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FILED
SEP 17 2015
NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

By: Gezim Bajrami
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF LAW
BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF : Administrative Action
:
JOSEPH C. KUSHMAN, D.C. :
LICENSE NO. 38MC00562100 :
:
CONSENT ORDER
TO PRACTICE CHIROPRACTIC :
IN THE STATE OF NEW JERSEY :

:

This matter was opened to the New Jersey State Board of Chiropractic Examiners (“Board”) upon receipt of information that Joseph C. Kushman, D.C. (“Respondent”) allegedly engaged in a sexual relationship with a patient and thereafter stalked and harassed said patient. Upon receipt of such information, the Acting Attorney General (“Attorney General”) began an investigation. Based upon the evidence adduced by the investigation, the Attorney General filed a Verified Complaint and Order to Show Cause with the Board on July 16, 2015, seeking the immediate temporary suspension of Respondent’s license.

On July 23, 2015, the parties entered into an Interim Consent Order whereby Respondent, while denying any inappropriate conduct, voluntarily agreed to cease and desist from the practice of chiropractic until further agreement by the attorneys or Order of the Board.

The Board, upon considering evidence submitted by the Attorney General, hereby finds that Respondent:

1. Engaged in a sexual relationship with a female patient without first formally terminating the patient – chiropractor relationship by written notice to the patient via certified mail return receipt requested and documenting same in the patient record as is required by N.J.A.C. 13:44E2.3(c).

2. Was arrested on September 20, 2014 for contempt in violation of N.J.S.A. 2C:29-9 and harassment in violation of N.J.S.A. 2C:33-4 following events involving the patient referenced in Paragraph 1.

3. On October 14, 2014 plead guilty to contempt in violation of N.J.S.A. 2C:29-9 and sentenced to a one (1) year term of probation.

4. Was arrested on December 17, 2014 for harassment in violation of N.J.S.A. 2C:33-4, contempt in violation of N.J.S.A. 2C:29-9, and obstructing the administration of law or other governmental function in violation of N.J.S.A. 2C:29-1 following events involving the patient referenced in Paragraph 1, with such arrest constituting a violation of Respondent's probation.

5. On March 20, 2015 plead guilty to obstructing the administration of law or other governmental function in violation of N.J.S.A. 2C:29-1 and sentenced to an extended term of probation.

Respondent's conduct as set forth above constitutes sexual misconduct in violation of N.J.A.C. 13:44E-2.3(c); failure to be of good moral character as required for licensure in violation of N.J.A.C. 13:44E-1A.1(a)(2); engaging in acts relating adversely to the practice of chiropractic in violation of N.J.S.A. 45:1-21(f); and failure to comply with the provisions of an act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h).

The parties being desirous of resolving this matter without need for a plenary hearing and the

Board finding the within disposition to be adequately protective of the public health, safety, and welfare, and for good cause shown,

IT IS, therefore, on this 17th day of September, 2015,

ORDERED AND AGREED THAT:

1. Respondent, Joseph C. Kushman, D.C.'s chiropractic license shall be suspended for a period of three (3) years with three hundred and sixty four (364) days being served as an active suspension and the balance stayed and served as a period of probation. Respondent shall be given fifty five (55) days credit towards the period of active suspension for the period of time he voluntarily ceased and desisted from the practice of chiropractic pursuant to the July 23, 2015 Order, thus reflecting an active suspension of three hundred and nine (309) days.

2. Respondent hereby represents and shall ensure that during such time that his license is actively suspended, he shall not see, examine, treat, knowingly or intentionally interact with patients, or otherwise offer chiropractic services to any individuals at any location in the State of New Jersey or elsewhere, including his chiropractic practice located in Union, New Jersey or any other healthcare or professional facility, or engage in any activity requiring a chiropractic license in the State of New Jersey.

3. The period of active suspension will be tolled for any length of time that Respondent practices in another jurisdiction.

