
Summaries of Regents Actions On Professional Misconduct and Discipline

Frank J. Amato, Bellport, NY

Profession: Chiropractor; Lic. No. 005294; Cal. No. 18075

Regents Action Date: December 20, 2001

Action: Found guilty of professional misconduct; Penalty: 24 month suspension, probation 24 months, \$7,000 fine, complete certain course work.

Summary: Licensee was found guilty of exerting undue influence on a patient for his own financial gain by placing pressure on the patient to bring family members into the office for examination, evaluation and treatment by him. Respondent was also found guilty of holding a "Patient of the Month" contest in which the patient who recommended the most new patients to the Respondent would win a color television set.

Frank J. Amato, Bellport, NY

Profession: Chiropractor; Lic. No. 005294; Cal. No. 21280

Regents Action Date: February 8, 2005

Action: Application for consent order granted; Penalty agreed upon: 5 year suspension of license to be terminated upon payment of \$7,000 fine imposed under Order No. 18075; 2 year probation; \$1,000 fine plus \$7,000 fine if not paid during 5 year suspension.

Summary: Licensee admitted to failing to comply with terms of probation as set forth in Order Number 18075, effective January 14, 2002.



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

FRANK J. AMATO

REPORT OF FINDINGS,
DETERMINATION AND
RECOMMENDATION
CAL. NO. 18075

who is currently licensed to practice
as a chiropractor in the State of
New York.

REPORT OF THE HEARING PANEL

The instant disciplinary proceeding was commenced by service of the Notice of Hearing and Statement of Charges upon respondent, Frank J. Amato. Respondent is a chiropractor licensed to practice in the State of New York by the New York State Education Department.

On July 6, 2000 and November 2, 2000, a hearing was held before a hearing panel of the State Board For Chiropractic. Petitioner was represented by Kenneth J. Appel, Esq. Respondent appeared in this proceeding and was represented by his attorney, Steven G. Legum, Esq. The Administrative Officer in this matter was Steven Racow, Esq.

Three specifications of professional misconduct are set forth in the Statement of Charges. A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as

Exhibit "A". Respondent is alleged to have committed unprofessional conduct pursuant to 8 N.Y.C.R.R. §29.1(b)(2) (first specification); 8 N.Y.C.R.R. §29.1(b)(12)(i)(e) (second specification); and 8 N.Y.C.R.R. §29.1(b)(13) (third specification).

At the hearing, petitioner's motion to amend the second specification to show the correct citation of 8 N.Y.C.R.R. §29.1(b)(12)(i)(e) was granted. Also, at the hearing, respondent entered into a Stipulation admitting that, as charged in the second specification, respondent committed unprofessional conduct in violation of 8 N.Y.C.R.R. §29.1(b)(12)(i)(e).

We have carefully reviewed and considered the entire record and render the following findings of fact, determination as to guilt, and recommendation as to the penalty to be imposed.

FINDINGS OF FACT

1. Respondent was authorized by the New York State Education Department to practice as a chiropractor in the State of New York.
2. Respondent was duly served in this matter.
3. At all times relevant in this matter, respondent was in private practice and maintained an office as a chiropractor in New York State.

4. Patient S.M.¹ sought chiropractic treatment from respondent for herself.
5. After November 10, 1997, respondent informed Patient S.M. about the fees that he would charge her if she entered into treatment with him. Respondent stated that S.M. could sign a contract for approximately 72 visits over a one-year period.
6. In discussing the amount of his fee, respondent offered S.M. to take 15 percent off his fee. Respondent also offered her a 50 percent discount if her husband would enter into treatment with him. In addition, the total fee to S.M. would be reduced by 25 percent for each of her two children if they would also enter into treatment with respondent.
7. S.M.'s husband and S.M.'s two children were all not experiencing back or neck problems. S.M. informed respondent that she was not interested in a fee plan involving the treatment of her husband or children.
8. In November 1997, respondent began treating Patient S.M. for scoliosis. During the course of treating

¹ Initials rather than names may be used in this report when referring to persons other than the respondent, panel members, the Administrative Officer, and those representing the parties, except as may appear in any annexed exhibit.

