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7

8 **BEFORE THE**
BOARD OF CHIROPRACTIC EXAMINERS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2005-494

11 LEON WEATHERSBY
866 W. Foothill Boulevard, Suite E
12 Upland, CA 91786
Chiropractic License No. DC 22887

A C C U S A T I O N

13 Respondent.
14

15 Complainant alleges:

16 PARTIES

17 1. Catherine A. Hayes (Complainant) brings this Accusation solely in her
18 official capacity as the Executive Director of the Board of Chiropractic Examiners.

19 2. On or about August 8, 1993, the Board of Chiropractic Examiners issued
20 Chiropractic License Number DC 22887 to Leon Weathersby. The license will expire on
21 March 31, 2006, unless renewed.

22 JURISDICTION

23 3. This Accusation is brought before the Board of Chiropractic Examiners
24 (Board), under the authority of the following sections of the Chiropractor Act (Act).¹

25
26
27 1. The Chiropractic Act, an initiative measure approved by the electors on November 7,
28 California Codes as Appendix I, for convenient reference.

1 4. Section 10² of the Act states, in pertinent part, that the Board may suspend
2 or revoke a license to practice chiropractic or may place the license on probation for violations of
3 the rules and regulations adopted by the Board or for any cause specified in the Chiropractic
4 Initiative Act.

5 5. California Code of Regulations, title 16, section 317, states in pertinent
6 part:

7 "The board shall take action against any holder of a license who is guilty of
8 unprofessional conduct which has been brought to its attention, or whose license has been
9 procured by fraud or misrepresentation or issued by mistake.

10 "Unprofessional conduct includes, but is not limited to, the following:

11 *****

12 "(g) Conviction of a crime which is substantially related to the qualifications,
13 functions or duties of a chiropractor;

14 "(h) Conviction of any offense, whether felony or misdemeanor,
15 involving moral turpitude, dishonesty, physical violence or
16 corruption. The board may inquire into the circumstances
17 surrounding the commission of the crime in order to fix the degree
18 of discipline or to determine if such conviction was of an offense
19 involving moral turpitude, dishonesty, physical violence or
20 corruption. A plea or verdict of guilty, or a plea of nolo contendere
is deemed to be a conviction within the meaning of the board's
disciplinary provisions, irrespective of a subsequent order under
the provisions of Section 1203.4 of the Penal Code. The board
may order a license to be suspended or revoked, or may decline to
issue a license upon the entering of a conviction or judgement in a
criminal matter."

21 6. California Code of Regulations, title 16, section 317.5, subdivision (a),
22 states, in pertinent part:

23 "In any order in resolution of a disciplinary proceeding before the Board of
24 Chiropractic Examiners, the board may request the administrative law judge to direct a licentiate
25

26 2. The Chiropractic Act, an initiative measure approved by the electors on November 7,
27 1922, while not included in the Business and Professions Code by the legislature, is set out in
28 West's Annotated California Codes as sections 1000-1 to 1000-19, and is included in Deering's
California Codes as Appendix I, for convenient reference.

1 found to have committed a violation or violations of the Chiropractic Initiative Act to pay a sum
2 not to exceed the reasonable costs of the investigation and enforcement of the case."

3 CAUSE FOR DISCIPLINE

4 (Conviction of a Crime)

5 7. Respondent is subject to disciplinary action under section 10 of the Act,
6 together with California Code of Regulations, title 16, section 317 (g) and (h) in that on
7 March 16, 2005, in the Superior Court of San Bernardino County, Case No. FSB 048376,
8 respondent was convicted by his plea of guilty to violation of Penal Code section 487(a), felony
9 grand theft. As part of his plea agreement, respondent agreed to pay \$219,518.25 in restitution of
10 funds fraudulently obtained from insurance companies.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board of Chiropractic Examiners issue a decision:

- 14 1. Revoking or suspending Chiropractic License Number DC 22887, issued
15 to Leon Weathersby;
- 16 2. Ordering Leon P. Weathersby to pay the Board of Chiropractic Examiners
17 the reasonable costs of the investigation and enforcement of this case, pursuant to California
18 Code of Regulations, title 16, section 317.5; and
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 11/28/05

21
22 
23 CATHERINE A. HAYES
24 Executive Director
25 Board of Chiropractic Examiners
26 State of California
27 Complainant

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

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

Leon Patrick Weathersby
22301 Kinzie Street
Chatsworth, CA 91311

Chiropractic License No. DC 22887

Petitioner.

OAH No. 2010070371

DECISION AND ORDER

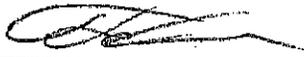
The attached Decision is hereby adopted by the Board of Chiropractic Examiners
as its Decision in the above-entitled matter.

This Decision shall become effective on _____

NOV 12 2010

IT IS SO ORDERED _____

OCT 12 2010



Frederick N. Lerner, D.C., Chair
Board of Chiropractic Examiners

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LEON WEATHERSBY,
aka LEON PATRICK WEATHERSBY, Jr., D.C.

Chiropractic License No. DC 22887,

Respondent.

Case No.: 2005-494

OAH No.: L2006030818

DECISION

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

This Decision shall become effective SEP 21 2006

IT IS SO ORDERED AUG 21 2006

BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

By *Barbara Stangfeld DC*

rfm

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LEON WEATHERSBY,
aka LEON PATRICK WEATHERSBY, Jr., D.C.

Chiropractic License No. DC 22887,

Respondent.

Case No. 2005-494

OAH No. L2006030818

PROPOSED DECISION

This matter was heard before Robert S. Eisman, Administrative Law Judge, Office of Administrative Hearings, State of California, in Los Angeles, California, on June 29, 2006.

Stephen S. Handin, Supervising Deputy Attorney General, represented Catherine A. Hayes (complainant).

Michael J. Khouri, Attorney at Law, represented Leon Weathersby, also known as Leon Patrick Weathersby, Jr., D.C. (respondent), who was also present.

Sworn testimony and documentary evidence was received, the record closed, and the matter submitted on June 29, 2006.

The Administrative Law Judge makes the following factual findings, legal conclusions and order:

FACTUAL FINDINGS

1. Complainant filed the Accusation on November 28, 2005, solely in her official capacity as the Executive Director, Board of Chiropractic Examiners of the State of California.

2. On August 16, 1993, the Board of Chiropractic Examiners issued license number DC 22887 to respondent. Respondent's license has been renewed through March 31, 2007.

3. On March 16, 2005, in the Superior Court of California, San Bernardino County, in Case No. FSB048376, *People v. Leon P. Weathersby, Jr.*, pursuant to a plea agreement, respondent was convicted on a plea of guilty of violating Penal Code section 487, subdivision (a), grand theft of personal property, a felony offense.

Initially, the court denied probation and imposed an "upper" term whereby respondent was sentenced to State Prison for three years. However, pursuant to the plea agreement, the case was to continued so that respondent could make payments toward restitution in the total amount of \$219,518.25. After respondent had paid \$6,937.04, the district attorney agreed to continue the case for 60 days to allow respondent to tender \$110,000. Additional extensions were granted to allow respondent time to complete payment of the restitution in full. Respondent's initial sentence was to be vacated if and when respondent paid restitution in full.

On August 10, 2005, the court acknowledged that respondent had paid all restitution in full, and re-sentenced respondent to supervised probation for a period of 36 months on terms and conditions including, but not limited to, the following: serving 365 days in the county jail facility, without the possibility of parole (the court referred respondent for Electronic Monitoring Screening and a weekender/work release program); violating no law; reporting to his probation officer, in person, every 14 days; seeking and maintaining gainful employment or attending school; complying with a court-ordered payment schedule; participating in a counseling program, as directed by respondent's probation officer; paying a restitution fine in the amount of \$400.00; and paying a \$10,000 fine to the Department of Insurance Fraud Account. The total monthly payment for all ordered amounts was set at \$66.00 per month, and was to remain in effect until fully paid.

Respondent's probation began in August 2005 and is not scheduled to end until August 2008. Respondent's electronic monitoring screening is scheduled to end on July 29, 2006.

4. The circumstances surrounding respondent's arrest and conviction are that beginning in 2001, and continuing through the end of February 2003, respondent engaged in insurance fraud and grand theft of personal property by presenting, or causing to be presented, fraudulent insurance claims for payments related to respondent's chiropractic practice. Respondent's fraudulent claims were based on chiropractic services that were not provided to patients, office visits by patients that did not occur, and/or double billings. The total amount of restitution (\$219,518.25) represented losses to 27 entities from claims related to 30 patient names.

5. Respondent graduated from Cleveland Chiropractic College (Los Angeles, CA) in 1992. After being licensed as a chiropractor in August 1993, respondent practiced in Carlsbad; then Diamond Bar and, beginning in 1998, in Upland, California (Inland Empire Pain Relief Institute). Respondent handled Workers' Compensation cases and billed health maintenance organizations (HMO's), group health plans, and private-payer patients.

In mid-2004, after respondent first became aware that he was under investigation for insurance fraud, he contacted the Office of the District Attorney to see what he needed to do to resolve the matter. He was told that he needed to make restitution. Respondent subsequently obtained the needed money by borrowing from friends, using savings, and selling property.

6. Respondent is 39 years old, single (divorced), with two children. He testified that his attempt to make money by filing false patient claims was the worst mistake of his life and, as a result, his life is now changed. Although respondent stated that it was the wrong thing to do, he also testified that "there was no reason for it" and that he never thought he would be caught.

In mid-2004, respondent sold his practice to an associate chiropractor and started looking for work elsewhere. Respondent feels he is a good chiropractor and wants to continue helping people. He testified that he has learned his lesson and now has greater respect for patients and the Board of Chiropractic Examiners. Respondent feels that he has been punished enough, in that as by-product of his arrest and conviction, he lost his relationship with his wife, his house went into foreclosure, and he had to sell three of his cars.

7. In May 2006, respondent started working in the chiropractic office of a friend and prior classmate, Ross Gould, D.C. Respondent also became a roommate in Dr. Gould's home. Dr. Gould hired him to help increase and energize his own practice. Respondent does initial examinations and prepares treatment plans, which he presents to patients. Dr. Gould reviews all of respondent's exam findings and treatment plans, and provides the treatments. Respondent is not involved in billing transactions. Dr. Gould testified that he would continue to employ respondent if respondent's chiropractic license was restricted and placed on probation.

8. Respondent does not have a record of prior discipline or warnings issued by the Board of Chiropractic Examiners.

9. The Board of Chiropractic Examiners has reasonably incurred legal fees of \$2,643 in the investigation and enforcement of this case. Those costs are broken down as follows:

	<u>Fiscal Year</u>	<u>No. of Hours</u>	<u>Hourly Rate</u>	<u>Total Charge</u>
<u>Attorney:</u>	2005-06	17.00	\$146	\$2,482.25
<u>Legal Assistant:</u>	2005-06	1.75	\$92	\$161.00

LEGAL CONCLUSIONS

1. The standard of proof in this proceeding is "clear and convincing evidence to a reasonable certainty," meaning that complainant is obliged to adduce evidence that is clear, explicit, and unequivocal -- so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. (*Ettinger v. Bd. of Med. Quality Assurance* (1982) 135 Cal.App.3d 853; *San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1893; *In Re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

2. Section 10, subdivision (b), of the Chiropractic Act¹ states, in pertinent part:

The board may . . . suspend or revoke, a license to practice chiropractic in this state, or may place the licensee upon probation or issue a reprimand to him, for violation of the rules and regulations adopted by the board in accordance with this act, or for any cause specified in this act, including, but not limited to . . . a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic

3. California Code of Regulations, title 16, section 317, states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct which has been brought to its attention, or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct includes, but is not limited to, the following:

[¶] . . . [¶]

(g) Conviction of a crime which is substantially related to the qualifications, functions or duties of a chiropractor;

(h) Conviction of any offense, whether felony or misdemeanor, involving moral turpitude, dishonesty, physical violence or corruption. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if such conviction was of an offense involving moral turpitude, dishonesty, physical violence or corruption. . . .

[¶] . . . [¶]

(k) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a license holder, or otherwise;

¹ The Chiropractic Act, an initiative measure approved by the electors on November 7, 1922, while not included in the Business and Professions Code by the legislature, is set out in West's Annotated California Codes as Business and Professions Code sections 1000-1 to 1000-19, and is included in Deering's California Codes as Appendix 1, for convenient reference.

(l) Knowingly making or signing any certificate or other document relating to the practice of chiropractic which falsely represents the existence or nonexistence of a state of facts;

(m) Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate any provision or term of the Act or the regulations adopted by the board thereunder

[¶] . . . [¶]

(q) The participation in any act of fraud or misrepresentation

4. Respondent's conviction for violating Penal Code section 487, subdivision (a) is a felony. The conviction is substantially related to the qualifications, functions or duties of a chiropractor, in that the underlying conduct that resulted in the offense involved fraudulent billing claims involving respondent's patients and his chiropractic practice. The billing of insurance companies and health maintenance plans in connection with patient visits and treatment is an integral part of the practice of chiropractic and the public has a right to expect a chiropractor will perform such billing honestly.

5. Although not amenable to a precise definition, "moral turpitude" connotes a readiness to do evil, an act of baseness, vileness or "depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." (*People v. Forster* (1994) 29 Cal.App.4th 1746, 1757, quoting from *People v. Mansfield* (1988) 200 Cal.App.3d 82, 87.)

6. Conviction of some crimes, such as fraud or grand theft, by their very nature, establish moral turpitude per se. (*In re Hallinan* (1954) 43 Cal. 2d 243, 247; *People v. Wheeler* (1992) 4 Cal.4th 284, 297.)

7. Respondent claims that none of his patient's was harmed as a result of his fraudulent billing practices. In making such a representation, respondent fails to acknowledge the special relationship that exists between a doctor and his patients, which is based on the utmost trust and confidence in the doctor's honesty and integrity. One can not compartmentalize dishonesty in such a way that a doctor can be considered dishonest when dealing with insurance companies, yet be considered honest when dealing with his patients.

This concept was addressed in *Windham v. Board of Medical Quality Assurance* (1980) 104 Cal.App.3d 461.

In *Windham*, a physician was disciplined as a result of his conviction for tax fraud. In that case, the physician argued "that while tax fraud may adversely reflect on his moral character, it is not the type of transgression which reflects on his professional qualifications, functions or duties." (*Id. at p. 470.*) The Court of Appeal rejected this argument: "First of all, we find it difficult to compartmentalize dishonesty in such a way that a person who is willing to cheat his government out of \$ 65,000 in taxes may yet be considered honest in his dealings with his patients. In this connection, however, we should point out that

today's doctor deals financially with the government--state, local and federal--in many ways that have nothing to do with his own personal tax obligation. . . . [P] . . . Above all, however, there is the relation between doctor and patient. It is unnecessary to describe the extent to which that particular relationship is based on utmost trust and confidence in the doctor's honesty and integrity." (*Windham, supra*, 104 Cal. App. 3d at p. 470, 163 Cal. Rptr. 566.)

(*Krain v. Medical Board of California* (1999) 71 Cal.App.4th 1416, 1424-25.)

8. Cause exists to discipline respondent's chiropractic license pursuant to section 10, subdivision (b), of the Chiropractic Act and California Code of Regulations, title 16, section 317, subdivisions (g) and (h), by virtue of respondent's conviction of a crime substantially related to the qualifications, functions or duties of a chiropractor, and which involves moral turpitude and dishonesty, i.e., grand theft of property related to insurance fraud. (Factual Findings 2, 3, and 4; Legal Conclusions 1 through 7.)

9. In *In re Gossage* (2000) 23 Cal.4th 1080, 1099, the court held that "[s]ince persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that a [license] applicant did not commit additional crimes or continue [improper] behavior . . . while on probation or parole." While the criminal history of the license applicant in *Gossage* far exceeds respondent's criminal record, the basic premise is still valid. That is, a substantial period of exemplary conduct is required, following a licensee's misdeeds and probation, and little weight should be given to evidence of rehabilitation based on conduct during the probationary period. The more serious the crime, the stronger the licensee's rehabilitation must be.

10. The objective of a disciplinary proceeding is to protect the public, the licensed profession, maintain integrity, high standards, and preserve public confidence in chiropractors.² The purpose of proceedings of this type is not to punish respondent. In particular, the statutes relating to chiropractors are designed to protect the public from any potential risk of harm.

The law looks with favor upon those who have been properly reformed and the burden of proof is on respondent to show that he has been rehabilitated. The evidence offered by him on this subject, although probative, has not established that he has achieved rehabilitation, considering the extreme seriousness of his conviction for the crime of grand theft, which resulted from fraudulent insurance billings. Respondent did not present any credible evidence to show that he would have ceased the issuance of fraudulent billings, had he not become aware, in mid 2004, of the investigation into his billing practices. His conduct undermined and compromised his personal integrity as well as the integrity of the chiropractic profession. Under the circumstances, the seriousness of the offense significantly

² *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1030-1031; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 816.

outweighs the evidence presented in rehabilitation and warrants a penalty that is in accordance with that specifically recommended in the board's "Disciplinary Guidelines and Model Disciplinary Orders" [revised September 23, 1999].

11. California Code of Regulations, title 16, section 317.5, subdivision (a) states:

In any order in resolution of a disciplinary proceeding before the Board of Chiropractic Examiners, the may request the administrative law judge to direct a licentiate found to have committed a volition or violations of the Chiropractic Initiative Act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

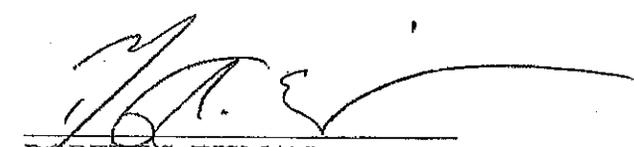
12. In this matter, complainant has established that respondent's license is subject to discipline for the single charging allegation contained in the Accusation and that the total costs for investigation and enforcement of the case was \$2,643. Accordingly, the administrative law judge finds that respondent should be liable to complainant for reasonable costs, including attorney's fees, in the amount of \$2,643. However, in consideration of respondent's financial ability to repay the board, especially if his chiropractic license is revoked, it is reasonable to defer payment of the costs of investigation and enforcement and make it a precondition of license restoration. (See *Zuckerman v. State Board of Chiropractic Examiners* (2002) 24 Cal.4th 32, 45.) (Factual Finding 9; Legal Conclusions 8 and 11.)

ORDER

1. License No. DC-22887 issued to respondent Leon Patrick Weathersby, Jr., D.C., is revoked. Respondent shall relinquish his wall license and pocket renewal license to the board or its designee within ten (10) days of the effective date of this Decision. Respondent may not petition the Board of Chiropractic Examiners for restoration of his revoked license for two (2) years from the effective date of this Decision.

2. Upon restoration of his revoked license, respondent shall reimburse the board for its investigation and prosecution costs in the amount of \$2,643, and shall be paid in full prior to the restoration of his license. If respondent fails to pay the amount specified, his license shall remain revoked.

DATED: July 19, 2006.


ROBERT S. EISMAN
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF CALIFORNIA

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

LEON PATRICK WEATHERSBY, JR.,

Petitioner.

OAH No. 2010070371

DECISION

This matter was heard on July 29, 2010, before a quorum of the Board of Chiropractic Examiners (Board), Frederick Lerner, D.C., Chair, presiding, in Sacramento, California. Deidre L. Johnson, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, presided over the hearing and sat with the Board during deliberations, but did not participate in the decision.

Jeffrey Phillips, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Petitioner Leon Patrick Weathersby, Jr. (Petitioner) appeared and represented himself.

Oral and documentary evidence was received and the matter was submitted for decision. The Board met in executive session on the day of the hearing and decided the matter.

FACTUAL FINDINGS

1. The Board issued Chiropractic License Number DC 22887 to Petitioner on August 16, 1993.
2. By Decision effective September 21, 2006, in Board Case Number 2005-494, OAH Case Number L2006030818, the Board revoked Petitioner's chiropractic license following a hearing before OAH. The Decision was based on Petitioner's 2005 criminal conviction for grand theft, in violation of the laws and regulations governing the licensure of chiropractors.
3. On March 16, 2005, in the Superior Court of California, San Bernardino County, in Case No. FSB048376, Petitioner pled guilty to and was convicted of violating

Penal Code section 487, subdivision (a) (grand theft of personal property), a felony offense. Petitioner was ordered to pay \$219,518.25, in restitution of funds fraudulently obtained from insurance companies. The Board's 2006 Decision revoking Petitioner's license determined that the crime involved moral turpitude and was substantially related to the qualifications, functions, and duties of a licensed chiropractor. The Decision found that, from 2001 through February 2003, Petitioner "engaged in insurance fraud and grand theft of personal property by presenting, or causing to be presented, fraudulent insurance claims for payments related to his chiropractic practice." (Dec., p. 2, par. 4.) The Decision ordered that Petitioner could not ask for restoration of his license for two years, and ordered Petitioner to pay the Board's investigation and prosecution costs of \$2,643, prior to any future reinstatement of his license.

4. In connection with the above criminal conviction, the court first sentenced Petitioner to three years in state prison; however, the case was continued. On August 10, 2005, the court acknowledged Petitioner's payment of restitution in full and resentenced him to three years of supervised probation on terms and conditions that included 365 days in county jail (with a provision for house arrest), participation in a counseling program, and payment of fines and penalties.

5. On October 27, 2008, more than two years after the revocation, Petitioner filed the instant petition for reinstatement of his revoked license. Petitioner certified that he has not been convicted of any further crime or been disciplined by any other regulatory agency. He seeks to establish his rehabilitation from the above conviction sufficient to again be licensed as a chiropractor.

6. Petitioner successfully completed all terms and conditions of criminal probation, including completing one year of electronic-monitored house arrest on July 29, 2006; paying all restitution, fines and penalties; completing six months of theft counseling; and completing three years of supervised probation. Petitioner's criminal probation terminated in August 2008.

7. The Board's 2006 Decision found that Petitioner stepped forward to take responsibility for his actions prior to the date he was convicted.¹ Petitioner has since demonstrated a sustained effort toward his rehabilitation, including continuing to take responsibility for his actions. He has acknowledged that many were harmed by the fraudulent insurance claims and resulting thefts. Petitioner makes no excuses and is apologetic and remorseful that personal greed motivated his personal and professional betrayal of the chiropractic profession. Petitioner credibly established a significant change in attitude and realizes the importance of integrity and honesty in his profession.

8. Petitioner obtained a bachelor's degree in Movement and Exercise Science,

¹ The Decision found that Petitioner was informed by authorities in mid-2004, prior to his conviction, that he needed to make restitution in order to help resolve the case. Petitioner thereafter "obtained the needed money by borrowing from friends, using savings, and selling property." (Dec., p. 3, par. 7.)

with an emphasis in athletic training, from Chapman University in 1989. Petitioner graduated from Cleveland Chiropractic College (Los Angeles, CA) in 1992. He is now about 43 years old, divorced, and has two children. As a result of the criminal matter, Petitioner's marriage ended, his home went into foreclosure, and he lost his chiropractic business and career. Since the conviction, he has worked 40 to 50 hours per week in his personal fitness training business, "Leon Weathersby - Personal Training." In addition, he has continued his chiropractic and physical fitness education by participating in seminars, workshops, and other studies. Petitioner established that he has maintained his chiropractic continuing education units by completing 12 hours of approved courses yearly, and he submitted certificates of completion for the courses completed in 2009 and 2010.

9. In addition to participating in the court-mandated programs during probation, Petitioner has voluntarily taken numerous self improvement seminars, workshops and electronic study courses since 2007, including sessions on managing emotions under pressure, small business ethics and integrity, and theft. He has sought voluntary counseling through his church, and participated in individual counseling with his pastor, men's retreats, self improvement workshops, and weekly bible study and leadership sessions on an on-going basis.

10. The Board is obligated to protect the public and the licensed profession, to maintain integrity and high standards, and to preserve public confidence in Board licensure. The essential issue is whether Petitioner has presented sufficient evidence of rehabilitation to warrant reinstatement of his revoked license. Overall, Petitioner has credibly shown that he has been involved in meaningful and law-abiding rehabilitative and corrective measures. Following his 2005 conviction, and following termination of his criminal probation in August 2008, Petitioner has made a sustained effort to continue to participate in programs to further his rehabilitation. However, his rehabilitation is still in progress, and, given the seriousness of Petitioner's conviction and misconduct, insufficient time has passed to warrant the unconditional reinstatement of Petitioner's license. In view of Petitioner's progress to date, the public interest may be protected by placing Petitioner on probation to assure the Board that Petitioner may be trusted to work in a professional and legal manner.

LEGAL CONCLUSIONS

1. A person whose license has been revoked may petition the Board for reinstatement or reduction in the penalty after one year from the effective date of the revocation or under Government Code section 11522. As set forth in Factual Findings 3 and 5, the Board ordered Petitioner to wait at least two years before asking for reinstatement of his license, and he complied with that requirement.

2. In considering reinstatement of a revoked license, the Board refers to the factors set forth in its Disciplinary Guidelines and Model Disciplinary Orders (Disciplinary Guidelines) promulgated under authority of section 10, subdivision (b) of the Chiropractic

Initiative Act. (Cal. Code Regs., tit. 16, § 384.) The factors include the actual or potential harm to a consumer or the public, the nature and severity of the acts or offenses, including whether the person obtained financial benefit from the misconduct; the time elapsed since those acts or offenses; the existence of further acts or offenses; and evidence of mitigation or rehabilitation. (Cal. Code Regs., tit. 16, §§ 326, 384; Disciplinary Guidelines.)

