

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the Board of Chiropractic Examiners

FILED

MAY 24 2018

**NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS**

By: Wendy Leggett Faulk
Deputy Attorney General
(973) 648-7093

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

IN THE MATTER OF THE
SUSPENSION OF THE LICENSE OF

Bryan K. Bajakian, D.C.
License No. 38MC00262100

TO PRACTICE CHIROPRACTIC
IN THE STATE OF NEW JERSEY

Administrative Action

☒ **PROVISIONAL ORDER
DENYING REINSTATEMENT**

Date Filed: 4/12/2018

☒ **FINAL ORDER DENYING
REINSTATEMENT**

(Finalized by Default)

Date: 5/24/2018

This matter was opened to the New Jersey State Board of Chiropractic Examiners (the "Board") upon receipt of information which the Board has reviewed, and upon which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent, Bryan K. Bajakian, is the holder of License No. 38MC00262100 to practice chiropractic in the State of New Jersey, having been licensed on or about March 7, 1984. Respondent's license was revoked on or about October 18, 2010. (Exhibit A).

2. In April 2005 Respondent was charged with multiple counts of criminal conduct, including but not limited to: attempt to lure or entice a child or one reasonably believed to be a child by electronic or other means, with a purpose to commit a criminal act against said child; attempt to commit an act of criminal sexual contact upon a child or one reasonably believed to be a child; attempt to engage in sexual contact with a child or one reasonably believed to be a child under the age of sixteen; knowing possession or viewing of child pornography; and illegal possession of firearms.

3. In September 2005 Respondent agreed to entry of an Interim Consent Order requiring, among other things, that a Board-approved monitor be present whenever Respondent rendered chiropractic treatment to any patient under the age of eighteen years and requiring that the monitor submit monthly status reports to the Board. (Exhibit B – Interim Consent Order, Sept. 15, 2005).

4. Following entry of the Interim Consent Order, Respondent failed to request Board approval of a monitor but continued to treat patients less than eighteen years of age. In June 2008 the Attorney General filed a Verified Complaint seeking among other things the temporary suspension of Respondent's license to practice chiropractic, based on the criminal charges then pending against him and his violation of the 2005 Interim Consent Order.

5. On June 26, 2008, Respondent consented to the temporary suspension of his chiropractic license pending a plenary hearing or until further Order of the Board. (Exhibit C – Second Interim Consent Order).

6. In October 2008 Respondent pled guilty to two counts of luring or enticing a child, in violation of N.J.S.A. 2C:13-6, a crime of the second degree. Respondent also

pled guilty to illegal possession of firearms, in violation of N.J.S.A. 2C:39-5(f), a crime of the third degree.

7. In September 2009 Respondent was sentenced to prison for a concurrent term of five years for his convictions. Respondent was ordered to register as a sex offender as required by Megan's Law and to comply with parole supervision for life.

8. On April 6, 2010, the Attorney General filed an Amended Verified Complaint to include Respondent's guilty plea and convictions. (Exhibit D – Amended Verified Complaint).

9. On October 18, 2010, the Board entered a Final Order revoking Respondent's license after finding that Respondent engaged in sexual misconduct toward a patient with whom he communicated over the Internet, that Respondent engaged in conduct of a sexual nature over the Internet that would impair or debauch the morals of six minors, and that Respondent pled guilty to crimes involving moral turpitude. The Order imposed costs and attorneys' fees in the amount of \$41,792.00. (Exhibit E – Final Order by Default, Oct. 19, 2010).

10. Respondent was released from custody on or about November 1, 2010.

11. In December 2014 Respondent applied to the Board for reinstatement of his license to practice chiropractic. The costs assessed in the October 2010 Order remained outstanding, and the Board denied reinstatement. Thereafter Respondent's counsel requested an appearance before the Board to present documentation and Respondent's testimony in support of his reinstatement application.

12. Respondent appeared before the Board with counsel on October 27, 2017. (Exhibit F – Transcript of Proceedings (1T)). Respondent testified that he began

communicating with others in adult Internet chat rooms in the mid-1990s as a form of entertainment. (1T7:18 to 9:17). Respondent began engaging in sexually explicit conversations in Internet chat rooms with a female he believed to be fifteen years old. Unbeknownst to him the individual with whom he was chatting was an undercover law enforcement officer, and in February 2004 officers arrested him and searched his home. Respondent testified that he was a gun collector and that he legally purchased all weapons found in his home during the search; however, he had not properly registered the automatic weapons as legally required, which resulted in illegal weapons possession charges. (1T16:23 to 17:12). Regarding the child luring charges, Respondent testified that he never solicited anyone to physically meet outside of the Internet chat rooms. (1T20:4-9, 21:24-25).

13. Contrary to Respondent's testimony before the Board in 2017, at his criminal plea hearing in 2008 Respondent testified that he did in fact discuss picking up a female known to him through the Internet who represented she was sixteen (16) years old. (Exhibit G – Plea Transcript, Oct. 29, 2008 (2T)). (2T26 to 27:19). Further, Respondent acknowledged that he engaged in conversations with another minor female for the purpose of meeting her if she was willing. (2T30:20 to 32:10).

14. Following his release from prison in 2010, Respondent testified that he underwent weekly individual counseling sessions with Dr. Melvin Rand (now deceased), attended monthly group counseling sessions, and focused on repairing his family relationships. Due to the stress of the situation his marriage ended in divorce, although Respondent testified he maintains healthy relationships with both his former wife and his children.