S.M., respondent gave S.M. a Family Evaluation Card to take home to screen her husband and sons for back problems. S.M. completed and returned the card and told respondent that none of her family members had any chiropractic problems. Nevertheless, respondent told S.M. that he wanted her to make appointments for her husband and sons to be evaluated by respondent. On different occasions, respondent told S.M. to bring her husband and sons in for examination by him. S.M. declined to make appointments for her husband and sons to be seen by respondent.

9. On various occasions when S.M. went for her appointments with respondent, she did not hire a babysitter for her nine year-old son, P.M. On these occasions when P.M. accompanied S.M. to respondent's office for S.M.'s visit, S.M. did not bring P.M. to respondent's office for the purpose of his being examined or evaluated by respondent.
10. Although P.M. was not respondent's patient and was not seeking to become a chiropractic patient, respondent asked P.M. various questions. Respondent specifically asked P.M., in the presence of his mother, "Do you play baseball?" "Do you want to hit a ball further?" "Do you want to jump higher?" "Do you want to run faster?"

P.M. is very active in sports. When P.M. responded yes to respondent's questions, respondent then said: "You talk to your mom about coming to see me and you can do these things." Respondent admits that he told P.M. that his performance in these areas would increase if he received chiropractic treatment by him.

11. Respondent's secretary told S.M. that respondent "would like to know when" S.M. will be making an appointment for the children. Respondent's secretary also told S.M. that she had to ask S.M. when she will be making an appointment for P.M.
12. Respondent told S.M. that everyone needed chiropractic care. Even though S.M. had not told respondent that she would bring her family in to his office or that she would make an appointment for any of them to see him, respondent kept pressuring S.M. to bring her family in for treatment by him. Respondent constantly asked S.M. when could she bring her children in to see him and when would she make an appointment for them.
13. Respondent's efforts to get S.M. to bring her husband and children in to his office for treatment by him became more frequent over time. S.M. became very uncomfortable with these efforts to influence her and told respondent that she did not feel it was necessary

for her children or husband to be treated by a chiropractor.

14. As a result of respondent's constant efforts, S.M. agreed for P.M. to be examined by respondent on July 1, 1998. Based upon his examination of P.M., respondent recommended that P.M. be x-rayed. Respondent did not make any diagnosis for P.M. at the time respondent recommended an x-ray.
15. S.M. decided that x-rays were not to be taken for P.M. In view of S.M.'s decision, respondent did not take any x-rays of P.M. Due to the absence of x-rays, respondent did not know if P.M. should be considered a chiropractic case.
16. After examining P.M., respondent stated, in P.M.'s presence, that he saw certain particular problems in P.M.'s case, but did not indicate that P.M. had scoliosis. When P.M. went home from this examination and report by respondent, P.M. threw himself on a bed and cried because he felt he was deformed and that something was wrong with him.
17. After he was convinced that S.M. would not agree to have her family be treated by him, respondent sent S.M. a letter dated September 21, 1998. In this letter signed by respondent, respondent indicated that his

philosophy was to "educate and adjust as many families as possible toward optimal health using natural Chiropractic Care."

18. In his letter, respondent asked S.M. "how can we continue to have a truly healing Doctor-Patient relationship when you have no confidence in me or my healing philosophy". Respondent wrote, in view of his philosophy, that he "can't" continue adjusting S.M. "anymore".
19. Respondent exercised undue influence on S.M., for his financial gain, by advising S.M. that he could not continue to treat her if he was not also treating her children.
20. Respondent exercised undue influence on S.M., for his financial gain, by further advising S.M. that if P.M. did not receive chiropractic treatment, his health would be at risk.
21. During the course of treating S.M., respondent had a "Patient of the Month" contest in which the patient who recommended the most new patients to the respondent would win a color television set.
22. Respondent offered an inducement in a form other than a discount or reduction in an established fee or price for a professional service or product. Respondent's

conduct constituted advertising or soliciting for patronage that is not in the public interest in violation of 8 N.Y.C.R.R. §29.1(b)(12)(i)(e).