3. Rehabilitation is a "state of mind," and "the law looks with favor upon rewarding with the opportunity to serve, one who has achieved 'reformation and regeneration.'" (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) However, remorse alone does not demonstrate rehabilitation. A truer indication of rehabilitation is presented when an applicant for readmission to a professional practice can demonstrate by sustained conduct over an extended period of time that he is once again fit to practice. (*In re Menna* (1995) 11 Cal.4th 975, at 991.)

4. Based on Factual Findings 1 through 12, and Legal Conclusions 1 through 3, the Board determines that cause has been established to provisionally grant the petition pursuant to Government Code section 11522. Given the seriousness of Petitioner's criminal conduct, outright reinstatement of his license is premature. Rather, based on Petitioner's progress to date, it would not be contrary to the public interest to place Petitioner on probation. The terms and conditions of probation include safeguards to ensure the public's health, safety, welfare and interest, including conditions precedent, as set forth below.

ORDER

A. The Petition for Reinstatement of Revoked License of LEON PATRICK WEATHERSBY, JR., is GRANTED, in that Petitioner's license will be placed on probation for five years following proof of compliance with the following conditions precedent:

1. **Law Examination**

Petitioner shall take and pass a written or practical examination as directed by the Board. If Petitioner is directed to take an examination currently required of new applicants for licensure as a chiropractor, the examination shall be taken on a regularly scheduled date. If Petitioner fails this examination, Petitioner must take and pass a re-examination. Petitioner shall pay the cost of the examination and any subsequent re-examinations at the examination fee currently in place.

2. **Special Purposes Examination for Chiropractic (SPEC)**

Petitioner shall take and pass the SPEC examination administered by

the National Board of Chiropractic Examiners (NBCE). If Petitioner fails this examination, Petitioner must take and pass a re-examination. Petitioner is responsible to provide proof to the Board of successful completion of this examination. Petitioner shall pay the cost of the examination and any subsequent re-examinations at the examination fee set by the NBCE.

3. Ethics Course

Petitioner shall take and pass a course in Ethics approved in advance by the Board. Classroom attendance is specifically required. Petitioner is responsible to provide proof to the Board of successful completion of this course and shall pay the cost of the course at the fee set by the provider.

4. Cost Reimbursement

Pursuant to the Board's 2006 Decision, Petitioner shall reimburse the Board its costs for the investigation and enforcement of this case in the total sum of \$2,643.

B. Petitioner may not practice chiropractic, and his license will not be issued, until he successfully completes the above conditions precedent, including submission of proof, and he has been so notified by the Board. Thereafter, a license shall be issued to Petitioner. Said license shall immediately be revoked, the order of revocation shall be stayed, and Petitioner shall be placed on probation for a period of five years (starting from the date of issuance of the license) on the following terms and conditions:

1. Probation Monitoring

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

2. Billing Monitor

Within 30 days of the date his license is reinstated on probationary status, Petitioner shall submit to the Board or its designee for its prior approval a plan of billing practice that shall be monitored by another chiropractor or other person approved by the Board who shall provide periodic reports to the Board or its designee. Petitioner shall pay all costs for such billing monitoring.

3. Obey All Laws

Petitioner 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 Petitioner to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, Petitioner 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. Petitioner shall submit a recent 2" x 2" photograph of himself within 45 days of the effective date of the final Decision.

4. **Quarterly Reports**

Petitioner shall submit quarterly reports under penalty of perjury on a form entitled "Quarterly Probation Report" as designated by the Board, 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.

5. **Interview with Board**

Petitioner 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**

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

7. **Tolling of Probation**

If Petitioner leaves California to reside or practice outside this state, or for any reason should Petitioner stop practicing chiropractic in California, Petitioner 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 Petitioner 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 Petitioner's probation to remain

tolled pursuant to the provisions of this condition for a period exceeding a total, consecutive period of three years.

8. No Preceptorships or Supervision of Interns

Petitioner 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.

9. Violation of Probation

If Petitioner violates probation in any respect, the Board, after giving Petitioner 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 Petitioner 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 Petitioner has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Petitioner, 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.

10. Notification of Employment

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

11. Notice to Employers

Petitioner shall notify all present and prospective employers of the Decision in this case, OAH Case Number 2010070371, and the terms, conditions and restrictions imposed on Petitioner by the Decision. Within 30 days of the effective date of this Decision, and within 15 days of Petitioner undertaking new employment, Petitioner shall cause his employer to report to the Board in writing acknowledging the employer has read the Decision in Case Number 2010070371. "Employment" within the meaning of this provision shall include any full-time, part-time or temporary service as a chiropractor.

