

1/11/11
E-mailed
to [unclear]

Alan D. Quinn
CLERK OF THE COURT

CHIROPRACTIC PHYSICIANS'
BOARD OF NEVADA

JAN 11 2011

RECEIVED
RENO, NEVADA 89502

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PET
LIBORIUS AGWARA, ESQ.
Nevada Bar No. 7576
Agwara & Associates
1058 E. Sahara Ave., Suite B
Las Vegas, NV 89104
(702) 385-4800-Tel
(702) 385-4900-Fax
agwaralaw@yahoo.com
Attorney for Petitioners

DSTRIC COURT

CLARK COUNTY, NEVADA

**OBTEEN NASSIRI, D.C., EDWARD
JOHSON, D.C.,**

Petitioners,

vs.

**CHIROPRACTIC PHYSICIAN'S BOARD
OF NEVADA,**

Respondent.

A- 11- 632608- J
CASE NO.

DEPT.: XX

AGWARA & ASSOCIATES
1058 E. Sahara Avenue, Suite B
Las Vegas, NV 89104

(702) 385-4800 Office • (702) 385-4900 Fax

PETITION FOR JUDICIAL REVIEW

COME NOW the Petitioners, OBTEEN NASSIRI, D.C. ("NASSIRI") and EDWARD JOHNSON, D.C. ("JOHNSON"), by and through their attorney of record, LIBORIUS AGWARA, ESQ., of the law offices of AGWARA & ASSOCIATES, and hereby petition this Court for Judicial Review of the Decision and Order of Respondent CHIROPRACTIC PHYSICIAN'S BOARD OF NEVADA dated December 8, 2011, a copy of which is attached hereto as Exhibit "1."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Petition for Judicial Review is filed pursuant to NRS634.200, which provides for judicial review of contested administrative disciplinary cases in accordance with the provisions of NRS 233B.130 to NRS 233B.150.

Petitioners allege that the decision of the CHIROPRACTIC PHYSICIAN'S BOARD OF NEVADA has impaired the substantial rights of the petitioner which have been prejudiced because the final decision of the agency is:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Arbitrary or capricious or characterized by abuse of discretion.

The factual bases for this Petition are as follows:

- (a) The proceedings against Edward Johnson, D.C. were not based upon any of the bases set forth in NRS 634.140 or NRS634.160. No complaint of misconduct was ever filed against Dr. Johnson.
- (b) The proceedings against Dr. Nassiri were prompted by a question posed to the Board by an insurance company which then had the insurance company re-frame the question into a complaint. The Board's inquiry went far beyond the scope of the question.
- (c) There was no substantial evidence elicited which support the Board's findings against either Obteen Nassiri, D.C. or Edward Johnson, D.C.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (d) The Board’s inquiry exceeded the scope of authority and jurisdiction granted by the Nevada Administrative Procedures Act (“NAPA”), NRS Chapter 233B or NRS Chapter 634.
- (e) The Board inquired into Obteen Nassiri, D.C.’s activities not involving or implicating the practice of chiropractic medicine or provision of chiropractic services.
- (f) The Board’s Orders went beyond its authority after revoking Dr. Nassiri’s license by barring Dr. Nassiri from owning a chiropractic clinic, which, under Nevada law, may be owned by anyone provided it is staffed by a licensed chiropractor. This Board action ignored the advice of its own prosecuting member that such action was beyond its authority, and evidences the personal animus towards Dr. Nassiri by the Board.

WHEREFORE, Petitioners respectfully pray for the following relief:

- 1. For the Court to accept jurisdiction over this matter;
- 2. For the Court to review the record and to hold a hearing to determine whether

the Board’s actions were:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; and/or
- (f) Arbitrary or capricious or characterized by abuse of discretion.

AGWARA & ASSOCIATES
1058 E. Sahara Avenue, Suite B
Las Vegas, NV 89104

(702) 385-4800 Office • (702) 385-4900 Fax
10
11
12
13
14
15
16
17
18

1 and determine if the findings of fact, conclusions of law and Orders of the CHIROPRACTIC
2 PHYSICIAN'S BOARD OF NEVADA, dated December 8, 2010, should be overruled .

3 3. For such other and further relief as the Court deems just and proper.

4 Dated this 5th day of January, 2011.

5 AGWARA & ASSOCIATES

6
7 /s/ Liborius Agwara, Esq.

8 LIBORIUS AGWARA, ESQ.

9 Nevada Bar No. 7576

10 1058 E. Sahara Ave., Suite B

11 Las Vegas, NV 89104

12 (702) 385-4800-Tel

13 (702) 385-4900-Fax

14 agwaralaw@yahoo.com

15 Attorney for Petitioners OBTEEN NASSIRI, D.C.

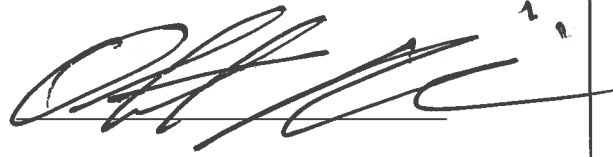
16 and EDWARD F. JOHNSON, D.C.

VERIFICATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

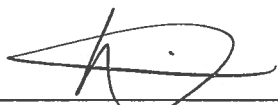
I, OBTEEN NASSIRI, D.C., am a Petitioner in the above-entitled action; that I have read the foregoing document and am competent to testify that the contents are true of my own knowledge except for those matters stated herein on information and belief; and, as to those matters, I believe them to be true.

Dated this 5 day of January 2011.

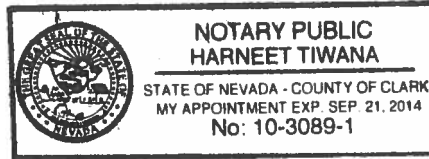


OBTEEN NASSIRI, D.C.

SUBSCRIBE and SWORN to before me this 5 day of January 2011.