DETERMINATION

We unanimously determine that the first and second specifications of the charges have both been proven, by a preponderance of the evidence, and that respondent is guilty of both the first and second specifications of professional misconduct.

I

FIRST SPECIFICATION

In sustaining the first specification, the hearing panel finds Patient S.M. to be credible. Her testimony accurately described the key relevant events. Respondent is found to have exerted undue influence on this patient for his own financial gain. He exercised undue influence on S.M. by advising her that he could not continue to treat her without his also treating her family; and by further advising her that without chiropractic treatment her son's health would be at risk.

This hearing panel finds respondent's testimony to be incredible. Respondent was acting for his own financial benefit in placing pressure on S.M. to bring her son into the office for examination by him. He sought to gain financially by bringing

P.M. into the practice as a new patient and by maximizing the number of patients he could bring into this practice.

Respondent attempted to overcome S.M. and her family's choice regarding whether they would seek professional services from him. The record demonstrates that respondent became obsessed with financial considerations beyond those appropriate in treating patient S.M. Contrary to his claims, respondent was not focusing solely upon his patient's interests. Respondent persisted in pressing his concerns on S.M., even though, as he testified, he had not determined, in the absence of x-rays and a full examination of P.M., whether P.M. should be treated as a chiropractic patient in his office. It was unprofessional for respondent to constantly apply pressure on S.M. against her wishes in order to pursue his gaining new patients.

Moreover, respondent acted inappropriately in suggesting to P.M. that he could run faster, jump higher, and hit a ball further if he would talk to his mother about his receiving chiropractic treatment from respondent. The questions respondent deliberately directed to this nine year-old boy needlessly upset him and caused distress.

II

THIRD SPECIFICATION

The Administrative Officer, after consulting with and the obtaining the concurrence of the hearing panel, ruled that the

third specification of professional misconduct was dismissed as a matter of law.

The third specification of the charges was dismissed because petitioner failed to furnish respondent with a proper thirty-day notice in compliance with the rules of the Board of Regents. Matter of Fitz, Cal. No. 15344. This notice told respondent that he must appear for an interview on March 16, 1999 and produce, at that interview, a copy of S.M.'s x-rays. Petitioner concedes that respondent did not receive the notice until March 17, 1999. On March 17, 1999, respondent could not possibly comply with the directions to appear and produce x-rays at an interview that had been scheduled to be held one day prior to respondent's receipt of petitioner's letter.² Although the notice purported to afford respondent thirty days to respond, in actuality, petitioner gave respondent no notice at all.

The third specification alleged that respondent committed unprofessional conduct within the meaning and purview of 8

² The letter containing the notice was dated March 3, 1999. Only 13 days elapsed between the date of the letter and the interview scheduled by the Office of Professional Discipline. Thus, the notice was defective on its face, no matter when it would be received, as this letter plainly did not afford respondent the required 30 days notice. In any event, on the significant date when the letter was received by respondent on March 17, 2000, respondent was deprived of fair and clear notice of the interview.

N.Y.C.R.R. §29.1(b)(13). In agreement with the assertion of respondent's attorney, this rule of the Board of Regents compelling respondent to respond within thirty days of his receipt of the notice does not authorize petitioner to compel respondent to appear for an interview and produce copies of x-rays in less than thirty days from the notice. On the contrary, the rule authorizes the sending of a proper notice that accurately informs respondent, within thirty-days of his receipt of the notice, that he must provide a response and that he must make available relevant records. Petitioner has not complied with the requirements it seeks to enforce in this proceeding.