4. Prior to seeking reinstatement of his license, Respondent shall undergo an evaluation and assessment by the Center for Personalized Education for Physicians ("CPEP") and attend and successfully complete its "ProBE" ethics and boundaries program. For purposes of this Consent Order, successful completion shall mean:

- a. Respondent has fully complied with all of the requirements of the evaluation and assessment, as well as, any recommendations made by CPEP/ProBE following the

evaluation and assessment;

- b. Respondent has successfully completed all phases, assignments, and/or sessions of the ProBE ethics and boundaries program.
- c. CPEP/ProBE has unconditionally stated in a writing delivered to the Attorney General and to the Board that Respondent has satisfactorily and fully completed the ProBE course; and
- d. CPEP/ProBE has unconditionally state in a writing delivered to the Attorney General and to the Board that Respondent has complied with any recommendations it made with regard to practice restrictions, monitoring, and/or educational programs (if applicable).

5. If Respondent fails to substantially comply with the terms of this Consent Order or CPEP/ProBE's recommendation, requirements, practice restrictions, and/or educational programs, such conduct shall be deemed to constitute professional misconduct in violation of N.J.S.A. 45:1-21(e). In that event, the Attorney General or the Board may commence a disciplinary proceeding seeking, among other things, an enhanced suspension or revocation of Respondent's license to practice chiropractic.

6. The Board and the Attorney General will have complete access to any communications between Respondent and CPEP/ProBE and will have complete access to any reports, recommendations or evaluations issued by CPEP/ProBE or by any consultant that CPEP/ProBE recommends, including but not limited to the release of the assessment and evaluation report and, if recommended by the vendor, any medical and/or neuropsychological evaluations. Respondent hereby authorizes CPEP/ProBE to provide copies of any recommendations, evaluations or reports to the Board and the Attorney General simultaneously with their provision to Respondent. In addition, the Board and its agents and employees may communicate directly with CPEP/ProBE regarding

Respondent's participation in any evaluation or assessment, educational program, or monitoring plan.

7. Respondent specifically acknowledges that any recommendations, results, evaluations, or reports issued by CPEP/ProBE may be introduced as evidence during the course of any future disciplinary proceedings.

8. The Attorney General and the Board may provide to CPEP/ProBE information they may possess with regard to Respondent, including but not limited to Respondent's Board file and the July 16, 2015 Verified Complaint and supporting exhibits filed by the Attorney General.

9. Respondent shall be solely responsible for all costs associated with his participation in any evaluation, assessment or program conducted or administered by CPEP/PROBE and his compliance with any recommendations or requirements set forth thereby.

10. Respondent is hereby assessed a civil penalty in the amount of one thousand dollars (\$1,000.00) which shall be paid in full within six (6) months of the signing of this Consent Order.

11. Payment of penalties made pursuant to Paragraph Ten (10) of this Consent Order shall be made by money order, bank or certified check, or wire transfer, made payable to the "State of New Jersey," and sent to the State Board of Chiropractic Examiners, c/o Ms. Lisa Tadeo, Executive Director, at 124 Halsey Street, P.O. Box 45004, Newark, New Jersey 07102. Any payment in a form other than those noted in this Paragraph will be rejected and returned to the sender. Failure to make timely payment in accordance with this Consent Order shall result in the filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24 for the total amount due and owing at the time the Certificate of Debt is filed.

12. Prior to resuming practice, Respondent shall appear before the Board or a Committee thereof to demonstrate that his practice of chiropractic would be commensurate with the health, safety and welfare of the public, demonstrating at a minimum the results of any and all evaluations undertaken pursuant to this Consent Order; proof of successful completion of any programs attended

pursuant to this Consent Order; proof of successful completion of any required courses and/or programs; proof of successful completion of course and/or program recommendations; and proof of satisfaction of all civil penalties.

13. The parties hereby stipulate that should new or otherwise undiscovered evidence regarding Respondent's conduct be discovered, entry of this Consent Order is without prejudice to further action or investigation by this Board, the Attorney General, and/or other law enforcement entities, including an action seeking an enhanced suspension or the revocation of Respondent's license.

