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

NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

By: Carmen A. Rodriguez
Deputy Attorney General
(973) 693-5056

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

IN THE MATTER OF THE SUSPENSION:
OR REVOCATION OF THE LICENSE OF:

Administrative Action

NICHOLAS J. SOTTIRIOU, D.C.
LICENSE NO. MC003611

FINAL DECISION
AND ORDER

TO PRACTICE CHIROPRACTIC IN THE:
STATE OF NEW JERSEY

This matter having been opened to the State Board of Chiropractic Examiners ("Board") by John J. Farmer, Attorney General of New Jersey, by an Order to Show Cause and Verified Complaint seeking the suspension or revocation of the license of respondent, Nicholas J. Sottiriou, D.C. to practice chiropractic. The Verified Complaint recited respondent's conviction on Federal criminal charges and his sentencing on those charges.

A hearing in this matter was held on July 23, 1998. The Respondent was represented by David Biunno, Esq. The State was represented by August T. Lembo, Deputy Attorney General. This matter was adjourned from April 30, 1998 at which time the Board

granted the adjournment on the condition that the Respondent voluntarily surrender his license.

The following documents were entered into evidence:

- S-1 Certified Judgment of Conviction
- S-2 Indictment filed August 5, 1997
- S-3 Plea Agreement dated September 8, 1997
- S-4 Transcript of Arraignment and Plea before the Honorable Garrett E. Brown
- S-5a Transcript of January 29, 1998 Sentencing Hearing
- S-5b Transcript of February 3, 1998 Sentencing Hearing
- S-6 Certification of Costs prepared by DAG Lembo

At the July 23, 1998 Board meeting the Respondent, through counsel, David B. Biunno, advised the Board that Dr. Sottiriou pled guilty to Count I of the Verified Complaint and no contest to Counts II through IV.

Based on this information, the Board proceeded to the penalty phase of the hearing.

FINDINGS OF FACT

1. On August 5, 1997 an indictment was filed against Dr. Nicholas Sottiriou, D.C. charging him with fifteen (15) counts of mail fraud in violation of Title 18, United States Code §1341 and 2.

2. The respondent was charged with receiving fifteen

checks amounting to fifteen thousand three hundred ninety seven and 66/100 (\$15,397.66) in payment for false and fraudulent claims for chiropractic services not rendered or improperly rendered.

3. The indictment charged that this scheme to defraud insurance companies through submission of false claims began in or about 1993 and continued until February 1997. The indictment further alleged that Respondent billed for chiropractic services purportedly rendered in his office when he was not present in the office and performed no services. He also billed for therapeutic and diagnostic services he did not perform although he was in the office. He billed for modalities performed by unlicensed staff members in violation of state regulations and allegedly prepared and submitted false patient progress notes to support his claims for chiropractic services that were not performed.

4. Respondent pled guilty to Count 15 of the Indictment on September 8, 1997. Count 15 alleged receipt of a check dated September 3, 1996 in the amount of nine hundred ninety and 50/100 (\$990.50) dollars for services rendered from November 3, 1995 to December 20, 1995, although these services were never performed.

5. At the plea hearing, Respondent testified that he owned and operated the Sottiriou Institute of Health Care with offices in Edison, New Jersey. He further testified that on the following dates he traveled to the named locations: Myrtle Beach, South Carolina from July 20-24, 1995; Las Vegas, Nevada from December 7-11, 1995; Chevy Chase, Maryland on March 4, 1996; Miami,

Brazil and the Bahamas from March 19-26, 1996; New York City to attend a New York Knicks basketball game at Madison Square Garden on May 1, 1996. Respondent also testified that although he was not present at the Sottiriou Institute of Health care and not treating patients on these dates, he caused medical claims to be submitted to private insurance companies for services falsely claimed to have been performed by him.

6. Dr. Sottiriou admitted that he received a check for \$990.50 from an insurance carrier relating to a patient M.P. for services he claimed were performed between December 7 and 11, 1995 while he was actually in Las Vegas, Nevada. He further admitted that he received this check as a result of false claim for reimbursement that he caused to be submitted to U.S.A.A. Insurance Company.

7. The Respondent admitted at the sentencing hearing that he committed all of the acts referred to in Count I paragraphs 4 through 8 of the Verified Complaint with the knowledge that he what he was doing was wrong and illegal.

8. Dr. Sottiriou was sentenced to the following:

a. Incarceration for a term of forty one (41) months to be followed by three years of supervised release;

b. Restitution in the amount of twenty nine thousand (\$29,000) dollars;

c. A fine in the amount of six thousand (\$6,000) dollars;

d. Requirement that he engage in drug and mental health

counseling;

e. A restriction that the respondent is prohibited from performing chiropractic services and making claims for health care services during the period of incarceration and supervised release;

f. A requirement that respondent must advise employer and third parties of his conviction in the event that he occupies a position of trust during his period of supervised release.