Aside from the question of whether a response was made within the 30 day time frame set forth in the relevant rule of the Board of Regents, such rule provides that upon the receipt of a proper notice, respondent must make his records available to the Office of Professional Discipline. Respondent, on several occasions, attempted to make arrangements with the Office of Professional Discipline for making his records available to them. On February 4, 1999, at an interview with an investigator from the Office of Professional Discipline, respondent provided copies of his treatment records for S.M. Respondent informed the investigator that the x-rays would need to be re-produced in order for copies to be made for the investigation.

At the investigator's request, respondent also provided the

Office of Professional Discipline with a copy of an evaluation card. Regarding the x-rays, respondent responded to the Office of Professional Discipline investigator and declared that "(I)n no way am I refusing" to turn them over. Respondent wrote that he assumed that he could charge a fee for copying the x-rays, but would happily forward them "at no charge" if his assumption were incorrect. In closing this letter, respondent stated that his "desire is to comply fully and lawfully with the investigation. I look forward to hearing from you."

At the hearing, petitioner's attorney was requested to specify the pertinent portion of the rule of the Board of Regents that supported his position that respondent was required to appear for the interview in less than thirty days. Petitioner's attorney was unable to show that the rule was violated when respondent did not appear in person or produce documents at the scheduled March 16, 1999 interview. Notably, petitioner's attorney asserted that it is "irrelevant" whether respondent was afforded 30 days notice by March 16, 1999, the scheduled date of the interview, "or at any time thereafter." This position is misplaced and contrary to the rule. It is essential, under the relevant rule, that respondent be afforded a sufficient and clear 30 day notice, in the absence of which there can be no violation of this rule.

RECOMMENDATION AS TO THE
PENALTY TO BE IMPOSED

We unanimously recommend to the Board of Regents that respondent's license to practice as chiropractor in the State of New York be suspended for 24 months, upon each of the specifications of professional misconduct of which respondent has been found guilty, said suspensions to run concurrently, execution of the last 22 months of said suspensions be stayed, and respondent be placed on probation for 24 months under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "B". We also unanimously recommend to the Board of Regents that respondent be fined a total of \$7,000, consisting of a \$5,000 fine upon the first specification of professional misconduct of which respondent has been found guilty plus a \$2,000 fine upon the second specification of professional misconduct of which respondent has been found guilty, said fines to be paid, by certified check, to the order of the New York State Education Department, and mailed to the Director, Office of Professional Discipline, 475 Park Avenue South, Third Floor, New York, New York 10016 within six months after the service of the order to be issued in this matter. We further unanimously recommend to the Board of Regents that, upon each of the specifications of professional misconduct of which respondent has been found guilty, (1) respondent be required to

FRANK J. AMATO (18075)

perform 100 hours of public service, to be previously approved in writing, to be imposed concurrently and to total 100 hours, in the setting of a medical center, hospital, AIDS clinic, or hospice, said public service to not include respondent's provision of chiropractic care or services and (2) respondent be required, at his own expense, to take and complete 36 hours of an approved college level course in ethics and jurisprudence, to be imposed concurrently and to be previously approved in writing, all as set forth in the terms of probation.

Respectfully submitted,

Margaret Verhagen, Chairperson
Edward Epstein
Florence M. Horn


CHAIRPERSON DATED 1/9/01

EXHIBIT "B"

