of Respondent's non-compliance with this Order. The running of the period of suspension shall be tolled by Respondent's practice of chiropractic in any other State or jurisdiction.

2. Respondent is hereby reprimanded for, and shall cease and desist from any further violations of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq.

3. Prior to resuming 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 non-compliance with this Order.

4. 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