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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 SUSPENSION OR REVOCATION OF THE LICENSE OF	:	Administrative Action
SCOTT D. GREENBERG, D.C. LICENSE NO. 38MC00287500	:	**FINAL ORDER**
TO PRACTICE AS A DOCTOR OF CHIROPRACTIC IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Chiropractic Examiners upon the filing of an administrative complaint on August 19, 2013 alleging that Scott D. Greenberg, D.C. ("Respondent") was arrested and indicted for insurance fraud-related crimes, drug possession and drug distribution. On January 11, 2013, Respondent pled guilty to five separate counts, including possession, distribution, manufacturing or dispensing of CDS in the second degree in violation of N.J.S.A. 2C:35-5A (10); distribution or possession with intent to distribute marijuana in a quantity of five pounds or more but less than twenty-five pounds in the second degree in violation of N.J.S.A. 2C:20-4; conspiracy to knowingly act as or use a runner in the third degree in violation of N.J.S.A 2C:5-2 and

N.J.S.A. 2C:21-22.1(b); and knowingly acting as or using a runner in the third degree in violation of N.J.S.A. 2C:21-21.1(b). On April 1, 2013 Respondent was sentenced to six (6) years incarceration, restitution of $655,594.99, as well as $2,830 in fines.

The administrative Complaint further alleged that Respondent's actions described herein constituted engagement in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e); a conviction of a crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board in violation of N.J.S.A. 45:1-21(f); lack of good moral character, maintenance of which is a continuing prerequisite under N.J.S.A. 45:9-41.5 and N.J.A.C. 13:44E-1A.1 for holding a license to practice chiropractic in the State of New Jersey; as well as violating N.J.S.A. 45:1-21(h), which requires compliance with the provisions of any act or regulation administered by the Board.

On November 8, 2013 Respondent answered the Administrative Complaint. He admitted pleading guilty to items listed in Indictment No. 12-08-00158-5 and Accusation No. 13-01-027A.

The Attorney General filed a Notice of Motion for Summary Decision which was heard on December 18, 2014. At the hearing,

Respondent, represented by Sean Callagy, Esq. and Michael Smikun, Esq. and the Attorney General, by Joshua Bengal, Deputy Attorney General, stipulated to the facts and evidence.[1] (Plaintiff's Exhibits P-A through P-P and Respondent's exhibits R-A through R-I). The State took the position that the conviction provided a basis for discipline and Respondent agreed to stipulate to the facts of this matter in that he violated the Board's laws and regulations and requested to be heard on mitigation of penalty.

The Board heard brief opening statements of the parties. Without objection, the Board admitted into evidence P-A through P-P and R-A through R-I. After reviewing all the evidence and deliberating in executive session, the Board granted the Motion for Summary Decision and found that Respondent engaged in practices that violated the statutes and regulations governing the practice of chiropractic. Specifically, the conviction provides conclusive evidence that Greenberg engaged in conduct which included paying runners to solicit and pay car accident victims to treat at Respondent's practice and possession, distribution or manufacturing or dispensing of CDS. This conduct demonstrates (1) a lack of good moral character in violation of N.J.S.A. 45:9-41.5 and N.J.A.C. 13:44E-1A.1, (2) engagement in

[1] The Board accepted into evidence without objection Petitioner's Exhibits A through P and Respondent's Exhibits A through I.

and use of fraud in violation of N.J.S.A. 45:1-21(b); and (3) professional misconduct in violation of N.J.S.A. 45:1-21(e).

These facts, as urged by the Attorney General, provide a basis for discipline under N.J.S.A. 45:1-21 (b) (e) and (f). Having granted summary decision and finding a basis for discipline of Respondent's license, the Board then moved to the mitigation phase of the proceeding.

Mitigation Hearing

Respondent testified that he broke the law by accepting auto accident patients for a referral fee. He paid an attorney approximately $75,000 for referral of patients. He was arrested in June 2011. He admitted that when police searched his home, they found a marijuana grow room. He grew marijuana for his personal use and claimed he never distributed the marijuana, but due to the amount he was growing, he was charged with intent to distribute. He indicated that he began cooperating with the Attorney General in some ongoing investigations which he did for approximately one year.

Respondent testified he was sentenced on April 1, 2013 and was incarcerated on that date. He encountered many hardships during his incarceration. He was transferred several times and believed he would be eligible for Intensive Supervision Program (ISP), but was denied and transferred finally to Bayside State Prison in Leesburg. He was assaulted three times while

incarcerated. He feared for his life while in prison and knows he would never do anything that would cause him to be incarcerated again.

Respondent also claimed financial hardship caused by the criminal proceedings. He had to pay restitution close to $700,000 and must pay fines to the State in the amount of $500,000. He auctioned off one of his properties at a significant loss to pay the State. He desires a chance to prove to the Board and to the public that he can be a dedicated and lawful health care professional. He claimed to have helped many people during his career and does not have any other skills other than chiropractic and wants a second chance.