TERMS OF PROBATION
OF THE HEARING PANEL

FRANK J. AMATO

CALENDAR NO. 18075

1. That respondent, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing respondent's profession;
2. That, during the first two months of the period of suspension and the first two months of probation, respondent shall not practice, offer to practice, or hold himself out as being able to practice as a chiropractor in the State of New York;
3. That respondent shall pay the \$7,000.00 fine imposed upon respondent, by certified or bank cashier's check, payable to the order of the New York State Education Department, to be delivered to the Director, Office of Professional Discipline, as aforesaid, within six months after the service of the order to be issued in this matter;
4. That respondent shall, at respondent's expense, submit and successfully complete a plan of continuing education, consisting of 36 hours of an approved college level course in ethics and jurisprudence, to update the knowledge and skills of respondent, said plan to have the prior written approval of the New York State Education Department; and shall submit written proof of such successful completion within 30 days after the completion of the plan to the New York State Education Department, addressed to the Director, Office of Professional Discipline, as aforesaid;
5. That respondent shall perform 100 hours of public service in the setting of a medical center, hospital, AIDS clinic, or hospice, said public service to not include respondent's provision of chiropractic care or services, and to be selected by respondent and previously approved, in writing, by the New York State Education Department and respondent shall submit satisfactory proof of performing such public service, within 30 days after the completion thereof, to the Director, Office of Professional Discipline, addressed as above;
6. That respondent shall submit written notification to the New York State Education Department, addressed to the Director, Office of Professional Discipline, New York State Education Department, 475 Park Avenue South-Third Floor, New York, NY 10016, of any employment and/or practice, respondent's residence, telephone number, or mailing address, and of any change in respondent's employment, practice, residence, telephone number, or mailing address within or without the State of New York;

7. That respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that respondent has paid all registration fees due and owing to the NYSED and respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by respondent to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, no later than the first three months of the period of probation;
8. That respondent shall submit written proof to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, that 1) respondent is currently registered with the NYSED, unless respondent submits written proof that respondent has advised DPLS, NYSED, that respondent is not engaging in the practice of respondent's profession in the State of New York and does not desire to register, and that 2) respondent has paid any fines which may have previously been imposed upon respondent by the Board of Regents, said proof of the above to be submitted no later than the first two months of the period of probation;
9. That respondent shall make quarterly visits to an employee of the Office of Professional Discipline, New York State Education Department, unless otherwise agreed to by said employee, for the purpose of said employee monitoring respondent's terms of probation to assure compliance therewith, and respondent shall cooperate with said employee, including the submission of information requested by said employee, regarding the aforesaid monitoring;
10. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the New York State Education Department may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Education Law and/or Rules of the Board of Regents.



The University of the State of New York

IN THE MATTER

of the

Disciplinary Proceeding

against

FRANK J. AMATO

No. 18075

who is licensed to practice as a chiropractor
in the State of New York.

REPORT OF THE REGENTS REVIEW COMMITTEE

On July 6, 2000 and November 2, 2000 a hearing was held in the instant matter before a hearing panel of the State Board for Chiropractic which subsequently rendered a report of its findings, determination, and recommendation, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "A".

The hearing panel determined that respondent was guilty, by a preponderance of the evidence, of unprofessional conduct (first and second specifications) and the third specification was dismissed.

The hearing panel recommended that respondent's license to practice as a chiropractor in the State of New York be suspended

for 24 months, upon each of the specifications of professional misconduct of which respondent has been found guilty, said suspensions to run concurrently, execution of the last 22 months of said suspensions be stayed, and respondent be placed on probation for 24 months under the terms set forth in Exhibit "B" of the hearing panel, that respondent be fined a total of \$7,000, consisting of a \$5,000 fine upon the first specification of professional misconduct of which respondent has been found guilty plus a \$2,000 fine upon the second specification of professional misconduct of which respondent has been found guilty, said fines to be paid, by certified check, to the order of the New York State Education Department, and mailed to the Director, Office of Professional Discipline, 475 Park Avenue South, Third Floor, New York, New York 10016 within six months after the service of the order to be issued in this matter, that, upon each of the specifications of professional misconduct of which respondent has been found guilty, (1) respondent be required to perform 100 hours of public service, to be previously approved in writing, to be imposed concurrently and to total 100 hours, in the setting of a medical center, hospital, AIDS clinic, or hospice, said public service to not include respondent's provision of chiropractic care or services and (2) respondent be required, at his own expense, to take and complete 36 hours of an approved college level course in

ethics and jurisprudence, to be imposed concurrently and to be previously approved in writing, all as set forth in the terms of probation.

On April 26, 2001 respondent, who did not appear in person, was represented by his attorney, Steven G. Legum, Esq. Petitioner was represented by Kenneth J. Appel, Esq.