NOTARY PUBLIC in and for said COUNTY and STATE



AGWARA & ASSOCIATES
1058 E. Sahara Avenue, Suite B
Las Vegas, NV 89104

(702) 385-4800 Office • (702) 385-4900 Fax

AGWARA & ASSOCIATES
1058 E. Sahara Avenue, Suite B
Las Vegas, NV 89104

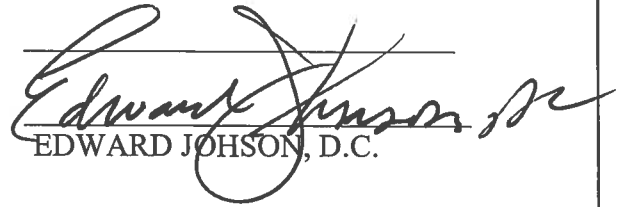
(702) 385-4800 Office • (702) 385-4900 Fax

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, EDWARD JOHSON, D.C., am a Petitioner in the above-entitled action; that I have read the foregoing document and am competent to testify that the contents are true of my own knowledge except for those matters stated herein on information and belief; and, as to those matters, I believe them to be true.

Dated this 5 day of January 2011.


EDWARD JOHSON, D.C.

SUBSCRIBE and SWORN to before me this 5th day of January 2011.



NOTARY PUBLIC in and for said
COUNTY and STATE

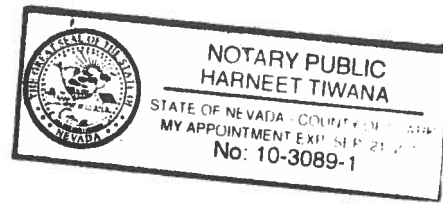


EXHIBIT "1"

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA

IN THE MATTER OF:

**OBTEEN NASSIRI, D.C.
License No. B847,**

and

**EDWARD P. JOHNSON, D.C.
License No. B156,**

Respondents.

Case Nos. 07-10S, 08-19S & 09-06S

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

These matters were combined for purposes of hearing and were heard by the Chiropractic Physicians' Board of Nevada (the Board) on September 9, 10, 11, and 12 and October 23, 2010 in Las Vegas, Nevada. The Board's staff was represented by Elizabeth J. Foley, Prosecuting Counsel, and Drs. Nassiri and Johnson were represented by Liborius I. Agwara.

At the hearing of this matter, Ms. Foley presented the testimony of four witnesses: Gina Crown, Elizabeth Rowan, Dr. Nassiri, and Dr. Johnson. Ms. Foley also offered numerous exhibits that were admitted as evidence. Mr. Agwara did not present any witnesses or evidence. Based upon the extensive record that was developed, including the testimony and evidence presented at the hearing, the Board finds that the substantial evidence supports the finding of the following facts.

FINDINGS OF FACT

1. In 1979, Dr. Johnson became licensed as a chiropractic physician by the Board.

2. In 2000, Dr. Nassiri became licensed as a chiropractic physician by the Board and began practicing in Las Vegas. Commencing in July 2001, Dr. Nassiri operated his chiropractic practice under the name of Advanced Accident Chiropractic located at 2100 South Maryland Parkway in Las Vegas, Nevada, which business he co-owned with his wife, Jennifer. Dr. Johnson was a chiropractic physician employed by Dr. Nassiri and Advanced Accident Chiropractic.

3. In 1996, Dr. Nassiri married Jennifer Joy Anderson. Mrs. Nassiri is the granddaughter of Dr. Albert Noorda. Dr. Noorda practiced medicine under the name of Maryland Medical Center from 2005

1 through 2008, and Maryland Medical Center was located on the same premises as Advanced Accident
2 Chiropractic. Dr. Nassiri estimated that during the time that Dr. Noorda practiced at Maryland Medical
3 Center (2005-2008), Dr. Nassiri referred more than 50% of his patients to Dr. Noorda and Maryland
4 Medical Center.

5 4. Mrs. Nassiri is the owner of a corporation called J&O Holdings, and "J&O" stands for
6 Jennifer and Obteen Nassiri. J&O Holdings was a co-owner of Maryland Medical Center along with a
7 trust owned by the Noordas. Dr. and Mrs. Nassiri also owned a limited liability company called ONN
8 Management, LLC, of which Dr. Nassiri was the manager. Both J&O Holdings and ONN Management
9 were located at the same address as Advanced Accident Chiropractic. On Dr. Nassiri's bankruptcy
10 filings, he listed Advanced Accident Chiropractic, ONN Management, and J&O Holdings as
11 community property. Monies deposited into bank accounts for J&O Holdings and ONN Management
12 were received by Dr. and Mrs. Nassiri.

13 5. Dr. and Mrs. Nassiri operated ONN Management under the fictitious business names, Digital
14 Imaging Services and Digital X-Ray. Digital Imaging Services purchased liens for providers of services
15 to obtain digital images such as MRIs, and Digital X-Ray purchased liens for providers of services to
16 obtain non-digital images such as x-rays.

17 6. At Advanced Accident Chiropractic, Dr. Nassiri and Dr. Johnson specialized in treating
18 patients who had been injured in motor vehicle accidents. In furtherance of the treatment of these
19 patients, Dr. Nassiri and Dr. Johnson referred them to various imaging centers in Las Vegas for x-rays
20 or MRIs. The imaging centers performed the prescribed imaging services on a lien basis. Through
21 Digital Imaging Services and Digital X-Ray, Dr. Nassiri would purchase the liens at a substantial
22 discount. For example, evidence showed that Dr. Nassiri would pay \$300 for a lien for an MRI and
23 subsequently, would bill the insurance company \$1,550 for that MRI. Thus, Dr. Nassiri would realize a
24 profit of as much as \$1,250 per image that he had ordered as the patient's treating chiropractic
25 physician. Further, on the bill that he presented to the insurance company for payment, Dr. Nassiri
26 showed himself as the provider of services on Digital Imaging Services and Digital X-Ray letterhead.

