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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

CRAIG KLEIN, D.C.
License No. MC 4571

**FINAL ORDER
OF DISCIPLINE**

TO PRACTICE CHIROPRACTIC :
IN THE STATE OF NEW JERSEY :

Following review of information supplied to the Board of Chiropractic Examiners ("Board"), and testimony provided by Craig Klein, D.C. ("respondent") during his appearance before the Board, the Board entered a Provisional Order of Discipline on July 14, 2005, containing the following preliminary findings of fact:

1. Respondent, Craig Klein, D.C., is a chiropractic physician in the State of New Jersey and has been a licensee at all times relevant hereto.
2. On June 6, 2001, investigators of the Passaic County Prosecutor's Office tape recorded a meeting between a Confidential Informant (CI) and respondent which took place at Neil's Pizzeria, Harding Avenue, Clifton, NJ. At the meeting, respondent and his partner agreed to pay the CI the sum of \$900.00 for each patient referred to their practice by the CI.

3. On June 20, 2001, the investigators observed another meeting between the CI and the two doctors at Neil's Pizzeria. Although the meeting was not tape recorded, the investigators observed the CI and the two doctors exit the building to the parking lot. The doctors were wearing blue scrubs. The three lifted their shirts in the parking lot to check each other for body wires. At this meeting, the CI was given \$900.00 in cash by the respondent.
4. On July 30, 2002, respondent was arrested by the investigators pursuant to Warrant #357833.
5. On May 1, 2003, respondent appeared with counsel before the Superior Court, Law Division in Passaic County, where he waived Indictment and consented to be charged by Accusation with the use of a runner (a third degree crime), contrary to N.J.S.A. 2C:21-22.1. He was admitted to Pre-trial Intervention (PTI) without entering a plea on the record. He agreed to a payment of \$25,000.00 to the Office of Insurance Fraud Prosecutor, and to perform 175 hours of community service. (Exhibit 2 attached hereto and made a part hereof).
6. On June 17, 2004 at 12:53 p.m., respondent appeared *pro se* before the Preliminary Investigation Committee of the New Jersey Board of Chiropractic Examiners, where he testified under oath that he had paid \$900.00 for each of several patients referred to his practice by the CI, because he was able to bill automobile insurance carriers approximately \$3,000.00 per patient for their care. Respondent admitted the occurrence in which he lifted his scrubs

in the parking lot of the pizzeria to check for body wires and admitted making payments to the runner, knowing it was unlawful to do so.

7. The aforesaid payments were not only contrary to N.J.S.A. 2C:21-22.1 (use of a runner), but were also contrary to N.J.A.C. 13:44E-2.6 (prohibiting payment by chiropractors of referral fees for patients).

Based on the preliminary findings, the Board provisionally concluded that there were grounds for the suspension of respondent's license to practice chiropractic in New Jersey pursuant to N.J.S.A. 45:1-21(f), as respondent admitted engaging in acts constituting a crime of moral turpitude and which related adversely to the practice of chiropractic; and pursuant to N.J.S.A. 45:1-21(h), as respondent has repeatedly violated the provisions of N.J.A.C. 13:44E-2.6, a regulation administered by the Board, by paying for referral of patients. The Provisional Order sought to impose a five year suspension (two years active); a \$10,000 penalty, costs of \$427, and successful completion of an ethics course.

In response to the Board's Provisional Order, respondent, through his counsel Anthony J. Den Uyl, Esq., submitted a certification in which he did not contest the factual underpinnings of the Provisional Order but did seek a hearing in mitigation of the penalty to be imposed. While respondent did not provide the requested written submission regarding any mitigation, the Board nonetheless scheduled the matter for a hearing on the issue of mitigation.

On January 19, 2006, the Board was prepared to hear the matter. John Hugelmeyer, Deputy Attorney General, appeared and advised the Board that Mr. Den Uyl

had advised him by telephone that morning that neither Dr. Klein nor Mr. Den Uyl would be appearing before the Board at the hearing. Mr. Hugelmeyer further advised the Board that Mr. Den Uyl represented that Dr. Klein would consent to the entry of a final order incorporating the terms of the Provisional Order of Discipline.

The Board proceeded to conduct a brief hearing. Mr. Hugelmeyer placed his appearance on the record and noted for the record that neither Dr. Klein nor Mr. Den Uyl were physically present. He then offered the following items into evidence:

Item P-1: December 21, 2005 letter from Executive Director Kevin B. Earle to Anthony Den Uyl, Esq., setting the date and time for the hearing at 1:30 p.m., January 19, 2006;

Item P-2: January 4, 2006 letter from John D. Hugelmeyer, Deputy Attorney General, to Anthony Den Uyl, Esq., attaching a transcript of the proceedings of June 17, 2004. The letter noted that the Board would rely upon the sworn testimony of Dr. Klein as admissions.

