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**BEFORE THE**  
**BOARD OF CHIROPRACTIC EXAMINERS**  
**STATE OF OREGON**

5 In the Matter of ) Case No. 2003-5013  
6 )  
7 DONALD HAYES, ) **FINAL STIPULATED ORDER**  
8 )  
9 D.C. Applicant. )

10 The Oregon Board of Chiropractic Examiners (hereinafter "Board" or "OBCE") is  
11 the state agency responsible for licensing, regulating and disciplining chiropractic physicians and  
12 certified chiropractic assistants in the State of Oregon. Donald Hayes (hereinafter "Applicant"),  
13 is an applicant to the Board to practice as a chiropractic physician in Oregon.

14  
15 1. On June 30, 2003, the OBCE received Applicant's application for a license to  
16 practice as a chiropractic physician in Oregon. The application was forwarded to the Oregon  
17 Board of Chiropractic Examiners for review at their September 18, 2003 meeting.

18 2.  
19 On October 6, 2003, the OBCE issued a Notice of Proposed Denial of Licensure  
20 to Applicant and stating reasons for the proposed denial therein. On June 11, 2004, a Third  
21 Amended Notice of Proposed Denial of Licensure was issued. That notice is hereby  
22 incorporated by reference.

23 3.  
24  
25 On July 2, 1993, Applicant, on behalf of Peninsula Health Care Group entered  
26 into a Stipulated Final Judgment whereby the corporation agreed to pay a civil penalty in the  
amount of \$100,000 pursuant to California Business and Professions Code Sections 17206 and

1 17536. The Stipulation provided that the judgment shall not constitute an admission of liability  
2 by the Corporation or any officer, director or employee thereof.

3  
4 4.

5 The California Board of Chiropractic Examiners ("CBCE") proposed to suspend  
6 or revoke Applicant's license to practice chiropractic on October 6, 1997. That matter was  
7 resolved by a stipulation entered into on June 11, 1998, wherein Applicant agreed to surrender  
8 his California chiropractic license and could not re-apply for two years from the effective date of  
9 the decision. In the stipulation, Applicant agreed he was subject to disciplinary action and had  
10 been convicted of a misdemeanor offense which was substantially related to the qualifications,  
11 function and duties of a chiropractor. Applicant agreed he had plead nolo contendere, that he  
12 was placed on three years of conditional probation, and that he had referred to himself in  
13 literature and advertising at the clinic as "Dr. Hayes," without disclosing to patients and  
14 prospective patients that he was not a medical doctor and, instead, a chiropractor, as required by  
15 law.  
16

17 5.

18 Applicant filed an application with this Board and in that application, Applicant  
19 provided an explanation of the criminal conviction referenced above. Subsequently, on May 3,  
20 2004, the criminal conviction was expunged by order of the Superior Court, Monterey County,  
21 California.  
22

23 6.

24 The Board noticed the Applicant for denial of his application contending the  
25 misdemeanor conviction and subsequent surrender of Applicant's California license, in addition  
26 to minimizing the conduct in application to the State of Oregon, constitute grounds to deny the

VICK & CONROYD,

ATTORNEYS AT LAW  
688 12TH ST. S.E., SUITE 200  
SALEM, OREGON 97301-4001  
TELEPHONE (503) 364-8488

1 application for a license to practice as a chiropractic physician in Oregon. In addition, the Board  
2 contends that by advertising himself as "Dr. Hayes," the Applicant has perpetrated a fraud upon  
3 patients or third party payers relating to the practice of chiropractic, and has directly or indirectly  
4 engaged in threatening, dishonest, or misleading fee collection techniques; all of which are  
5 asserted to be acts of unprofessional conduct under ORS 684.100(1)(d); ORS 684.040(2)(a);  
6 OAR 811-010-0055(3); and OAR 811-035-0015.

7  
8 7.

9 On August 25, 2004, the California Board of Chiropractic reinstated Applicant's  
10 license to practice chiropractic in California.

11  
12 8.

