

IN THE MATTER OF
JASON P. CARLE, D.C.

Respondent

License Number: S01974

*** BEFORE THE MARYLAND STATE**
*** BOARD OF CHIROPRACTIC AND**
*** MASSAGE THERAPY EXAMINERS**

*** Case Number: 11-25C**

* * * * *

FINAL ORDER

On Feb 6, 2012, the Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") notified **JASON P. CARLE, D.C.** (the "Respondent"), License Number S01974, of its intention to revoke his license to practice chiropractic in the State of Maryland, under the Maryland Chiropractic Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 3-101, *et seq.* (2009 Repl. Vol. and 2011 Supp.).

Specifically, the Board charged the Respondent with violation of the following provisions of § 3-313:

Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the applicant or licensee:

- (2) Fraudulently or deceptively uses a license;
- (5) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (8) Is unethical in the conduct of the practice of chiropractic;
- (12) Makes or files a false report or record in the practice of chiropractic;
- (17) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted by a court of any state or

country for an act that would be grounds for disciplinary action under this section;

- (20) Behaves immorally in the practice of chiropractic; [and]
- (21) Commits an act of unprofessional conduct in the practice of chiropractic.

Summary of the Evidence

The Board held a hearing on this matter on April 26, 2012. The Board issues this Final Decision and Order based upon its consideration of the entire record, including the exhibits, witness testimony and oral arguments. Dr. Carle attended the hearing and was represented by counsel, Mr. Paul Weber, Esq.. The hearing was conducted in accordance with the APA, the Board's Practice Act and regulations. A full quorum of the Board was present during the entire hearing and deliberations. The Board unanimously agreed to the findings of fact and conclusions of law in this order. For the reasons set forth below, the Board approves and adopts this Final Decision and Order.

SUMMARY OF THE EVIDENCE

The prosecution introduced exhibits 1, 2, 3, and 4 into evidence. Dr. Carle introduced two exhibits. Dr. Carle did not contest the allegations of fact in the charging document.

The prosecution did not call any witnesses. Dr. Carle called Jose Rodriguez and Vivian Lehr. Dr. Carle testified on his own behalf.

Mr. Rodriguez is real estate agent and former patient of Dr. Carle. Mr. Rodriguez had an accident in 2003. Dr. Carle treated him for three to four months. Mr. Rodriguez used to play pool with Dr. Carle, until his twins were born.

Dr. Carle called Vivian Lehr as his second witness. Ms. Lehr lives in Florida and North Carolina. Ms. Lehr is a former French teacher and attorney. Dr. Carle is her son-in-law. She is aware of his *pro bono* care of one patient. Ms. Lehr believes that Dr. Carle is a great father and husband. Ms. Lehr believes that Dr. Carle would be a credit to the profession, if he had a second chance.

Finally, Dr. Carle testified on his own behalf. Dr. Carle received his B.S. from the S.U.N.Y. He is a graduate of New York Chiropractic College. Dr. Carle was initially licensed in Illinois. After two years, Dr. Carle moved to Virginia, then Maryland. Dr. Carle opened his own practice in 2005.

Dr. Carle met Ryan Lahuti in 2005. Dr. Carle and Mr. Lahuti referred patients back and forth. Dr. Carle rented his office space from Mr. Lahuti. Mr. Lahuti called Dr. Carle and stated that he was in a bike accident. Mr. Lahuti did not come in for treatment. Mr. Lahuti did not want to come in treatment, but he wanted to file a claim. Mr. Lahuti told Dr. Carle he needed a file made up in order to make the claim. Dr. Carle agreed to make a false file for Mr. Lahuti. Dr. Carle stated that he did not feel that he could say no to Mr. Lahuti.

Dr. Carle stated that he cooperated fully with the investigation. Dr. Carle served six months confinement and is now under a term of four months home detention. His chiropractic practice is closed. He is maintaining a telephone and the patient records. Dr. Carle stated that he would like to have the chance to practice chiropractic again.

FINDINGS OF FACT

After reviewing the record as a whole, the Board makes the following findings of fact:

BACKGROUND

1. At all times relevant to the charges herein, the Respondent was and is licensed to practice chiropractic in the State of Maryland. The Respondent was originally license to practice chiropractic in Maryland on October 11, 2000, under License Number S01974.

2. At all times relevant to the charges herein, the Respondent operated chiropractic clinics in Silver Spring and Oxon Hill, Maryland.

3. On or about May 26, 2011, the Board received a complaint from a special agent of the Federal Bureau of Investigation (the "FBI") reporting that on May 18, 2011, the Respondent pled guilty to conspiring to commit mail fraud in an insurance fraud scheme in the United States District Court for the Eastern District of Virginia. Attached to the complaint was a press release from the United States Attorney's Office for the Eastern District of Virginia regarding the Respondent's plea of guilty.