Mrs. Greenberg also testified about the hardship, both financial and emotional, that was caused by Respondent's incarceration. She testified that her husband is tortured every day emotionally and physically from the ramification of the choices he made. He suffers daily from stomach issues, severe insomnia, anxiety and bouts of crying. He says he's sorry every day. She testified that Respondent is a "changed man who was brought to his knees by the weight of remorse and guilt that he carries. He has lost all self-esteem and all self-worth."

She testified that her husband loves his profession and is good at it, has tremendous empathy and compassion for people who came to him for help. He has acknowledged his mistakes and has

embraced another way of life. It is his desire to prove to everyone that he can lead a productive, honest and healthy life; that he can take care of his family and be a good role model for his children and an asset to the chiropractic profession.

On questioning by the Board, Mrs. Greenberg denied any knowledge that Respondent was growing marijuana or that he smoked marijuana in their home although they had been married since 2009 and in a relationship for sixteen years prior to the marriage. Given the quantity of marijuana found in the home and Respondent's admissions of smoking marijuana in the home, the Board found Mrs. Greenberg's testimony incredulous in this regard.

Discussion of Penalty

The Board fully considered the testimony of Respondent and his wife as well as the documents in mitigation of the penalty to be imposed.

Respondent repeatedly, knowingly, and voluntarily admitted his guilt to drug-related and insurance fraud-related crimes. He used and paid runners, billed insurance companies more than $655,000 for patients who came to him because he used runners, and committed theft by illegally billing insurance companies. He grew between ten and 50 marijuana plants and claimed to have grown them for his personal use.

Respondent's misconduct, which was conclusively established by his admissions at the January 11, 2013 plea hearing and his subsequent criminal convictions, constitute actionable violations of Board Statutes and regulations. The Uniform Enforcement Act empowers the Board to discipline a licensee who has been convicted of or engaged in acts constituting a crime or offense involving moral turpitude. Additionally, insurance fraud-related crimes undeniably constitute crimes of moral turpitude under N.J.S.A. 45:1-21.

The actions of Respondent that led to his conviction occurred while he was operating multiple offices and over a significant period of time. He was the owner of these practices and he was the top person in the scheme. As part of this scheme he paid more than $75,000 to runners who solicited car accident victims to treat at Respondent's practices. Respondent billed insurance companies more than $650,000 for these patients.

Furthermore he was convicted of possession, distribution, manufacturing or dispensing CDS in the second degree; distribution or possession with intent to distribute between five and twenty five pounds of marijuana.

Respondent has expressed remorse for his conduct and believes that he has already paid a high price for his actions including incarceration and payment of $650,000 in restitution He forfeited nearly $45,000 to the State. He has agreed to pay

the Commissioner of Banking and Insurance an additional amount of $500,000 for penalties, fees and other charges. Given the magnitude of the fraud acknowledged, this financial sentence is not surprising and Respondent has submitted no proof whatsoever of lack of financial resources. However, the Board has determined not to impose financial penalties or costs, despite statutory authorization to do so.

The Board also considered Respondent's claim that he fully cooperated with the authorities in the investigation, sentencing, and since his release from State Prison into intensive supervision.

Respondent also asked the Board to consider that he has no prior criminal history and is not likely to commit another offense. He believed that he was committing a victimless crime. He voluntarily refrained from all chiropractic practice since April of 2013.

While the Board fully considered all the testimony and documents presented in mitigation, the Board also considered that insurance fraud harms more than just insurance companies. The damages sustained from such fraud are passed to the public in the form of higher premiums. Respondent was the principal player in a scheme to use runners and perpetrated a major fraud. Additionally he admitted to marijuana growth over a significant period of time and a significant amount of marijuana. He

admitted that he violated criminal statutes which also violate the Board's laws and regulations. Respondent lacks good moral character and Judgment.

The Board also took into account the length of time that Dr. Greenberg engaged in this scheme which was long enough for him to pay $75,000 to runners and long enough for him to collect $650,000 from insurance companies. This fraud harmed insurance companies, they harmed the integrity of the profession and harmed the public. Respondent's actions described herein constituted engagement in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e); a conviction of a crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board in violation of N.J.S.A. 45:1-21(f); lack of good moral character, maintenance of which is a continuing prerequisite under N.J.S.A. 45:9-41.5 and N.J.A.C. 13:44E-1A.1 for holding a license to practice chiropractic in the State of New Jersey; as well as violating N.J.S.A. 45:1-21(h), which requires compliance with the provisions of any act or regulation administered by the Board.

IT IS, therefore on this 23rd day of April 2015,

ORDERED THAT:

1. Respondent's license to practice chiropractic in the State of New Jersey be and hereby is revoked. Respondent shall not apply to reinstate his license to practice chiropractic in the State of New Jersey prior to five years from the date of this Order.

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

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: _____
David A. Allen, D.C.
Board President

Dated: