

1 was effective October 21, 2010. Shortly after the California Board's order became effective, Dr. Brady
2 informed the Nevada Board by letter of the California Board's acceptance of the surrender of his license.

3 6. On December 14, 2011, Dr. Brady applied for reinstatement of his California chiropractor's
4 license with the California Board.

5 7. On April 24, 2012, the California Board issued a Decision and Order regarding Dr. Brady's
6 application for reinstatement of his California chiropractor's license. In the Decision and Order (which
7 became effective May 24, 2012), the California Board reinstated Dr. Brady's chiropractor's license subject
8 to five years of probation according to the following fifteen enumerated conditions. A copy of the
9 California Decision and Order dated April 24, 2012 is attached hereto and is incorporated into this
10 Settlement Agreement and Order by this reference as if it were set out in its entirety herein.

11
12 APPLICABLE LAW AND UNDERSTANDINGS

13 8. Dr. Brady admits that the facts contained in the preceding seven paragraphs are true and
14 correct, and Dr. Brady understands and acknowledges that the conduct set out in the preceding seven
15 paragraphs constitute violations of the Nevada Chiropractic Practice Act (NRS & NAC 634) and that
16 agrees that he is subject to disciplinary action by the Board as a result of that conduct. In particular, Dr.
17 Brady agrees that the facts contained in the preceding seven paragraphs constitute violations of NRS
18 634.018(11) and 634.140(1) and (3). Because of these admissions, the Board will not file a Notice of
19 Charges in this matter and the parties agree, instead, that the Board should rule upon this Settlement
20 Agreement and Order as containing all necessary elements of due process to authorize the Board to take
21 such action. If the Board approves this Settlement Agreement and Order, it shall be deemed and
22 considered disciplinary action by the Board against Dr. Brady.

23 9. Dr. Brady and Dr. Rovetti, the Investigating Board Member in this matter, agree that it is in
24 the best interests of Dr. Brady and the Board to resolve this matter without a full hearing on the merits.

25 10. Dr. Brady is aware of, understands, and has been advised of the effect of this Settlement
26 Agreement, which he has carefully read and fully acknowledged. Dr. Brady acknowledges that he could
27 have reviewed this Settlement Agreement with legal counsel of his choice and that he chose not to do so.

28

1 Board should modify its Decision and Order dated April 24, 2012 by subsequent action, any such
2 modified terms and conditions shall also become part of this Settlement Agreement and Order without
3 further action of this Board, and any violation of any modified term or condition shall be treated as a
4 violation of this Settlement Agreement and Order.

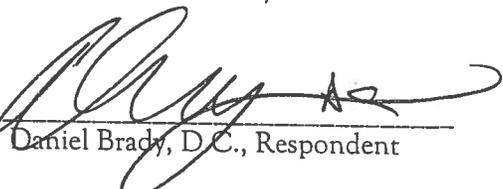
5 3. Dr. Brady shall take and pass the Board's jurisprudence examination with a score of 75 or
6 better within 90 days of the effective date of the Board's adoption of this Settlement Agreement.

7 4. Dr. Brady shall meet with the Board or its representatives upon request and shall cooperate
8 with such representatives in their supervision, monitoring, investigation, or auditing to assure compliance
9 with the terms and conditions of this order. Dr. Brady shall pay any and all reasonable and necessary
10 costs incurred by the Board resultant from this paragraph.

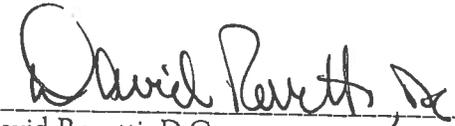
11 5. In the event Dr. Brady fails to materially comply with any term of this Settlement Agreement,
12 Dr. Brady agrees his chiropractor's license in the State of Nevada shall be automatically suspended
13 without any action of the Board other than the issuance of an Order of Suspension by the Executive
14 Director. Upon complying with the term, Dr. Brady's chiropractor's license in the State of Nevada will
15 be automatically reinstated, assuming all other provisions of the Settlement Agreement are in compliance.
16 Additionally, Dr. Brady's failure to comply with any term or condition of this Settlement Agreement may
17 result in further discipline by the Board, up to and potentially including revocation of his license. Board
18 Staff may take any and all actions it deems necessary to collect any sums ordered that remain unpaid. If
19 Board Staff is required to pursue judicial action to effect such collections, it shall be entitled to recover its
20 attorney's fees and costs incurred in pursuing such judicial action.