12. Notice to Employees

Petitioner 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. Petitioner 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. Petitioner shall, if requested, provide proof to the Board or its designee that all employees are aware of the decision in Case Number 2010070371, since its effective date.

13. License Surrender

Following the effective date of this Decision, if Petitioner ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Petitioner may voluntarily tender his license to the Board. The Board reserves the right to evaluate Petitioner'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, Petitioner will no longer be subject to the terms and conditions of probation. Petitioner shall relinquish his wall license and pocket renewal license to the Board or its designee within 10 days from the date of acceptance. Petitioner may not petition the Board for reinstatement of his surrendered license for two years from the acceptance date of surrender. If Petitioner 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.

14. Completion of Probation

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

This Decision shall be effective NOV 12 2010

DATED: OCT 12 2010

BOARD OF CHIROPRACTIC EXAMINERS



FREDERICK LERNER, D.C.,
Chair



LETTER OF ADMONISHMENT

Via Certified & Standard Mail
7012 0470 0000 9846 4974

November 6, 2015

Leon P. Weathersby, D.C.
510 S Alvarado Street
Los Angeles, CA 90057

Case Number(s): CH 2016-12766
License Number: DC 22887
Violation(s): CCR 366, 317(n), 361(b), 371(c)

In accordance with California Code of Regulations section 389, this Letter of Admonishment is being issued by the Board of Chiropractic Examiners (Board) following review of a complaint or an investigation due to your failure to comply with laws and regulations that govern the practice of chiropractic in California.

This Letter of Admonishment details each violation charged and order of abatement where applicable. **IT IS YOUR RESPONSIBILITY TO READ THE ENTIRE LETTER.**

Cause for Letter of Admonishment

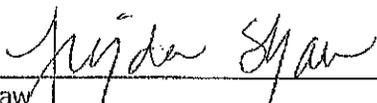
Respondent failed to complete the twenty-four (24) hours of required continuing education for the 4/1/2014 - 3/31/2015 license renewal year. Respondent stated on his Renewal Application form, signed and dated 3/28/2015, that he did in fact complete all required continuing education for said renewal period.

Order of Abatement

By February 6, 2016, respondent shall submit for **pre-approval**, pass, and provide proof of; completed 24 hours of continuing education, which follows all guidelines outlined in California Code of Regulations section 361. These 24 hours are in **addition** to the 24 hours which will be required for the 2016 renewal period (4/1/2015-3/31/2016).

Order of Abatement documentation is due by February 6, 2016. Unless contested, using the attached Acknowledgment Receipt form, this Letter of Admonishment will become final on **December 6, 2015**. Send the Order of Abatement documentation directly to: Board of Chiropractic Examiners, Attn: Christina Bell, Compliance Analyst, 901 P Street, Ste. 142-A, Sacramento, CA 95814.

Failure to comply with this Letter of Admonishment may result in disciplinary action against your license. If you have any questions regarding this matter, contact Christina Bell at (916) 263-5355, ext. 5331.



Linda Shaw
Assistant Executive Officer
Board of Chiropractic Examiners

11/6/15

Date

Leon P. Weathersby, D.C.
November 6, 2015
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Appeal Process

This Letter of Admonishment may be contested by submitting a written request for a conference with the Board's Executive Officer/designee. To do so, the licensee or licensee's legal representative shall submit the enclosed Acknowledgment Receipt form to the Board within thirty (30) days from the date of issuance of the Letter of Admonishment. The conference may be conducted in person at the Board office or by telephone. Prior to or at the office conference, you or your legal representative may submit declarations and documentation to the Executive Officer/designee pertinent to the subject matter of the Letter of Admonishment. You will be notified in writing of the Board's decision within 14 calendar days of the conference. If the Letter of Admonishment contains an Order of Abatement, you shall submit documentation to the Executive Officer/designee which shows compliance with the Order by February 6, 2016. Any questions or concerns should be directed to Christina Bell.

Enclosures: California Code of Regulations section 389
California Code of Regulations section(s) 366, 317(n), 361(b), 371(c)
Acknowledgment Receipt Form
Proof of Correction and Compliance with Order of Abatement
Declaration of Service