27 ***

28

1 Payments made to Digital Imaging Services and Digital X-Ray were actually deposited into ONN
2 Management accounts.

3 7. At the hearing, Dr. Nassiri testified that the purpose of Digital Imaging Services and Digital
4 X-Ray was to assist patients in obtaining imaging studies for which their insurance might not pay and
5 the patients might not be able to afford personally. Dr. Nassiri did admit that he realized a financial
6 gain by this process. Dr. Nassiri also admitted that he improperly listed himself as the provider of the
7 imaging services on the billings from Digital Imaging Services and Digital X-Ray.

8 8. ONN Management was included in Dr. Nassiri's bankruptcy filings in April 2008. Only
9 weeks later, on July 2, 2008, Dr. Nassiri's father-in-law, James Anderson, started C2C, LLC. C2C does
10 business as Healthcare Management Services. C2C was in the same business of buying liens from
11 imaging services for patients referred by Advanced Accident Chiropractic and Good Hands
12 Chiropractic just as Digital Imaging Services and Digital X-Ray had done. However, Dr. Nassiri's
13 father-in-law, Mr. Anderson, is a stucco and painting contractor by trade. Evidence was presented that
14 C2C operated out of the same address as Advanced Accident Chiropractic and later, Good Hands
15 Chiropractic, 2100 Maryland Parkway. The website and telephone book listing for Healthcare
16 Management Services showed the same telephone number as Good Hands Chiropractic. Moreover,
17 C2C computer records were maintained on the computers at Good Hands Chiropractic. Dr. Nassiri
18 testified that the C2C records were maintained on the Good Hands Chiropractic computers because Mr.
19 Anderson initially set up the billing software on the Good Hands Chiropractic computer in order to
20 learn the billing system. However, Dr. Nassiri's testimony is not persuasive and merely demonstrates
21 the intimate connection between, rather than the separateness of, the two businesses.

22 9. At the hearing, an example of the practices of Dr. Nassiri, Dr. Johnson and their related
23 businesses was illustrated through a close examination of the records of a patient known as Angelica R.
24 Patient R was a 47-year-old woman who was seeking treatment for injuries incurred in an automobile
25 accident. Patient R was diagnosed with multiple issues related to her spine and back that were resulting
26 in pain and sleeping difficulties. Patient R began treatments at Advanced Accident Chiropractic in late
27 November 2007. In early December 2007, Dr. Nassiri referred Patient R for cervical and lumbar spinal
28

1 x-rays. A week later, Dr. Johnson recommended that Patient R have MRIs performed on her cervical,
2 lumbar and thoracic regions of her back. On January 21, 2008, Dr. Nassiri referred Patient R for MRIs
3 on her left and right shoulders and referred her for a consultation with an orthopedic surgeon. On
4 February 4, 2008, an evaluation report by a physician was provided to Dr. Nassiri. The report
5 indicated that Patient R had rotator cuff tendinitis in both shoulders, partial intersubstance tears in both
6 shoulders, and a five millimeter bony fragment adjacent to the humeral head in her right shoulder
7 consistent with an avulsive fracture. Thus, by early February 2008, Dr. Nassiri and Dr. Johnson could
8 have known that Patient R had serious medical issues with both of her shoulders, their treatment records
9 show no indication that they had read or analyzed the MRI report from the radiologist. Moreover,
10 neither chiropractic physician revised the original treatment plan by which they continued to treat
11 Patient R solely for back issues.

12 10. On February 15, 2008, an orthopedic surgeon provided to Advanced Accident Chiropractic
13 a report indicating that he had reviewed the shoulder MRIs, that he recommended a course of
14 strengthening and exercise, and that if those did not work in two months, he recommended bilateral
15 shoulder surgery. Though Patient R had received x-rays, five MRIs and consultations with an
16 orthopedic surgeon and a psychologist, none of these were mentioned in Patient R's medical records by
17 either Dr. Nassiri or Dr. Johnson. The only mention of some of these referrals was in the final report
18 from Advanced Accident Chiropractic made on March 21, 2008 by another chiropractic physician
19 employed by Advanced Accident Chiropractic.

20 11. When the final bills were generated by Advanced Accident Chiropractic for Patient R,
21 several irregularities were noted, including several billing entries that were made for services that were
22 not documented in the medical records as well as a billing entry for a referral to Maryland Medical
23 Center for which there is no evidence in the medical record. Because Dr. Nassiri, through Digital X-
24 Ray Services and Digital Imaging Services, had purchased the liens for Patient R's x-rays and MRIs,
25 for which he had referred her, and because Patient R had been charged for a referral to Maryland
26 Medical Center, the total financial gain realized by Dr. Nassiri for the treatment of Patient R was
27 \$14,225.
28

1 12. Evidence also showed that Dr. Nassiri and Dr. Johnson made and maintained two separate
2 and distinct sets of patient records; one set of records was created and provided to an insurer for
3 payment pursuant to the patient's medical payment coverage and a second set of records was created
4 and provided to a patient's attorney as support for a personal injury claim. The two sets of records
5 often contained very different entries and descriptions of the patient's condition, treatment and
6 prognosis for the same date of treatment. One of the patients for whom Dr. Nassiri and Dr. Johnson
7 made and maintained two separate and distinct sets of patient records was a three-year-old boy upon
8 whom the chiropractic physicians had performed intersegmental traction. In response to extensive
9 questioning from Boardmembers, Dr. Johnson testified that he would not perform intersegmental
10 traction upon a three-year-old child; yet the patient's bills contained numerous entries of the billing
11 code for intersegmental traction.

12 13. On March 25, 2009, the Board's investigators served subpoenas upon Dr. Nassiri and Dr.
13 Johnson seeking access to the premises and various records including, among other things, Digital
14 Imaging Services records. Dr. Nassiri and Dr. Johnson did not comply with the subpoenas. In April
15 2009, shortly after service of the subpoenas the previous month, Dr. Nassiri filed bankruptcy;
16 consequently, the subpoenas, and Dr. Nassiri's compliance with them, became subject to the
17 bankruptcy court.

18 14. In September 2009, the Board disciplined Dr. Johnson as a result of his non-compliance
19 with the Board's March 2009 subpoena. As part of his discipline, Dr. Johnson was ordered to allow the
20 Board and its investigators unfettered access to the premises and records of Advanced Accident
21 Chiropractic and Good Hands Chiropractic. In September 2009, Dr. Johnson did allow the Board's
22 investigators access to the premises and some records, but ultimately, he did not provide all of the
23 records requested by the Board's investigators. At that time, the Board's investigators again attempted
24 to obtain records from Dr. Nassiri regarding Digital Imaging Services, and again, Dr. Nassiri denied the
25 Board's investigators access to the records. When the Board's investigators made a final attempt in
26 August 2010 to obtain records pursuant to a subpoena, Dr. Johnson denied the Board's investigators
27 access to the premises and to the requested records. Dr. Johnson testified that he consulted Dr. Nassiri
28

1 about whether to allow access to the premises and records before denying the Board's investigators
2 access thereto.

3 15. The evidence showed that in his bankruptcy filings, Dr. Nassiri had claimed that various of
4 his corporations had no value when, in fact, the corporations were still collecting on accounts receivable
5 maintained by them and that the corporations retained significant amounts of money in their various
6 bank accounts. The total amount of assets that Dr. Nassiri did not report in his bankruptcy filings was
7 \$74,092.36.

8 16. The evidence of the purported sale by Dr. Nassiri of Advanced Accident Chiropractic to Dr.
9 Johnson raised more questions than it answered. On August 11, 2008, Dr. Nassiri notified the Board's
10 office that he had transferred the business of Advanced Accident Chiropractic to Good Hands
11 Chiropractic (an entity owned by Dr. Johnson). Notwithstanding the transfer, other employment
12 records dated September 22, 2008 showed that Dr. Nassiri and Advanced Accident Chiropractic still
13 employed Dr. Johnson. Dr. Nassiri's filing with the bankruptcy court indicated that Advanced Accident
14 Chiropractic ceased doing business on October 1, 2008. The sales agreement between Dr. Nassiri and
15 Dr. Johnson was not signed until December 16, 2008. Though the sales agreement indicated that
16 custody and ownership of all of the records were transferred from Dr. Nassiri and Advanced Accident
17 Chiropractic to Dr. Johnson, when the Board later attempted to obtain documents from Good Hands
18 Chiropractic in 2009, the Board's investigator was prohibited from obtaining the records because they
19 were subject to the bankruptcy stay in Dr. Nassiri's bankruptcy.

20 17. The sales agreement and consequent promissory note showed a sales price of \$2,000,000,
21 payable by Dr. Johnson in 60 payments of \$46,144.81. According to the testimony of both Dr. Nassiri
22 and Dr. Johnson, Dr. Johnson had not made a single payment on the promissory note, nor had Dr.
23 Nassiri taken any action against Dr. Johnson to remedy Dr. Johnson's default of the note. The sales
24 agreement provided that Dr. Johnson would employ Dr. Nassiri as a consultant chiropractor on a part-
25 time basis at a salary of \$10,000 per month. Dr. Johnson testified that Dr. Nassiri provided marketing
26 services for Good Hands Chiropractic, though later Dr. Johnson admitted that Dr. Nassiri still approved
27 the reduction of liens for Good Hands Chiropractic. At one point in his testimony, Dr. Johnson
28

1 admitted that, "I don't know anything about the business [Advanced Accident Chiropractic] that I'm
2 buying, I'll put it that way." At another point in his testimony, Dr. Johnson was asked by a
3 Boardmember eight times who owned Good Hands Chiropractic, and he refused to answer the question
4 in any sensible way. The actual payroll records from Good Hands Chiropractic showed that Dr. Nassiri
5 was being paid \$7,028.44 per month while Dr. Johnson, the putative owner of Good Hands
6 Chiropractic, was being paid as an hourly employee at the rate of \$29.25 per hour. Furthermore, as late
7 as January 4, 2010, Dr. Nassiri was filing forms with the Board indicating that he was still operating
8 Advanced Accident Chiropractic, and as late as May 7, 2010, Advanced Accident Chiropractic still
9 maintained an active bank account.

10 18. Dr. Nassiri's and Dr. Johnson's practices at Advanced Accident Chiropractic offered gifts
11 of more than nominal value – such as television sets and gift baskets containing gift certificates worth
12 several hundred dollars – to patients and other people who referred patients to Advanced Accident
13 Chiropractic. On one of their visits to the office, the Board's investigators set aside some files so that
14 they could copy the files the next day. These files contained cards that evidenced payments for
15 referrals. However, upon their return the next day, the investigators discovered that the files they
16 intended to copy had been returned to the general files of the practice and that the cards that were
17 evidence of payment for referrals had been removed from the files. When the Board's investigators
18 attempted to obtain additional information regarding the practice's payment for referrals by way of a
19 subpoena, Dr. Nassiri refused to provide the subpoenaed documents.

20 19. As further evidence that the practice aggressively pursued referrals, Ms. Rowan testified
21 that on one of her visits to Advanced Accident Chiropractic, she overheard Dr. Nassiri speaking with an
22 unidentified person in the office. The substance of the conversation was that the person had been
23 handcuffed by a police officer at the scene of a motor vehicle accident because he had attempted to
24 provide business cards from Advanced Accident Chiropractic to a party involved in the accident; the
25 person was later released without charge.