13 Applicant contends his California misdemeanor conviction has been expunged,  
14 and this conviction is not actionable in Oregon. He further contends he did not minimize his  
15 conduct in filing the application with the OBCE nor did he perpetrate a fraud upon patients or  
16 third party payers relating to the practice of chiropractic, and he has not directly or indirectly  
17 engaged in threatening, dishonest, or misleading fee collection techniques. He contends these  
18 charges were never proven in California and the prosecution in California was abandoned  
19 regarding these claims.

20 **Contentions of Law**

21  
22 9.

23 The OBCE contends the above-described conduct of Applicant, if proven, would  
24 violate ORS 864.100(1)(d); ORS 684.040(2)(a); OAR 811-010-0055(3); and OAR 811-035-  
25 0015. Applicant contends no violations of Oregon law have occurred, regardless of what facts  
26 the OBCE contends it could prove.

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**Stipulated Final Order**

10.

The parties, having reached a compromise concerning that above;

THEREFORE, pursuant to ORS 183.415(5) and ORS 684.100(9)(e) of the OBCE orders:

1. The parties have agreed to enter this Final Stipulated Order to resolve the above matter. Applicant waives his right to a hearing and any appeals rights. Applicant has been advised of his right to request a hearing in this matter pursuant to ORS 183.415(2)(a) and to be represented at hearing pursuant to ORS 183.415(3).
2. Applicant will be granted a license in Oregon after taking and successfully passing a SPEC exam and providing that to the Board.
3. Upon the granting of such license, when Applicant begins to practice in the State of Oregon, he will be subject to the following requirements:
  - a. Applicant will be on probation with this Board for a period of five (5) years after he begins practice in Oregon;
  - b. Applicant cannot practice in any multi-disciplinary practice for the duration of the probation period;
  - c. Applicant is obliged to fully disclose he is a Doctor of Chiropractic (D.C.), not a Medical Doctor (M.D.);
  - d. Applicant is obligated to adhere to and follow the Oregon Doctor's Title Act and the Advertising Rules of the OBCE. (ORS 676.110; OAR 811-015-0045);

- 1 e. Applicant will submit any advertising in Oregon for pre-approval  
 2 by the Board; and  
 3  
 4 f. Applicant will complete ten (10) hours of continuing education on  
 5 ethics and provide proof to the Board of completion and  
 6 attendance.
- 7 4. Immediately upon signature of this Order, Applicant is required to  
 8 reimburse the Board the sum of \$2,500 for investigatory costs.
- 9 5. If Applicant violates any of the terms of this Order, the Board may, after  
 10 Notice and Hearing, enter further disciplinary orders.
- 11 6. This Order is effective on the date signed by the Board.

12 **IT IS SO ORDERED:**

13 **DATED** this 4<sup>th</sup> November  
 14 day of ~~September~~, 2004.

15 **BOARD OF CHIROPRACTIC EXAMINERS**  
 16 State of Oregon

17 Original Signatures on file  
 18 at the OBCE Office  
 19 By: \_\_\_\_\_  
 20 David McTeague, Executive Director  
 21 Oregon Board of Chiropractic Examiners

22 Original Signatures on file  
 23 at the OBCE Office  
 24 By: \_\_\_\_\_  
 25 Donald Hayes, D.C.

VICK & CONROYD

ATTORNEYS AT LAW  
 888 12TH ST. S.E., SUITE 200  
 SALEM, OREGON 97301-4001  
 TELEPHONE (503) 364-8488

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BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF OREGON

In the Matter of )  
Donald Hayes ) Case # 2003-5013  
D.C. Applicant. ) **THIRD AMENDED**  
 ) **NOTICE OF PROPOSED**  
 ) **DENIAL OF LICENSURE**

---

14 The Oregon Board of Chiropractic Examiners (hereafter "Board" or "OBCE") is the state  
15 agency responsible for licensing, regulating and disciplining chiropractic physicians and certified  
16 chiropractic assistants in the State of Oregon. Donald Hayes (hereafter "Applicant"), is an  
17 applicant to the Board to practice as a chiropractic physician in Oregon.

18  
19 1.

20 On June 30, 2003, the OBCE received Applicant's application for a license to practice as  
21 a chiropractic physician in Oregon. The application was forwarded to the Oregon Board of  
22 Chiropractic Examiners for review at their September 18, 2003 meeting.

23 2.

24 Applicant was convicted and entered a plea of nolo contendere to a misdemeanor in the  
25 State of California on July 2, 1993 for violation of the Business and Criminal Professions Code,  
26 the crime of using the term "doctor" without a license. (Attachment 1 incorporated by  
27 reference). In addition, applicant agreed to a Final Stipulated Judgment where his medical group  
28 would pay to the County of Monterey, the sum of \$100,000.00 as civil penalties for violation of  
29 that law and was placed on probation for a three year period.

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3.

During the investigation of the criminal matter in paragraph 2, a Complaint for Civil Penalties and Equitable Relief was filed by Monterey County District Attorney Dean D. Flippo. In that Complaint, it alleged they sought to enjoin applicant from engaging in offering and paying of money for compensation for referring patients or clients for treatment of injuries, and from falsely advertising its services solely as a medical health care provider, when in fact, applicant provides exclusively chiropractic care, and from submitting false billing statements to health insurance companies for services not performed and for civil penalties for the violations described in that complaint. The complaint further alleged that defendants offered and paid money to its employees and staff for referring patients for treatment for pain and injuries; and that defendants had engaged in unfair competition within the meaning of the Business and Professions Code section 17200. That complaint was what lead applicant to plead nolo contendere to the misdemeanor mentioned in paragraph 2.

During the investigation, probable cause statements indicated that Applicant had told staff not to place any information which would reflect the administration of chiropractic care on any of the medical reports or insurance claim forms processed after 9/1/92. Staff indicated that applicant did not want the insurance companies to be aware that care was actually being performed by doctors of chiropractic rather than medical doctors.

4.

The California Board of Chiropractic Examiners (C.B.C.E.) proposed to suspend or revoke Applicant's license to practice chiropractic on October 6, 1997. (Attachment 2 incorporated by reference) That matter was resolved by a stipulation entered into on June 11, 1998 wherein Applicant agreed to surrender his California chiropractic license and could not apply for two years from the stipulation. In the stipulation, Applicant agreed that he was subject to disciplinary action and had been convicted of a misdemeanor offense which was substantially

1 related to the qualifications function and duties of a chiropractor. Applicant agreed that he had  
2 plead nolo contendere, that he was placed on three years of conditional probation and that he had  
3 referred to himself in literature and advertising at the clinic as "Dr. Hayes" without disclosing to  
4 patients and prospective patients that he was not a medical doctor and instead a chiropractor as  
5 required by law.

6 5.

7 In the application filed with this Board, applicant provided an explanation of the criminal  
8 conviction information. Applicant stated in his letter of explanation that "they did find a clinic  
9 jacket hanging in the closet that violated a business and professions code ruling." Applicant  
10 provided no explanation of the criminal charges filed, nor did he provide any information from  
11 the California Board as to the surrender of his license. Applicant did not mention that the final  
12 order required repayment of a large civil penalty. Through investigation by the Board the final  
13 stipulation and CBCE order was obtained. Applicant was attempting to downplay the severity of  
14 the criminal charges, the outcome of his criminal plea and the final order taken by the CBCE  
15 because of that conduct.

16 6.

17 The Board finds the facts as determined in the misdemeanor conviction and subsequent  
18 surrender of Applicant's California license in addition to minimizing the conduct in application  
19 to the State of Oregon, constitute grounds to deny the application for a license to practice as a  
20 chiropractic physician in Oregon. In addition, the Board finds that the underlying investigation  
21 and Civil Complaint filed by the Monterey District Attorneys office and the advertising himself  
22 as "Dr. Hayes" and by advertising that, that applicant has perpetrated a fraud upon patients or  
23 third party payors relating to the practice of chiropractic and has directly or indirectly engaged in  
24 threatening, dishonest, or misleading fee collection techniques; all of which are acts of  
5 unprofessional conduct under the following provisions:



1  
2 **ORS 684.100 (1)(d)**

3 (1) The State Board of Chiropractic Examiners may refuse to grant a license to  
4 any applicant, or may discipline a person upon any of the following grounds:  
5

6 (a) Fraud or misrepresentation.

7 (d) A conviction of a felony or misdemeanor involving moral turpitude. A copy of  
8 the record of conviction, certified to by the clerk of the court entering the  
9 conviction, is conclusive evidence of the conviction.

10 (s) the suspension or revocation by another state of a license to practice chiropractic,  
11 based upon acts by the licensee similar to acts described in this section.

12 **ORS 684.040 (2)(a)**

13 (2) Each applicant shall furnish to the board:

14 (a) Evidence satisfactory to the board of the applicant's good moral character.  
15

16 **OAR 811-010-0055 (3)**

17 (3) The Board may reject applications for good cause including evidence of  
18 unprofessional conduct.  
19

20 **OAR 811-035-0015 Unprofessional Conduct in the Chiropractic Profession**

21 Unprofessional conduct means any unethical, deceptive, or deleterious conduct or  
22 practice harmful to the public; any departure from, or failure to conform to, the minimal  
23 standards of acceptable chiropractic practice; or a willful or careless disregard for the  
24 health, welfare or safety of patients, in any of which cases proof of actual injury need not  
25 be established. Unprofessional conduct shall include, but not be limited to, the following  
26 acts of a chiropractic physician:

27 (7) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection  
28 techniques;

29 (12) Perpetrating fraud upon patients or third party payors, relating to the practice of  
30 chiropractic;  
31

7.

32 The Board proposes to deny Applicant's application for a license to practice chiropractic  
33 in Oregon.  
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8.

**NOTICE OF RIGHT TO A HEARING**

Applicant has the right, if Applicant requests, to a hearing as provided by the Administrative procedures Act (ORS Chapter 183) before the Board or its hearing officer to contest the matter set out above. At the hearing, Applicant may be represented by an attorney, and may subpoena and cross-examine witnesses. A request for hearing must be made in writing to the Board, and must be received by the Board within 30 days from the date of mailing of this notice (or if not mailed, the date of personal service), and must be accompanied by a written answer to the charges contained in this Notice. Upon receipt of a request for hearing, the Board will notify Applicant of the time and place of the hearing. If Applicant requests a hearing, Applicant will be given, prior to the commencement of the hearing, information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing as required by ORS 183.413(2).

9.

Applicant's answer shall be made in writing to the Board and shall include an admission or denial of each factual matter alleged in this Notice, and a short plain statement of each relevant affirmative defense Applicant may have. Except for good cause, factual matters alleged in this notice and not denied in the answer shall be presumed admitted; failure to raise a particular defense in the answer will be considered a waiver of such defense; and new matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency, and evidence shall not be taken on any issue not raised in the Notice and answer.

10.

If Applicant fails to request a hearing within 30 days, or fails to appear as scheduled at the hearing, the Board may issue a final order by default and impose the above sanctions against Applicant. Upon default order of the Board or failure to appear, the contents of the Board's file regarding the subject of this case automatically becomes part of the evidentiary record of this disciplinary action for the purpose of proving a prima facie case. ORS 183.415(6).

11.

The OBCE acknowledges that Applicant has made a timely request for contested case hearing.

DATED this 11<sup>th</sup> day of June, 2004.

**BOARD OF CHIROPRACTIC EXAMINERS**  
State of Oregon

Original Signatures on file  
at the OBCE Office  
By: Dave McTeague, Executive Director



1  
2 **CERTIFICATE OF SERVICE**  
3

4 I, Dave McTeague, certify that on June 11, 2004, I served the foregoing Third Amended  
5 Notice of Proposed Denial upon Donald L. Hayes, Applicant, the party hereto, by mailing,  
6 certified mail, postage prepaid, and a true, exact and full copy thereof to:

7  
8 Donald L. Hayes DC  
9 1460 Oak Patch Road  
10 Eugene, Oregon 97402  
11

12 By regular mail to:

13  
14 James Vick, AAL  
15 698 12<sup>th</sup> St., Suite 200  
16 Salem, Oregon 97301  
17

18 By state interagency mail to:

19  
20 Anthony Behrens ALJ  
21 Office of Administrative Hearings  
22 1905 Lana Avenue NE  
23 Salem, Oregon 97314  
24  
25  
26  
27

28 Original Signatures on file  
29 at the OBCE Office

30  
31 \_\_\_\_\_  
32 Dave McTeague  
33 Executive Director  
34 Oregon Board of Chiropractic Examiners

J24148P  
MONTEREY CJIS  
ORGANIZATION: MC

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MONTEREY

09/17/2003  
13:48  
PAGE 1

SALINAS DIVISION

--- CRIMINAL CASE DOCKET ---

CASE NO. MS120309A STATUS: ADJUDICATED

PEOPLE V. HAYES, DONALD L

DOB: 08/06/1949

9405 YORK RD  
MONTEREY, CA 93940

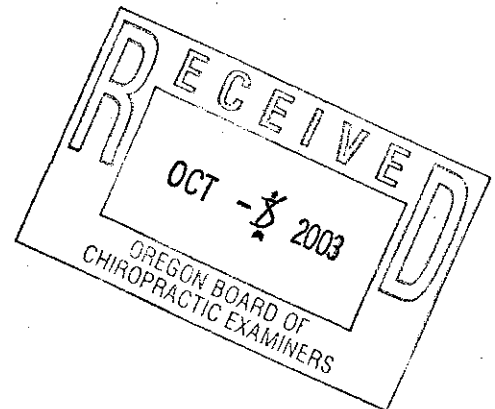
Attachment 1 incorporated by reference

\*\*\*\*\*  
ATTORNEYS OF RECORD:

PROSECUTION: NANCY BORDAGARAY  
DEFENSE:

\*\*\*\*\*  
CHARGES, PLEAS AND DISPOSITIONS:

COUNT			LATEST		
NO.	CODE/SECTION	PRS	TYPE	PLEA	DISPOSITION
1	BP 1000-15		M	NOLO	PLED NOLO CONTENDERE
	USING THE WORD DOCTOR OR DR. WITHOUT HAVING A LICENSE				



MONTEREY COUNTY MUNICIPAL COURT

MONTEREY DIVISION

SALINAS DIVISION

KING CITY DIVISION

MINUTES & DOCKETS NO: ms 120309A

WAIVER OF RIGHTS ON PLEA OF GUILTY (AND/OR ADMISSION OF PRIOR CONVICTIONS)

1000-15 B+P

PLEASE NOTE: THIS IS A PERMANENT RECORD, ATTACHED TO AND PART OF THE OFFICIAL DOCKET IN THIS CASE. DO NOT DESTROY.

I wish to plead ~~guilty~~ or no contest to criminal charges, and admit the charged prior convictions. Before making that plea, I know that I would be giving up the following:

1. My right to trial by jury or trial by court.
2. My right to be represented by an attorney at all stages of the proceedings or, if I cannot afford an attorney, to have an attorney appointed by the Court to represent me.
3. My right to see, hear and question all witnesses against me, and to have witnesses summoned on my behalf.
4. My right to remain silent.

- I also understand that if I enter a plea of guilty or no contest and if I am not a citizen of the United States, a conviction of this offense may have the consequences of a deportation, exclusion from admission to the United States, or denial of naturalization, or amnesty.
- I understand that any plea entered in this case may be grounds for violating probation or parole which has been previously imposed on me in any other case.
- I understand that I am giving up these rights and I understand the possible penalties. Knowing this, I still enter a plea of guilty or no contest.

Original Signatures on file at the OBCE Office

DATE: 7-2-93 SIGN HERE

PLEASE READ, SIGN AND DATE BOTH SIDES OF THIS FORM.

READ BY INTERPRETER \_\_\_\_\_

IN \_\_\_\_\_ LANGUAGE

Upon inquiry, the Court finds that there is a factual basis for the plea and further that this defendant understands the possible penalties and consequences of his/her plea and that he/she understood and knowingly, voluntarily, and intelligently waives each of the above rights.

DATE: 7-2-93

Alan Hedegard  
JUDGE OF THE MUNICIPAL COURT

SALINAS DIVISION

\*\*\*\*\*  
RECORD OF CASE EVENTS:

06291993 08:00 \*\* OUT OF COURT ENTRIES BY CLERK; IRENE CASTRO AT 8:00 A.M.