STATE BOARD OF CHIROPRACTIC EXAMINERS

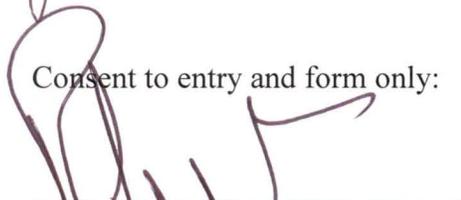
BY: 
David A. Allen, D.C.
Board President

I have read and understood the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order:


Joseph C. Kushman, D.C.

9-17-2015
Date

Consent to entry and form only:


By: Richard J. Kaplow, Esq.
Richard J. Kaplow, P.A.
53 Elm Street
Westfield, New Jersey 07090
Attorney for Respondent

9/17/2015
Date

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

FILED
JUL 23 2015
NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

By: Gezim Bajrami (075092013)
Deputy Attorney General
Tel: (973)648-4741

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
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IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF : Administrative Action
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JOSEPH C. KUSHMAN, D.C. : **INTERIM CONSENT ORDER**
LICENSE NO. ~~25MA03176700~~ :
38mcc00562100 :
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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 (“Board”) upon receipt of information that Joseph C. Kushman, D.C. (“Respondent”) allegedly committed sexual misconduct in violation of N.J.A.C. 13:44E-2.3(c); professional or occupational misconduct in violation of N.J.S.A. 45:1-21(e); failed to be of good moral character as required for licensure in violation of N.J.A.C. 13:44E-1A.1(a)(2); violated or failed to comply with the provisions of an act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); was convicted of or engaged in acts constituting a crime or offense involving moral turpitude or relating adversely to the practice of Chiropractic in violation of N.J.S.A. 45:1-21(f); has an incapacity, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the health, safety, and welfare of the People of New Jersey in violation of N.J.S.A. 45:1-21(i); and engaged 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).

The charges herein prompted the State of New Jersey's Acting Attorney General John J. Hoffman, by Deputy Attorney General Gezim Bajrami ("Attorney General"), to file a Verified Complaint and Order to Show Cause with the Board on July 16, 2015, seeking the immediate temporary suspension of Respondent's license.

These charges stem from an investigation by the Attorney General into allegations that Respondent allegedly engaged in a sexual relationship with "G.C.", a female patient, and engaged in stalking and harassment. Respondent contests the Attorney General's charges and denies any inappropriate conduct.

The Board finds the within disposition to be adequately protective of the public health, safety, and welfare, and for good cause shown,

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

ORDERED AND AGREED THAT:

1. Respondent, Joseph C. Kushman, D.C., shall immediately cease and desist from the practice of chiropractic in the State of New Jersey until a date no sooner than September 16, 2015, when the matter will be heard by the Board. Notwithstanding further agreement by the attorneys or Order of the Board, this Order shall remain in effect and no adjournments shall be granted.

2. Respondent hereby represents and shall ensure that he shall not see, examine, treat, knowingly or intentionally interact with, or otherwise offer chiropractic services at any location in the State of New Jersey or elsewhere, including his chiropractic practice located in Union, New Jersey or any other healthcare or professional facility.

3. Respondent shall not enter the premises of his chiropractic practice located in Union, New Jersey except as provided in Paragraph 4 herein, until further agreement by the attorneys or Order of the Board.

4. While this Order is in effect, Respondent may enter his premises until 5:00 PM on July 23, 2015 and Saturdays and/or Sundays from 9:00 AM to 5:00 PM for the limited purpose of retrieving and/or replacing personal effects and/or non-professional items. During such times, Respondent shall not enter the premises if he knows or has a reasonable belief that any patients are present.

5. The parties hereby stipulate that entry of this Consent Order is without prejudice to further action or investigation by this Board, the Attorney General, and/or other law enforcement entities resulting from Respondent's conduct prior to or after the entry of this Order, including an action seeking the temporary suspension of Respondent's license.

BOARD OF CHIROPRACTIC EXAMINERS

BY:



David A. Allen, D.C.
Board President

I have read and understood the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order:



Joseph C. Kushman, D.C.

7/23/2015

Date

Consent to entry and form only:



By: Richard J. Kaplow, Esq.
Richard J. Kaplow, P.A.
53 Elm Street
Westfield, New Jersey 07090
Attorney for Respondent

7/23/2015

Date