Item P-3: January 11, 2006 letter from Deputy Attorney General Hugelmeyer to the Board in response to a certification submitted by Anthony J. Den Uyl, Esq., on behalf of Dr. Klein. Mr. Hugelmeyer moved to admit the items into evidence. The Board president accepted them as evidence. The hearing was then concluded.

The Board has considered the evidence before it. By virtue of respondent's admissions and other evidence, the Board has determined that it has been conclusively established that respondent had engaged in acts that would constitute a crime of moral turpitude, N.J.S.A. 45:1-21(f), and which violated the Board 's regulation prohibiting

chiropractic physicians from paying for patient referrals, N.J.A.C. 13:44E-2.6. Respondent's conduct evinces a serious deviation from the standards of good moral character and decency expected of all licensees of this Board and brings disrepute to the profession. These findings, in addition to the lack of any substantive response by Dr. Klein, both as to the factual allegations and as to mitigation of the penalty, coupled with his attorney's representation that he would consent to the entry of a final order consistent with the terms of the Provisional Order, compel the board to finalize the order and impose the discipline previously set forth.

ACCORDINGLY, IT IS on this 16th day of February, 2006,

ORDERED that:

1. Respondent's license to practice chiropractic in the State of New Jersey is suspended for a period of five (5) years, except that the first two (2) years shall be an active suspension, effective upon service of this order, and the final three (3) years of the suspension shall be stayed and become a period of probation. The stayed period of suspension shall be activated upon a showing of respondent's non-compliance with any of the terms and conditions set forth in this order.

2. Respondent shall not practice chiropractic during the period of active suspension, and shall fully attend and successfully complete and pass 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, prior to resuming active practice in New Jersey. Documentation of full attendance and successful completion of the course shall be provided to the Board.

3. Respondent shall pay a civil penalty, pursuant to N.J.S.A. 45:1-22 and N.J.S.A. 45:1-25, in the total amount of \$10,000.00, comprised of \$7,500.00 for engaging in acts constituting a crime involving moral turpitude and relating adversely to the practice of chiropractic, contrary to N.J.S.A. 45:1-21(f), and \$2,500.00 for repeated violations of the Board's regulatory prohibition against paying referral fees for patients, contrary to N.J.A.C. 13:44E-2.6. Payment for the civil penalties shall be by certified check or money order made payable to the State of New Jersey, and shall be sent to: Kevin B. Earle, Executive Director, Board of Chiropractic Examiners, at 124 Halsey Street, Sixth Floor, P.O. Box 45004, Newark, New Jersey 07101 no later than ten (10) days from the entry of this Order. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

4. Respondent is assessed the costs to the State of the investigation in this matter in the amount of \$427.00. Payment for the costs shall be submitted by certified check or money order made payable to the State of New Jersey and submitted to the Board no later than ten (10) days from the finalization date of this Order. Payment shall be sent to Kevin B. Earle at the address described in paragraph 3; and

5. Prior to resuming active practice in New Jersey, Respondent shall be required to appear before the Board (or a committee of the Board) to demonstrate fitness to resume practice. Any practice in this State prior to formal reinstatement of license by

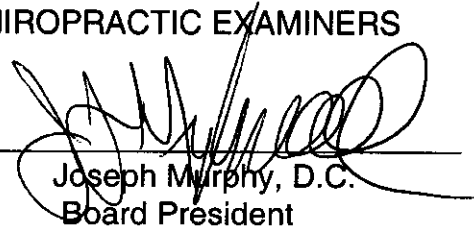
the Board shall constitute grounds for a charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

6. Failure to comply with any provisions of this Order or to timely remit any and all payments required by this Order will also result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

7. The Directives of the Board applicable to any Chiropractic Board licensee who is suspended, revoked or whose surrender of licensure has been accepted are attached and incorporated by reference as though fully set forth here.

NEW JERSEY STATE BOARD OF
CHIROPRACTIC EXAMINERS

By



Joseph Murphy, D.C.
Board President

**DIRECTIVES APPLICABLE TO ANY CHIROPRACTIC BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of chiropractic in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories,

professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status

and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Chiropractic Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a chiropractor:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the Federation of Chiropractic Licensing Boards of the United States, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.