21 Signed this 13th day of OCTOBER, 2012.

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23 Respondent Daniel Brady

24
25 By 
26 Daniel Brady, D.C., Respondent

Chiropractic Physicians' Board of Nevada

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28 By 
David Rovetti, D.C.
Investigating Board Member

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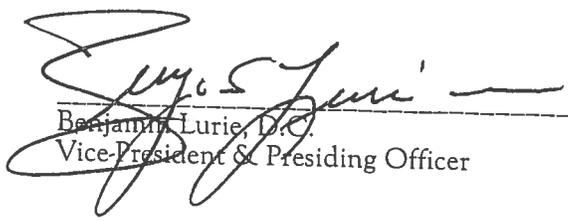
ORDER

WHEREAS, on July 14, 2012, the Chiropractic Physicians' Board of Nevada approved and adopted the terms and conditions set forth in the Agreed Settlement and Order with Daniel Brady, D.C.

IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 13 day of ^{OCT} July, 2012.

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA


Benjamin Lurie, D.C.
Vice-President & Presiding Officer

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of Revoked License:

Daniel Brady
987 Muskwaki Drive
South Lake Tahoe, CA

Chiropractic License No. DC 27207

Petitioner.

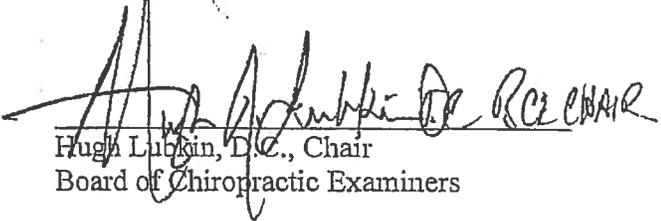
OAH No. 2012030418

DECISION AND ORDER

The attached Proposed Decision is hereby adopted by the Board of Chiropractic Examiners as its Decision in the above-entitled matter.

This Decision shall become effective on MAY 24 2012

IT IS SO ORDERED APR 24 2012


Hugh Lubkin, D.C., Chair
Board of Chiropractic Examiners

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement
of Revoked License of:

OAH Case No. 2012030418

DANIEL P. BRADY,

Chiropractic License No. DC 27207,

Petitioner.

DECISION

A quorum of the members of the Board of Chiropractic Examiners (the Board) heard this matter on March 22, 2012, in Los Angeles, California. The members of the Board present were Hugh Lubkin, D.C., Chair, Jeffrey Steinhardt, D.C., Francesco Columbu, D.C., and Richard H. Tyler, D.C.

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, presided and was present at the hearing and during the consideration of the case, in accordance with Government Code section 11517.

Daniel P. Brady (Petitioner) represented himself.

Thomas L. Rinaldi, Deputy Attorney General, represented the Attorney General of the State of California, pursuant to Government Code Section 11522.

The parties submitted the matter for decision, and the Board decided the case in executive session on March 22, 2012.

FACTUAL FINDINGS

1. On or about December 14, 2011, Petitioner filed the Petition for Reinstatement of Revoked License. Petitioner contends he is sufficiently rehabilitated from earlier misconduct and seeks reinstatement of his revoked chiropractic license.

2. The Board issued chiropractic license number DC 27207 to Petitioner in November 2000.

3. On July 10, 2010, Petitioner stipulated to the surrender of his chiropractic license after the filing of an Accusation against him (*In the Matter of the Accusation Against Daniel Phillip Brady, D.C.*, agency case number 2010-760.) The Accusation alleged that

Petitioner used a method of treatment known as the "Whitcomb Method," that entailed excessive, unnecessary treatments that constituted gross negligence, incompetence, and unprofessional conduct with regard to four patients in 2008. The Accusation further alleged that Petitioner's practice related website and newsletter contained false advertising, falsehoods, misrepresentations, and sensational statements intended to deceive the public. In the stipulated surrender, effective October 21, 2010, Petitioner agreed that in any future disciplinary proceedings, the allegations in the Accusation would be deemed admitted by Petitioner. Additionally, Petitioner agreed to pay the Board's \$6,000 investigation and enforcement costs before the reinstatement of any license.

4. While he was "oblivious" to his misconduct at the time he was practicing in California, he now treats patients (in Nevada) using well-established principles of chiropractic care and conventional protocols. Petitioner explained that he has learned to practice in an ethical and professional manner and now abides by the rules and regulations governing chiropractic in Nevada, where he was licensed after his surrender in California. Petitioner disclosed his California disciplinary history to the Nevada licensing boards. The Nevada Chiropractic Board nevertheless issued an unrestricted chiropractor license to Petitioner in 2010. Petitioner has suffered no discipline in Nevada.

5. Petitioner currently works as a licensed chiropractor in Sparks and Carson City, Nevada. In Sparks, he works at Davis Chiropractic, a practice run by the Vice President of the Nevada Chiropractic Board. In Carson City, Petitioner works as a licensed Advanced Homeopathic Practitioner (licensed by the Homeopathic Board of Nevada).

6. Lawrence R. Davis, D.C., wrote a letter, dated February 24, 2012, in support of Petitioner. Davis has been a member of the Chiropractic Physicians' Board of Nevada and the Federation of Chiropractic Licensing Boards. He asserted that Petitioner has worked in his satellite practice in Sparks, providing "consistent quality chiropractic services" and that Petitioner treats in compliance with Nevada's statutes and regulations governing chiropractic. He described Petitioner as a "valuable member" of the profession.

7. Frank Shallenberger, M.D., wrote a letter, dated May 18, 2011, in support of Petitioner. Shallenberger is the Medical Director of The Nevada Center in Carson City. Petitioner works in Shallenberger's clinic. Shallenberger described Petitioner as "professional in every way" and "completely reliable." Shallenberger considers Petitioner to have an excellent knowledge of his field of practice and notes that Petitioner's patients are very happy with his treatment.

8. In his testimony at hearing, Petitioner emphasized that he now understands the gravity of his misconduct and realizes that it is a privilege to practice chiropractic in California. He wishes to regain that privilege. He has no immediate plan to move to California, but wishes to have his license reinstated to have that option in the future. Petitioner asked the Board to allow him to pay the underlying costs of investigation and enforcement (\$6,000) in payments, if the Board saw fit to reinstate his license.

9. Petitioner has enrolled in a nursing program at Wayland Baptist University in San Antonio, Texas. He attends much of the program through the Internet. To date, he has completed half of the program. In the future, he wishes to work as a nurse practitioner and chiropractor in a primary care clinic in rural Nevada, or if the Board issues him a license, potentially in rural California. He remains up-to-date with his continuing education and with chiropractic literature, reading peer-reviewed literature, and chiropractic letters and magazines, including the American Chiropractor, Dynamic Chiropractor, and monthly newsletters.

LEGAL CONCLUSIONS

1. Cause exists to grant the Petition for Reinstatement of Revoked License, pursuant to Business and Professions Code section 11522, and section 10, subdivision (c) of the Chiropractic Act, as set forth in Factual Findings 1-9, and Legal Conclusions 2-4.

2. Petitioner bears the burden to prove, by clear and convincing evidence to a reasonable certainty, that the Board should grant his petition. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398; *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

3. Government Code section 11522 states in pertinent part:

A person whose license has been revoked or suspended may petition the agency for . . . reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition; and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement.

4. Petitioner understands the seriousness of his misconduct and has taken commendable steps to change his practice. He has practiced without disciplinary incident in Nevada since 2010. He has the support of a Nevada Chiropractic Board member who currently employs him. The evidence established that the public will be protected if Petitioner's license is reinstated with adequate probationary terms.

ORDER

Daniel P. Brady's Petition for Reinstatement of Revoked License is granted. A license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of five years on the following terms and conditions.

1. Ethics and Boundaries Examination

Respondent shall take and pass the Ethics and Boundaries Examination (E&B) administered by the National Board of Chiropractic Examiners (NBCE) within six months of the effective date of this Decision. If Respondent fails this examination, Respondent must take and pass a re-examination. Respondent is responsible to provide proof to the Board of successful completion of this examination. Respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee set by the NBCE. Failure to pass the ethics and boundaries examination after two attempts constitutes a violation of probation.