Petitioner's written recommendation as to the penalty to be imposed, should respondent be found guilty, was a two month actual suspension, a twenty-two month stayed suspension, a two year probation, a \$7,000 fine, 100 hours of public service, and 36 hours of continuing education.

Respondent's written recommendation as to the penalty to be imposed, should respondent be found guilty, was an administrative warning based upon the admission of responsibility on the second specification.

We have reviewed the record herein, respondent's memorandum, and petitioner's reply memorandum.

It is our unanimous opinion that respondent was afforded a fair hearing, that the findings of fact and determination of the hearing panel should be accepted, and that the recommendation of the hearing panel is not shockingly disproportionate to the guilt found and should be accepted except that it be modified solely to

the extent that the public service requirement be in the area of the practice of the profession of chiropractic.

We unanimously recommend that the determination of the Board of Regents be as follows:

1. That the findings of fact and determination of the hearing panel be accepted;
2. That respondent is guilty, by a preponderance of the evidence, of unprofessional conduct (first and second specifications) and that the third specification be dismissed;
3. That the recommendation of the hearing panel be accepted except that it be modified solely to the extent that the public service requirement should be in the area of the practice of the profession of chiropractic; and
4. That respondent's license to practice as a chiropractor in the State of New York be suspended for 24 months, upon each specification of which respondent has been found guilty, said suspensions to run concurrently, that execution of the last 22 months of said concurrent suspensions be stayed, that respondent be placed on probation for 24 months under the hearing panel's terms except for term numbered 5, that respondent be fined a total of \$7,000, consisting of a \$5,000 fine

upon the first specification of which respondent has been found guilty plus a \$2,000 fine upon the second specification of which respondent has been found guilty, said fines to be paid as set forth in the hearing panel report and terms of probation, that, upon each specification of which respondent has been found guilty, (1) respondent be required to perform 100 hours of public service, to be previously approved in writing, by the New York State Education Department, to be imposed concurrently and to total 100 hours, said public service to be in the area of the practice of the profession of chiropractic and (2) respondent be required, at his own expense, to take and complete 36 hours of an approved college level course in ethics and jurisprudence, to be imposed concurrently and to be previously approved, in writing, by the New York State Education Department, all as set forth in the terms of probation except that term numbered 5 be deemed replaced and, in lieu thereof, deemed to read as follows:

5. That respondent shall perform 100 hours of public service which shall be in the area of the practice of the profession of chiropractic, said public service to be

FRANK J. AMATO (18075)

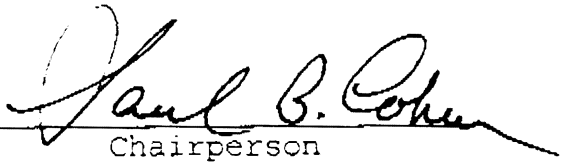
selected by respondent and previously approved, in writing, by the New York State Education Department and respondent shall submit satisfactory proof of performing such public service, within 30 days after the completion thereof, to the Director, Office of Professional Discipline, addressed as above.

Respectfully submitted,

SAUL B. COHEN

MELINDA AIKINS BASS

ROBERT E. DONNELLY


Chairperson

Dated: November 8, 2001

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL DISCIPLINE
STATE BOARD FOR CHIROPRACTIC

-----X

IN THE MATTER

of the

Disciplinary Proceeding

against

FRANK J. AMATO

STATEMENT
OF
CHARGES

CAL. NO. 18075

who is currently licensed to practice
as a(n) chiropractor in the State of
New York.

-----X

THE NEW YORK STATE EDUCATION DEPARTMENT BY ITS DIVISION OF
PROSECUTION OF THE OFFICE OF PROFESSIONAL DISCIPLINE ALLEGES AS
FOLLOWS:

FRANK J. AMATO, hereinafter referred to as the Respondent, was
issued license No. 005294 on or about April 8, 1988 by the New York
State Education Department authorizing the Respondent to practice
as a chiropractor in the State of New York.