15. Respondent testified that in 2016, and with verbal permission from his parole officer, Respondent joined an adult dating Internet site in an effort to find a stable relationship. This action violated the terms of the Megan's Law parole however, and in February 2016 Respondent was abruptly returned to prison where he remained until being released in February 2017.

CONCLUSIONS OF LAW

Pursuant to N.J.S.A. 45:1-21(b), the Board may refuse to reinstate Respondent's license upon proof he engaged in the use of dishonesty, misrepresentation and deception. In accordance with N.J.S.A. 45:1-21(f), the Board may also refuse to reinstate Respondent's license upon proof he has been convicted of a crime involving moral turpitude. Further, the Board may refuse to reinstate Respondent's license upon determining he lacks good moral character, which is an ongoing requirement for licensure. N.J.A.C. 13:44E-1A.1(a)(2).

The Board has determined that Respondent engaged in sexually explicit communications over the Internet with persons he believed to be minors, and has been convicted of multiple crimes involving moral turpitude. In addition, the Board finds that Respondent engaged in the use of dishonesty and misrepresentation: Respondent's testimony before the Board regarding his actions directly conflicts with his sworn testimony in 2008, and the Board accepts as compelling Respondent's earlier admissions in connection with resolving criminal charges against him.

The nature of the profession renders the Board extremely reluctant to reinstate Respondent's license to practice in New Jersey. Although Respondent demonstrated remorse for and some insight into the deleterious effects of his actions, the Board is not

persuaded Respondent possesses good moral character. Despite having first been deprived of his personal liberty for more than one year, Respondent violated the conditions of his lifetime parole and was returned to prison in 2016 for an additional twelve (12) months. Respondent's loss of liberty is a direct result of his willingness to engage in sexually immoral, debaucherous conduct involving others while representing himself as a chiropractic physician. The Board finds that Respondent has failed to sufficiently demonstrate rehabilitation and concludes he cannot be entrusted with the responsibilities and privileges of chiropractic licensure.

ACCORDINGLY, IT IS ON THIS 24th day of May 2018, ORDERED THAT UPON ENTRY OF THIS ORDER AS FINAL, THE PRELIMINARY FINDINGS OF FACT, CONCLUSIONS OF LAW, AND TERMS BELOW SHALL BE MADE FINAL:

1. Upon service of a filed FINAL ORDER OF DENIAL, Respondent's petition for reinstatement of License No. 38MC00262100 to practice chiropractic in the State of New Jersey is denied. Respondent may not petition for reinstatement prior to April 26, 2019, eighteen (18) months from the date Respondent appeared before the Board.

2. Due to the nature of Respondent's criminal convictions, prior to Board consideration of any future application for reinstatement Respondent must submit to a comprehensive psychosexual evaluation by a Board-approved licensed clinical psychologist or similarly-credentialed professional experienced in the evaluation and treatment of sex offenders and/or psychosexual disorders, and who is fully aware of the circumstances of Respondent's arrest, convictions, and this Order. Prior to applying for reinstatement, Respondent shall comply with all recommendations from said evaluation and obtain the evaluator's unconditional support for returning to the practice of chiropractic.

3. By submitting to the above evaluation, Respondent expressly waives any claim of privilege or confidentiality concerning reports and disclosures to and/or from the Board, and use by the Board of any received information in future proceedings. The Board reserves the right to require from any entity and/or evaluator written reports regarding Respondent's participation and/or compliance with evaluation(s) and/or recommendations resulting therefrom.

4. Given that Respondent has not actively practiced chiropractic in any jurisdiction for more than five (5) years, any future Board approval to reinstate Respondent's license will require, in addition to all other requirements for reinstatement, that Respondent successfully complete the Special Purposes Examination for Chiropractic administered by the National Board of Chiropractic Examiners.

5. This Order will be finalized by the Board at 5:00 p.m. on the 30th day following initial filing hereof UNLESS the Board receives, prior to the 30-day deadline, a request by Respondent for modification or dismissal of the above stated Findings of Fact and Conclusions of Law. Respondent's request must:

- a) Be submitted in writing and directed to the State Board of Chiropractic Examiners, Attention: Lisa Tadeo, 124 Halsey Street, Sixth Floor, P.O. Box 450004, Newark, New Jersey, 07101.
- b) Set forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.
- c) Include any and all documents or other written evidence supporting Respondent's request for reconsideration and reasons therefore, or offered in mitigation of the Board's denial.

6. The Board will review Respondent's submissions received prior to the 30-day deadline and determine whether further proceedings are merited. If no material

discrepancies are raised by Respondent's submission, or if the Board is not persuaded that the submissions merit further consideration, a Final Order of Denying Reinstatement will be entered.

7. If the Board determines that Respondent's submissions merit further consideration, the Board will notify Respondent with regard thereto. If the Board orders further proceedings, including but not limited to an evidentiary hearing, the Findings of Fact and Conclusions of Law contained herein may serve as notice of the factual and legal allegations in such proceeding. However, in the event a hearing is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

8. If the Board receives no written request from Respondent for a modification, dismissal or hearing within the 30-day deadline, this Provisional Order Denying Reinstatement, including all Findings of Fact, Conclusions of Law, sanctions and penalties imposed herein, without further Board review, shall automatically become effective as the Board's Final Order Denying Reinstatement. The caption of the Provisional Order will indicate "Final Order by Default," the Final Order will be filed and copies mailed to Respondent.

NEW JERSEY STATE BOARD OF
CHIROPRACTIC EXAMINERS

By:



David A. Allen, D.C.
Board President