4. In furtherance of its investigation, the Board obtained court record from the U.S. District Court for the Eastern District of Virginia relating to the Respondent's plea of guilty.

5. The Board's investigative findings are set forth *infra*.

BOARD'S INVESTIGATION

6. On or about May 18, 2011, the U.S. Attorney's Office for the Eastern District of Virginia by Criminal Information, under Case Number 1:11CR209, captioned

United States of America v. Jason Phillip Carle, charged the Respondent with one felony count of conspiracy to commit mail fraud, in violation of Title 18, United States Code, Section 1349, in the U.S. District Court for the Eastern District of Virginia.

7. The Statement of Facts attached to the Criminal Information alleged that between on or about May 19, 2009, and October 8, 2009, the Respondent conspired with Ryan A. Lahuti to create a false patient record for thirty-nine chiropractic treatments for injuries that Mr. Lahuti purportedly sustained in an accident. It alleged that the Respondent never provided the chiropractic treatments to Mr. Lahuti and further falsely certified that Mr. Lahuti was totally incapacitated and out of work for two weeks as a result of the injuries he sustained. After obtaining the falsified treatment records, Mr. Lahuti sent a letter enclosing the fabricated treatment record to an insurance company located in Virginia demanding a settlement of his claim for \$140,000, including \$7,010 in costs for chiropractic treatments. Mr. Lahuti eventually obtained a settlement of \$11,000 from the insurance company, from which he paid the Respondent \$3,500. **(A copy of the Criminal Information and Statement of Facts is attached hereto and incorporated herein as Exhibit 1).**

8. On or about August 1, 2011, the Respondent entered a plea of guilty to the sole count of felony conspiracy to commit mail fraud in the U.S. District Court for the Eastern District of Virginia. A United States district judge sentenced the Respondent to six months of incarceration followed by three years of supervised probation. As a part of probation, the Respondent was ordered to participate in four months of home confinement and pay restitution in the amount of \$17,435. **(A copy of the Judgment in**

a Criminal Case and Restitution Order is attached hereto and incorporated herein as Exhibit 2).

CONCLUSIONS OF LAW

After review of the record as a whole, the Board makes the following conclusions of law. The Board finds that Dr. Carle violated Md. Health Occ. Code Ann. §§ 3-313(2), (5), (8), (12), (17), (20) and (21). The Respondent's actions, including, but not limited to, conspiring to commit mail fraud in an insurance fraud scheme where he fabricated patient chiropractic treatment records; and pleading guilty to felony conspiracy to commit mail fraud in the United States District Court for the Eastern District of Virginia, constitute, in whole or in part: fraudulently and deceptively using a license, in violation of H.O. § 3-313(2); being convicted of or pleading guilty to a felony or to a crime involving moral turpitude, in violation of H.O. § 3-313(5); being unethical in the conduct of the practice of chiropractic, in violation of H.O. § 3-313(8); making or filing a false report or record in the practice of chiropractic, in violation of H.O. § 3-313(12); being convicted by a court of any country for an act that would be grounds for disciplinary action under this section, in violation of H.O. § 3-313(17); behaving immorally in the practice of chiropractic, in violation of H.O. § 3-313(20); and committing an act of unprofessional conduct in the practice of chiropractic, in violation of H.O. § 3-313(21).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of

July, 2012 that the majority of the Board hereby:

ORDERED that Jason Carle's license to practice chiropractic is hereby **SUSPENDED** for twenty-four months (24) with six (6) months stayed, then he must petition the Board to have his suspension lifted; and it is further

ORDERED that Jason Carle shall take and pass the National Board of Chiropractic Examiners (NBCE) Ethics and Boundaries Examination during his period of active suspension and shall make all arrangements to take and pay for said Examination; and it is further

ORDERED that Jason Carle shall be placed on probation for thirty six (36) months, then he must petition the Board to have to have his probation lifted; and it is further

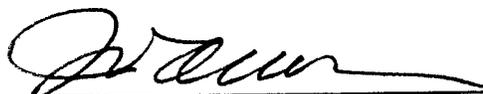
ORDERED that Jason Carle shall forthwith pay a fine of \$2,000.00,¹ and it is further

ORDERED that Jason Carle shall forthwith pay all costs associated with his hearing and) Order, in the amount of \$465.36 and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. §10-617(h), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

ORDERED that this Order is final and a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 *et seq.*

7/19/2012
Date



J. J. Vallone, JD, CFE, for
Stephanie J. Chaney, D.C., President
State Board of Chiropractic and
Massage Therapy Examiners
By direction of the Board

¹ Note: All payment shall be by check and/or money order, payable to MD Board of Chiropractic & Massage Therapy Examiners and sent to the attention of the Executive Director