26 20. Dr. Nassiri and Dr. Johnson both employed chiropractic assistants who were not registered
27 with the Board as chiropractic assistants.
28

1 21. The credibility of the various witnesses was based upon their demeanor and testimony, and
2 was key in determining findings of fact. For example, at one point in his testimony, Dr. Nassiri
3 asserted that Ms. Rowan was lying about the conversation she overheard on one of her visits to his
4 office. The Board found Ms. Crown and Ms. Rowan to be credible, in large part because their work
5 product was thorough, deeply researched, and supported by considerable documentary evidence, much
6 of which consisted of Dr. Nassiri's and Dr. Johnson's own records. On the other hand, Dr. Nassiri and
7 Dr. Johnson were evasive, antagonistic, and simply not believable. For example, the cluster of
8 corporate entities, trusts, fictitious names, and the complex interrelationships of the various entities
9 seemed designed to be opaque and confusing. The making and keeping of two sets of records for the
10 same patient – one for medical payment coverage and one for personal injury claims – rendered the
11 medical records a device to obtain monies rather than reliable documentation of the care that was
12 actually rendered to the patient. Dr. Nassiri and Dr. Johnson never provided a clear, believable
13 explanation regarding the purported sale of the practice, and their responses to questioning by
14 Boardmembers regarding unlawful "capping" were evasive. Various Boardmembers openly expressed
15 disbelief and exasperation with the vague and inconsistent responses they were receiving from Dr.
16 Nassiri and Dr. Johnson.

17 22. The Board found that Dr. Nassiri's practices that related to the purchasing of patient liens
18 from imaging centers to which he and Dr. Johnson had referred patients was designed and intended to
19 evade the referral prohibitions contained in NRS 439B.425. Further, the multiplicity of corporate
20 entities and associated fictitious firm names – especially veiling some of the businesses in the names of
21 his wife (sometimes in her maiden name) or trusts owned by her – were intentionally deceptive. Dr.
22 Nassiri offered no explanation whatsoever for the opaque complexity of the various businesses.

23 23. Whether some of the diagnostic images were reasonable and necessary for the patient's care
24 or whether they were ordered for purposes of Dr. Nassiri's personal financial gain remains in doubt as a
25 result of Dr. Nassiri's elaborate scheme to assure that he made money treating the patients and through
26 referring them for imaging studies.

27 ***

1 24. The substantial evidence presented to the Board revealed that Dr. Nassiri violated NRS
2 439B.425 by his and Dr. Johnson’s referrals to Maryland Medical Center (which was co-owned by his
3 wife and his mother-in-law) and through his referrals to imaging centers from which he would
4 subsequently purchase their liens through Digital Imaging Services and Digital X-ray Services. The
5 evidence showed that Dr. Nassiri referred patients for diagnostic imaging that was arguably
6 unnecessary, that he purchased the liens for his patients’ imaging services at a discounted rate, and that
7 through Digital Imaging Services and Digital X-ray Services (which he co-owned with his wife) and
8 C2C (which was owned by his father-in-law), he billed insurance companies for the diagnostic testing
9 at a significantly inflated cost.

10 25. Substantial evidence also showed that Dr. Nassiri intended to continue these practices
11 through Good Hands Chiropractic by remaining involved in Good Hands Chiropractic behind the
12 scenes. Within weeks after filing bankruptcy on behalf of himself and his businesses, including Digital
13 Imaging Services and Digital X-ray Services, Dr. Nassiri shifted the highly profitable lien-buying
14 business to a separate entity that was one step removed from him, namely C2C, which was established
15 and was putatively owned and operated by his father-in-law who is a contractor by trade. The Board
16 was presented with no plausible explanation why Dr. Nassiri’s father-in-law’s sudden interest in a lien-
17 buying business happened to neatly coincide with Dr. Nassiri’s shutting down of his lien-buying
18 businesses, but the Board was presented with evidence that the buying of patient liens continued
19 unabated even after the names of the various entities (now Good Hands Chiropractic and C2C)
20 changed.

21
22 **CONCLUSIONS OF LAW**

- 23 1. The Board had jurisdiction over this matter because Dr. Nassiri and Dr. Johnson are
24 chiropractic physicians licensed by the Board.
- 25 2. NRS 634.019 provides that, “The practice of chiropractic is hereby declared to be a learned
26 profession, affecting public safety and welfare and charged with the public interest, and therefore
27 subject to protection and regulation by the State.” The Board’s authority to discipline its licensees is
28

1 provided in NRS 634.140 through NRS 634.216. NRS 634.140(1) authorizes the Board to discipline a
2 licensee for “unprofessional conduct,” and NRS 634.018 defines “unprofessional conduct” to include
3 seventeen enumerated acts.

4 3. Because NRS 634.140(5) makes “[r]eferring, in violation of NRS 439B.425, a patient to a
5 health facility, medical laboratory or commercial establishment in which the licensee has a financial
6 interest” a cause for discipline, a violation of NRS 439B.425 as charged in Dr. Nassiri’s Complaint
7 would constitute a cause for discipline pursuant to NRS 634.140(5). NAC 439B.530 defines “financial
8 interest” for the purposes of NRS 439B.425 as follows:
9

10 1. Except as otherwise provided in paragraph (f) of subsection 2 of NRS
11 439B.425, “financial interest” means an ownership or other interest:

12 (a) That provides compensation based, in whole or in part, upon the volume or
13 value of goods or services provided as a result of referrals; and

14 (b) Which a practitioner or a person related to the practitioner within two degrees
15 of consanguinity or affinity:

16 (1) Owns, in whole or in part; or

17 (2) Holds as a beneficiary of a trust.

18 2. The term includes, but is not limited to:

19 (a) A financial kickback, referral fee or finder’s fee.

20 (b) An income-sharing agreement, debt instrument, or lease or rental agreement
21 that provides compensation based, in whole or in part, upon the volume or value of the
22 goods or services provided as a result of referrals.

23 The substantial, credible, reliable, and probative evidence produced at the hearing showed that Dr.
24 Nassiri violated NRS 439B.425 in two ways. First, the evidence showed that Dr. Nassiri and Dr.
25 Johnson routinely referred patients to Maryland Medical Center, a practice co-owned by Dr. Nassiri’s
26 wife, and that Dr. Nassiri billed insurance companies for those referrals. Second, the evidence showed
27 that Dr. Nassiri routinely purchased liens for diagnostic studies he and Dr. Johnson ordered and then
28 billed those diagnostic services as the provider of those services through Digital Imaging Services and
Digital X-Ray, both companies who were doing business as a corporation owned by Dr. Nassiri and his
wife. Because Dr. Nassiri or his wife owned the entities involved, and because the evidence clearly
showed that he and his wife derived compensation from the bank accounts of these entities, Dr. Nassiri
violated NRS 439B.425. Because of Dr. Nassiri’s violation of NRS 439B.425, the Board is authorized
to impose discipline pursuant to NRS 634.140(5).