Respondent is currently registered with the New York State
Education Department to practice as a chiropractor in the State of
New York from an address at: 16-2 Station Road, Bellport, New York
11713.

FIRST SPECIFICATION OF PROFESSIONAL MICONDUCT

Respondent is charged with committing unprofessional conduct
within the meaning and purview of Section 6509(9) of the Education
Law of the State of New York, in specific violation of 8 NYCRR
29.1(b)(2), in that:

Exhibit A.

In or about November 1997, Respondent began treating patient S.M.* for scoliosis. During the course of treating patient S.M., Respondent gave S.M. a card to take home to screen her husband and sons for back problems. Thereafter, S.M. brought the card back to the Respondent. After reviewing the card, the Respondent then asked S.M. to make appointments for her husband and sons to be examined by the Respondent. S.M. declined to make appointments for her husband and sons to be seen by the Respondent. After being pressured by the Respondent, S.M. brought her son P.M.* to the Respondent for an examination. Although Respondent found no evidence of scoliosis in P.M., Respondent indicated he saw other problems. Respondent told P.M., in the presence of his mother, S.M., that P.M. could run faster, jump higher and hit a ball further if P.M. was treated chiropractically by the Respondent. Thereafter, Respondent exercised undue influence on S.M. for his financial gain by advising S.M. that, he could not continue to treat S.M. unless he treated S.M.'s family and by further advising S.M. that without chiropractic treatment her son, P.M.'s, health would be at risk.

* Names to be furnished upon written request.

SECOND SPECIFICATION OF PROFESSIONAL MICONDUCT

Respondent is charged with committing unprofessional conduct within the meaning and purview of Section 6509(9) of the Education Law of the State of New York, in specific violation of 8 NYCRR 29.1(b)(12)(i) ²(~~g~~), in that:

During the course of treating S.M., Respondent had a "Patient of the Month" contest in which the patient who recommended the most new patients to the Respondent would win a color television set.

THIRD SPECIFICATION OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing unprofessional conduct within the meaning and purview of Section 6509(9) of the Education Law of the State of New York, in specific violation of 8 NYCRR 29.1(b)(13), in that:

Pursuant to a written communication by the New York State Education Department, Office of Professional Discipline dated March 3, 1999, Respondent was directed to be present for an interview to take place on March 16, 1999 at the Office of Professional Discipline located in Melville, New York. Further, Respondent was directed to bring with him to the interview, inter alia, copies of x-rays of S.M. Respondent failed to bring the x-rays to the interview and thereafter refused to provide the x-rays to the Department unless Respondent was paid \$25.00 in advance of the cost of duplication of the x-rays in advance.

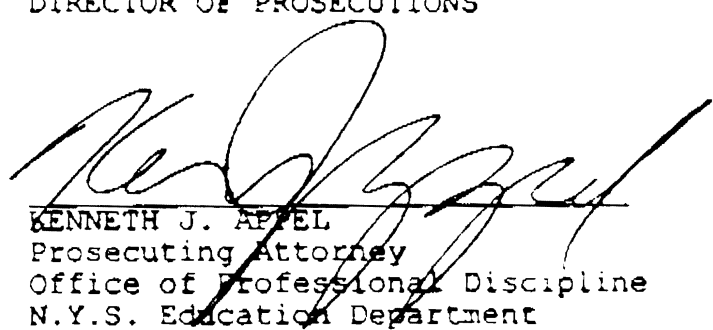
WHEREFORE, it is requested that a disciplinary penalty be exacted upon the Respondent and upon the license and registration previously granted to the Respondent to practice as a chiropractor in New York State.

Dated: 10th day of December, 1999

LOUIS J. CATONE
PROFESSIONAL CONDUCT OFFICER

NINA GOTTLIEB
DIRECTOR OF PROSECUTIONS

By:


KENNETH J. APPEL
Prosecuting Attorney
Office of Professional Discipline
N.Y.S. Education Department
One Park Avenue -- 6th Floor
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KJA:mec