CONCLUSIONS OF LAW

1. Respondent stands convicted of a crime which involves both moral turpitude and relates adversely to the activities regulated by the Board in violation of N.J.S.A. 45:1-21(f).

2. The acts set forth in the Verified Complaint establish that respondent engaged in use or employment of dishonesty, fraud, deception, misrepresentation, false promises or false pretense in violation of N.J.S.A. 45:1-21(b).

3. The conviction conclusively establishes that Respondent engaged in professional misconduct in violation of N.J.S.A. 45:1-21(e).

4. The sentencing requirement prohibiting the respondent from engaging in chiropractic services and health care services while imprisoned and during the term of supervised release amounts to a revocation of his ability to engage in practice by an

authority and thus provides a basis for a violation of N.J.S.A. 45:1-21(g).

5. Respondent's failure to maintain accurate patient records constitutes a violation of N.J.A.C. 13:44E-2.2.

6. Respondent's rendering of bills and submission of claims for services which were not justified by the needs of the patients constituted a violation of N.J.A.C. 13:44E-2.13 and N.J.S.A. 45:1-21(h).

DETERMINATION

The Board took into consideration the remarks of Mr. Biunno, the respondent's attorney regarding his entering a plea of guilty on behalf of Dr. Sottiriou regarding Count I of the Verified Complaint and the comments of DAG Lembo concerning the penalties that should be imposed. Additionally, the Board noted that the criminal behavior of Nicholas Sottiriou involved the illegal acquisition of monies by virtue of his professional licensure as a chiropractor. Such fraudulent behavior constituted a gross abuse of his professional authority and privilege with a clear disregard for the citizens which he is empowered to protect and serve. Respondent's behavior employing dishonesty and misrepresentation to obtain monies from insurance companies and the fabrication of patient notes clearly constitutes professional misconduct. The criminal activity engaged in by this licensee erodes the very principles that he was licensed to perform which ultimately includes the protection of the interests of the consumers and

patients which he was trained to serve. Thus, the Board found that the violations to which Dr. Sottiriou pled guilty are adversely related to the activity regulated by the Board of Chiropractic Examiners and constituted serious infractions of the statutes and regulations applicable to licensed chiropractors in the State of New Jersey.

IT IS on this 11th day of August, 1999;

ORDERED:

1. The license of respondent to practice Chiropractic in the State of New Jersey is revoked.

2. Respondent shall cease and desist from engaging in the practice of Chiropractic in the State of New Jersey.

3. The Board imposes a fine in the amount of \$42,500 which consists of:

a. Seven separate incidents (at \$2,500 per incident) of submitting false claims as related to in Count One, paragraphs 5 and 6, of the Verified Complaint in violation of N.J.S.A. 45:1-21(b) totaling \$17,500;

b. Seven separate incidents (at \$2,500 per incident) for failure to maintain patient records as related in Count One, paragraphs 6 and 7 of the Verified Complaint in violation of N.J.A.C. 13:44E-2.2 totaling \$17,500;

c. A fine of \$2,500 for being convicted of crimes that involve activities regulated by the Board in violation of N.J.S.A. 45:1-21(f).

d. A fine of \$2,500 for activities constituting professional misconduct in violation of N.J.S.A. 45:1-21(e).

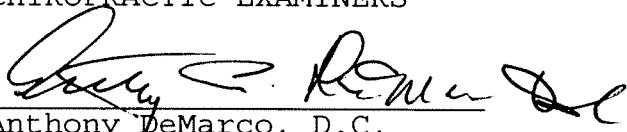
e. A fine of \$2,500 for respondent's rendering of bills and submission of claims for services which were neither justified by the needs of patients and were excessive constituted a violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:44E-2.13.

4. The Board requires that the respondent provide restitution to any party or governmental agency aggrieved by his unlawful acts.

5. The Board imposed costs in the amount of \$824.50

6. In the event that the respondent makes application for reinstatement of licensure in the future, he must supply written documentation of full satisfaction of the restitution owed to any party or governmental entity as ordered by the Court and set forth in the Judgment of Conviction in the United States District Court, District of New Jersey filed on February 18, 1998. He must also present evidence that the all the conditions in the Judgement of Conviction were met.

NEW JERSEY STATE BOARD OF
CHIROPRACTIC EXAMINERS


Anthony DeMarco, D.C.
President