1 4. Because NRS 634.018(10) defines “unprofessional conduct” actionable under NRS
 2 634.140(1) to include “[c]onduct unbecoming a person licensed to practice chiropractic or detrimental
 3 to the best interests of the public,” and because NAC 634.430(1)(e) defines “[c]onduct unbecoming a
 4 person licensed to practice chiropractic or detrimental to the best interests of the public” to include
 5 “[p]articipating in any verbal or written arrangement that involves capping or fee splitting,” a violation
 6 of NAC 634.430(1)(e) as charged in Dr. Nassiri’s and Dr. Johnson’s Complaints would constitute a
 7 cause for discipline pursuant to NRS 634.140(1). NAC 634.430(2)(a) defines “capping” to mean “the
 8 use by a licensee of the services of a person who is remunerated for referring to the licensee a new
 9 patient who has been involved in a motor vehicle accident or who has been injured as a result of the
 10 actions of another person.” NAC 634.430(2)(b) defines “fee splitting” to mean “the acceptance of
 11 remuneration by a licensee for referring a patient to another provider of health care or a health care
 12 facility or the provision of remuneration by a licensee for a referral to the business of the licensee.” We
 13 conclude that the substantial, credible, reliable, and probative evidence produced at the hearing showed
 14 that both Dr. Nassiri and Dr. Johnson engaged in “capping” and “fee splitting.” The evidence showed
 15 that it was a common and routine practice at Advanced Accident Chiropractic and Good Hands
 16 Chiropractic to provide remuneration to patients and others who referred patients to those practices.
 17 Because of Dr. Nassiri’s and Dr. Johnson’s violation of NAC 634.430(1)(e), the Board is authorized to
 18 impose discipline pursuant to NRS 634.140(1).

19 5. Because NRS 634.018(11) defines “unprofessional conduct” actionable under NRS
 20 634.140(1) to include “[v]iolating, or attempting to violate, directly or indirectly, or assisting in or
 21 abetting the violation of, or conspiring to violate, any provision of this chapter or the regulations
 22 adopted by the Board, or any other statute or regulation pertaining to the practice of chiropractic,” and
 23 because NAC 634.435 is a regulation of the Board, a violation of NAC 634.430(1)(m) as charged in Dr.
 24 Nassiri’s and Dr. Johnson’s Complaints would constitute a cause for discipline pursuant to NRS
 25 634.140(1). The substantial, credible, reliable, and probative evidence produced at the hearing shows
 26 Dr. Nassiri and Dr. Johnson violated NAC 634.430(m) by routinely engaging in fraud,
 27 misrepresentation, and deception as part of their regular business practices. Examples include: (1) Dr.
 28

1 Nassiri's misrepresenting of himself as the provider of imaging services on the bills of Digital Imaging
2 Services and Digital X-Ray; (2) both doctors' making and maintaining two separate sets of medical
3 records that differed based upon the audience to which the records would be provided for payment; (3)
4 Dr. Nassiri's misrepresentations in his bankruptcy filings regarding the true state of his and his
5 numerous businesses' finances; and (4) Dr. Nassiri's and Dr. Johnson's participation in the sham sale of
6 Advanced Accident Chiropractic to Dr. Johnson. Because the fraud, misrepresentation, and deceit all
7 related to the chiropractic practices of Dr. Nassiri and Dr. Johnson, they constituted violations of NAC
8 634.430(1)(m), and the Board is authorized to impose discipline pursuant to NRS 634.140(1).

9
10 6. Because NRS 634.018(11) defines "unprofessional conduct" actionable under NRS
11 634.140(1) to include "[v]iolating, or attempting to violate, directly or indirectly, or assisting in or
12 abetting the violation of, or conspiring to violate, any provision of this chapter or the regulations
13 adopted by the Board, or any other statute or regulation pertaining to the practice of chiropractic," and
14 because NAC 634.435 is a regulation of the Board, a violation of NAC 634.435 as charged in Dr.
15 Nassiri's and Dr. Johnson's Complaints would constitute a cause for discipline pursuant to NRS
16 634.140(1). The substantial, credible, reliable, and probative evidence produced at the hearing shows
17 Dr. Nassiri and Dr. Johnson violated NAC 634.435 by failing to make and maintain "clear, legible,
18 complete and accurate" medical records related to the patients they treated. The record is replete with
19 evidence that Dr. Nassiri and Dr. Johnson made and maintained two sets of medical records for their
20 patients. One set of records was provided to insurance companies for payment pursuant to medical
21 payment coverage and a second set of records that varied substantively from the first set, was provided
22 to a patient's attorney as part of a personal injury action. The records also contained information that
23 was dubious, such as whether the diagnoses and treatments that were allegedly provided to a three-year-
24 old patient were, in fact, accurate. Because the medical records made and maintained by Dr. Nassiri
25 and Dr. Johnson were inaccurate, they constituted violations of NAC 634.435, and the Board is
26 authorized to impose discipline pursuant to NRS 634.140(1).