2. Obey All Laws

Respondent shall obey all federal, state and local laws, and all statutes and regulations governing the practice of chiropractic in California. A full and detailed account of any and all arrests and or convictions for any violations of law shall be reported by the Respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, Respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of this Decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" x 2" photograph of himself within 45 days of the effective date of the final Decision.

3. Quarterly Reports

Respondent shall submit quarterly reports under penalty of perjury on a form entitled "Quarterly Probation Report" (No. QPR100 (Rev. 7/04)), certifying and documenting whether there has been compliance with all conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made.

4. Probation Monitoring

Respondent shall comply with the Board's probation compliance monitoring program. Failure to comply with probation monitoring shall be considered a violation of probation.

5. Interview with Board

Respondent shall appear in person for interviews with the Board's enforcement staff, the full Board, or its designee upon request at various intervals and with reasonable notice.

6. Continuing Education

Respondent shall provide evidence of continuing education, required for license renewal, if requested by the Board.

7. Reimbursement of Board Costs

Respondent shall reimburse to the Board its costs of investigation and enforcement in the amount of \$6,000. Respondent shall make said payments as follows: \$500 per month to be paid every month of the first year of probation.

If Respondent fails to pay the costs as directed by the Board and on the date(s) determined by the Board, probation shall be automatically extended until such time that all costs are paid in full.

8. Tolling of Probation

If Respondent leaves California to reside or practice outside this state, or for any reason should Respondent stop practicing chiropractic in California, Respondent must notify the Board in writing of the dates of departure and return or the dates of non-practice within 10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days in which Respondent is not engaging in the practice of chiropractic or any time the license is inactive or in forfeiture status. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total, consecutive period of three years.

9. No Preceptorships or Supervision of Interns

Respondent shall not supervise any chiropractic student (intern) participating in a preceptor program or any unlicensed chiropractic graduate and shall not perform any of the duties of a preceptor.

10. Violation of Probation

If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended until all terms and conditions have been met or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

11. Notification of Employment

Within 10 days of a change in employment -- either leaving or commencing employment -- Respondent shall so notify the Board in writing, including the address of the new employer.

12. Notice to Employers

Respondent shall notify all present and prospective employers of the Decision in case number 2012030418 and the terms, conditions and restrictions imposed on Respondent by the Decision.

Within 30 days of the effective date of this Decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read the Decision in case number 2012030418.

"Employment" within the meaning of this provision shall include any full-time, part-time or temporary service as a chiropractor.

13. Notice to Employees

Respondent shall, upon or before the effective date of this Decision, ensure that all employees involved in chiropractic operations are made aware of all the terms and conditions of probation, either by posting a notice of the conditions of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout probation. Respondent shall ensure that any employees hired or used after the effective date of this Decision are made aware of all the terms and conditions by posting a notice, circulating a notice, or both.

"Employees" as used in this provision includes all full-time, part-time, temporary and independent contractors employed or hired at any time during probation. Respondent shall, if requested, provide proof to the Board or its designee that all employees are aware of the Decision in case number 2012030418 since its effective date.

14. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily tender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation. Respondent shall relinquish his wall

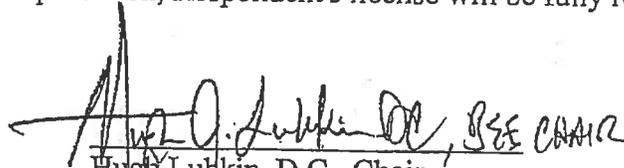
license and pocket renewal license to the Board or its designee within 10 days from the date of acceptance. Respondent may not petition the Board for reinstatement of his surrendered license for two years from the acceptance date of surrender. If Respondent owes any outstanding costs associated with the investigation and enforcement of this disciplinary action the outstanding amount shall be paid in full at the time the petition is submitted to the Board.

15. Completion of Probation

Upon successful completion of probation, Respondent's license will be fully restored.

Dated:

APR 24 2012


Hugh Lubkin, D.C., Chair
California Board of Chiropractic Examiners