27 7. Because NRS 634.018(11) defines "unprofessional conduct" actionable under NRS
28 634.140(1) to include "[v]iolating, or attempting to violate, directly or indirectly, or assisting in or

1 abetting the violation of, or conspiring to violate, any provision of this chapter or the regulations
 2 adopted by the Board, or any other statute or regulation pertaining to the practice of chiropractic,” and
 3 because NRS 634.043(2) is a provision of chapter 634 and NAC 634.430(1)(h) is a regulation of the
 4 Board, a violation of NRS 634.043(2) or NAC 634.430(1)(h) as charged in Dr. Nassiri’s and Dr.
 5 Johnson’s Complaints would constitute a cause for discipline pursuant to NRS 634.140(1). NRS
 6 634.043(2)(c) authorizes the Board to “[e]nter and inspect any chiropractic office in this State in order
 7 to enforce the provisions of this chapter.” NAC 634.430(1)(h) defines “[c]onduct unbecoming a person
 8 licensed to practice chiropractic or detrimental to the best interests of the public” to include “[f]ailing to
 9 make any report or record available to the Board upon lawful request, failing to cooperate with any
 10 investigation by the Board or knowingly giving false information to the Board.” The substantial,
 11 credible, reliable, and probative evidence produced at the hearing shows Dr. Nassiri and Dr. Johnson
 12 violated these provisions numerous times throughout the course of the Board’s investigation in this
 13 matter, and that their intransigence substantively prejudiced the Board’s ability to conduct a full
 14 investigation in this matter. Moreover, the Board was greatly troubled by Dr. Johnson’s inexcusable
 15 failure to provide unfettered access to his records in September 2009 and August 2010, after the Board
 16 had disciplined Dr. Johnson for the very same offense in September 2009. Because Dr. Nassiri and Dr.
 17 Johnson violated NRS 634.043(2) and NAC 634.430(1)(h), the Board is authorized to impose discipline
 18 pursuant to NRS 634.140(1).

19
 20 8. Because NRS 634.018(15) defines “unprofessional conduct” actionable under NRS
 21 634.140(1) to include “[e]mploying, directly or indirectly, any person as a chiropractor’s assistant
 22 unless the person has been issued a certificate by the Board pursuant to NRS 634.123, or has applied for
 23 such a certificate and is awaiting the determination of the Board concerning the application,” and
 24 because NRS 634.018(11) defines “unprofessional conduct” actionable under NRS 634.140(1) to
 25 include “[v]iolating, or attempting to violate, directly or indirectly, or assisting in or abetting the
 26 violation of, or conspiring to violate, any provision of this chapter or the regulations adopted by the
 27 Board, or any other statute or regulation pertaining to the practice of chiropractic” and NAC
 28 634.430(1)(n) is a regulation of the Board, a violation of NRS 634.018(15) or NAC 634.430(1)(n) as

1 charged in Dr. Nassiri's and Dr. Johnson's Complaints would constitute a cause for discipline pursuant
2 to NRS 634.140(1). The substantial, credible, reliable, and probative evidence produced at the hearing
3 shows Dr. Nassiri and Dr. Johnson violated these provisions by employing several people and allowing
4 them to perform the duties of chiropractic assistants before those people had applied for or received
5 their certificates as chiropractic assistants. Because Dr. Nassiri and Dr. Johnson violated NRS
6 634.018(15) and NAC 634.430(1)(n), the Board is authorized to impose discipline pursuant to NRS
7 634.140(1).

8 9. The statement of charges as stated in the Complaints related to unlawful use of chiropractic
9 assistants for massage therapy are dismissed.
10

11 **ORDER**

12 Based upon the foregoing, the Board hereby orders the following as discipline:

13 1. Dr. Nassiri's chiropractic physician's license (B847) is revoked. The revocation shall be
14 effective immediately upon action and approval of the bankruptcy court handling Dr. Nassiri's
15 bankruptcy. Unless and until Dr. Nassiri's chiropractic physician's license is restored pursuant to NRS
16 634.204, Dr. Nassiri may not own directly or indirectly through any person related to him within two
17 degrees of consanguinity or affinity, any interest in a chiropractic practice, nor may Dr. Nassiri be
18 employed by or otherwise participate in any activity related to a chiropractic practice.

19 2. Dr. Nassiri shall pay 80% of the Board's fees and costs of investigation and prosecution in
20 this matter. The total fees and costs of investigation and prosecution in this matter are \$143,267.80.
21 Accordingly, Dr. Nassiri's 80% share totals \$114,614.24 which shall be paid by certified check or
22 money order made payable to: "Chiropractic Physicians' Board of Nevada." The certified check or
23 money order must be received by the Board's office no later than 30 days from the effective date of this
24 Order. Dr. Nassiri may not apply for restoration of his license pursuant to NRS 634.204 until he has
25 paid the fees and costs ordered in this paragraph in full.

26 3. Dr. Nassiri shall pay a fine of \$5,000 for each of the six causes of action that he was found to
27 have violated, for a total of \$30,000 which shall be paid by certified check or money order made
28

1 payable to: "Chiropractic Physicians' Board of Nevada." The certified check or money order must be
2 received by the Board's office no later than 30 days from the effective date of this Order. Dr. Nassiri
3 may not apply for restoration of his license pursuant to NRS 634.204 until he has paid the fines ordered
4 in this paragraph in full.

5 4. Dr. Johnson's chiropractic physician's license (B156) is suspended for a period of one year
6 commencing October 23, 2010. Dr. Johnson's license will not be restored unless he has paid in full or
7 has been making timely payments related to his share of the fees and costs and his fine as set out in
8 paragraphs 5 and 6 that follow.

9 5. Dr. Johnson shall pay 20% of the Board's fees and costs of investigation and prosecution in
10 this matter. The total fees and costs of investigation and prosecution in this matter are \$143,267.80.
11 Accordingly Dr. Nassiri's 20% share totals \$28,653.56 which shall be paid by certified check or money
12 order made payable to: "Chiropractic Physicians' Board of Nevada." The certified check or money
13 order must be received by the Board's office no later than 30 days from the effective date of this Order.
14 Dr. Johnson may negotiate a payment plan with the Board's staff for payment of his share of the fees
15 and costs.

16 6. Dr. Johnson shall pay a fine of \$1,000 for each of the five causes of action that he was found
17 to have violated, for a total of \$5,000 which shall be paid by certified check or money order made
18 payable to: "Chiropractic Physicians' Board of Nevada." The certified check or money order must be
19 received by the Board's office no later than 30 days from the effective date of this Order. Dr. Johnson
20 may negotiate a payment plan with the Board's staff for payment of his fines, which negotiation may
21 allow Dr. Johnson to substitute community service hours for payment of portions of the fines up to 500
22 hours of community service.

23 7. When Dr. Johnson's chiropractic physician's license is restored, his license shall be on
24 probation for a period of three years thereafter, and the terms and conditions of the probation shall
25 include:

26 (a) Dr. Johnson shall take and pass the Board's jurisprudence examination with a score of 75 or
27 higher within 12 months of the effective date of the commencement of the probation.
28

1 (b) Dr. Johnson shall take and pass the five most applicable portions of the Ethics and
2 Boundaries examination offered by the National Board of Chiropractic Examiners within 12 months of
3 the effective date of the commencement of probation. Dr. Johnson shall work with the Presiding
4 Officer to determine which five portions of the Ethics and Boundaries examinations will be taken to
5 satisfy this condition of probation.

6 (c) Dr. Johnson shall perform 100 hours of community service in such a time, place, and manner
7 as are approved by the Board's staff, which community service must be completed within 12 months of
8 the effective date of the commencement of the probation. If additional community service hours have
9 been negotiated with the Board's staff pursuant to paragraph 6, those additional community service
10 hours must also be completed within 12 months of the effective date of the commencement of the
11 probation.

12 (d) Dr. Johnson cannot manage or supervise any chiropractic assistant, chiropractic assistant
13 trainee, or independent contractor who may work in any chiropractic office in which he is practicing.

14 (e) Within 10 days from the effective date of the commencement of probation, Dr. Johnson shall
15 enter into an agreement with a practice monitor approved by the Board's staff. The practice monitor
16 shall perform compliance reviews of Dr. Johnson's records throughout the period of probation to ensure
17 that Dr. Johnson's practice of chiropractic medicine complies with Nevada law. The intent of the
18 compliance reviews is to assure that Dr. Johnson's practice complies, and will comply in the future,
19 with all laws related to the practice of chiropractic, whether statutory or regulatory and whether state or
20 federal, including but not limited to, compliance with laws related to coding and billing for patient
21 services, laws related to the making and maintaining of medical records, laws related to allowing access
22 to his records by the compliance monitor and the Board, and with laws related to the proper registration
23 and use of any chiropractor's assistants. Dr. Johnson shall cooperate in good faith with the practice
24 monitor and the Board, including but not limited to, allowing a Boardmember or the Board's agent and
25 the practice monitor or his or her employees or other agents to enter and inspect at any time his
26 chiropractic facility and review his patient records, including but not limited to, new patient and patient
27 contact information, advertising, releases, liens, examinations, x-rays and x-ray reports, treatment
28


1 records, patient notes, SOAP notes, superbills, sign-in sheets, narrative reports, billing, insurance
2 claims, payment records, receipt books, appointment calendars, and any other records related to patient
3 care, and all documents and records related to his employment of persons to perform any manner of
4 treatment to his patients, including but not limited to, employment applications, payroll records,
5 registration applications, correspondence with the Board, training programs and certificates. Dr.
6 Johnson shall bear all expenses related to the compliance monitoring as such expenses are presented to
7 him by the practice monitor. Dr. Johnson shall assure that the practice monitor submits quarterly
8 reports to the Executive Director throughout the period of probation, informing her of: (a) the progress
9 of the compliance monitoring; (b) Dr Johnson's cooperation with the development and implementation
10 of the compliance plan; and (c) any other observations the practice monitor may make germane to Dr.
11 Johnson's practice and his compliance with applicable law and practice standards. When completed,
12 the compliance monitor shall provide to the Executive Director a copy of its final report.

13 (f) Dr. Johnson shall renew and maintain his Nevada chiropractor's license (License No. B156)
14 either in active or inactive status as Dr. Johnson chooses.

15
16 8. Dr. Johnson's failure to comply with any term or condition in this Order shall result in the
17 extension of the suspension in this Order, or if his license has been restored, then in the immediate
18 suspension of his license until Dr. Johnson has remedied his non-compliance with the Order. Dr.
19 Johnson's failure to comply with any term or condition in this Order may also result in the imposition
20 of additional discipline up to and including revocation of his license.

21 9. Should Dr. Nassiri or Dr. Johnson fail to timely pay any sums due in accordance with this
22 Order, the Board's staff may take whatever action it deems necessary to effectuate collection of the
23 sums due. If the Board's staff is required to pursue legal action to collect the sums due, it shall be
24 entitled to receive its attorney's fees and costs incurred in the pursuit of the legal action.

25 SIGNED AND EFFECTIVE this 8th day of December, 2010.

26
27 
28 SHELL MERCER, Presiding Officer
Chiropractic Physicians' Board of Nevada

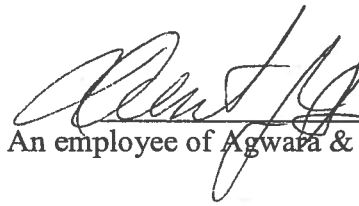
CERTIFICATE OF MAILING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, DERMOT J. ROW, an employee of AGWARA & ASSOCIATES, hereby certify that on January 6, 2011, I served a true and correct copy of the above PETITION FOR JUDICIAL REVIEW upon the following via U.S. MAIL and addressed as follows:

CHROPRACTIC PHYSICIANS' BOARD OF NEVADA
4600 Kietzke Lane, M-245
Reno, Nevada 89502
(775) 688-1920

Elizabeth J. Foley, Esq.
601 South Rancho Drive
Suite A-1
Quail Park II
Las Vegas, NV 89106
702-363-2323
Attorney for Board


An employee of Agwara & Associates

AGWARA & ASSOCIATES
1058 E. Sahara Avenue, Suite B
Las Vegas, NV 89104

(702) 385-4800 Office • (702) 385-4900 Fax