LETTER FROM ATTORNEY DISTRICT ATTORNEY EDWARD HAZEL  
RECEIVED AND FILED, REQUESTING COURT APPEARANCE FOR  
CHANGE DT OF ARRAIGNMENT.

VACATE MISDEMEANOR ARRAIGNMENT THAT WAS SET ON  
07/01/1993 AT 8:30 A.M.

MISDEMEANOR ARRAIGNMENT SET ON 07/02/1993 AT 8:30 A.M.  
IN MUNICIPAL COURT SALINAS, COURTROOM- 5.

07021993 08:30 \*\* HEARING HELD ON 07/02/93 AT 8:30 A.M. IN MUNICIPAL COURT  
SALINAS, COURTROOM- 5. HON. ALAN H. HEDEGARD,  
PRESIDING. CLERK: SYLVIA CALDERON/S. SHUFELDT.  
REPORTER: 178/1560.

NATURE OF PROCEEDINGS: MISDEMEANOR ARRAIGNMENT  
DEPUTY DISTRICT ATTORNEY NANCY BORDAGARAY APPEARED.  
DEFENDANT APPEARED WITH COUNSEL NEWHOUSE.

AS YOUR NAME IS CALLED YOU WILL BE ADVISED OF THE CHARGE  
AGAINST YOU AND YOU WILL BE ASKED IF YOU WISH TO ENTER A  
PLEA OF GUILTY, NOT GUILTY, NO-CONTEST OR SOME OTHER  
PLEA (FORMER CONVICTION OR ACQUITTAL, ONCE IN JEOPARDY  
OR NOT GUILTY BY REASON OF INSANITY)OR IF YOU WISH A  
CONTINUANCE TO SEE AN ATTORNEY OR TO THINK THE MATTER  
OVER BEFORE YOU ENTER A PLEA. (1016 & 1017 PC) YOU HAVE  
THE RIGHT TO BE REPRESENTED BY AN ATTORNEY AND THE COURT  
WILL GIVE YOU A CONTINUANCE OF UP TO ONE WEEK TO TALK  
WITH AN ATTORNEY IF YOU WISH. (990 PC) IF YOU ARE NOW IN  
CUSTODY, YOU HAVE THE RIGHT TO BE RELEASED BY POSTING  
REASONABLE BAIL (1268-1278 PC) AND YOU HAVE THE RIGHT TO  
HAVE A HEARING TO DETERMINE IF THERE IS PROBABLE CAUSE  
TO BELIEVE THAT A CRIME WAS COMMITTED AND IF YOU ARE  
GUILTY THEREOF. IF YOU ARE CHARGED WITH A MISDEMEANOR  
AND YOU ARE FINANCIALLY UNABLE TO EMPLOY AN ATTORNEY,  
THE COURT WILL APPOINT AN ATTORNEY FOR YOU AT YOUR  
REQUEST. (987 PC) AND UPON THE CONCLUSION OF THE CRIMINAL  
PROCEEDINGS, THE COURT WILL HOLD A HEARING TO DETERMINE  
IF YOU HAVE THE THEN PRESENT ABILITY TO REPAY THE COUNTY  
OF MONTEREY FOR ALL OR PART OF THE COST OF THE SERVICES  
OF THE COURT APPOINTED ATTORNEY. ANY ORDER THAT THE  
COURT MAKES WILL HAVE THE SAME FORCE AND EFFECT AS A  
JUDGMENT IN A CIVIL ACTION AND SHALL BE SUBJECT TO  
ENFORCEMENT. (987.8 PC) YOU ARE ENTITLED TO A SPEEDY AND  
PUBLIC JURY OR COURT TRIAL. (1016 PC) IF YOU ARE IN  
CUSTODY, YOU ARE ENTITLED TO BE TRIED WITHIN 30 DAYS  
FROM THE DATE OF YOUR ARRAIGNMENT OR ENTRY OF PLEA,  
WHICHEVER OCCURS LATER. IF YOU ARE NOT IN CUSTODY, YOU  
ARE ENTITLED TO BE TRIED WITHIN 45 DAYS FROM THE DATE OF  
YOUR ARRAIGNMENT OR ENTRY OF PLEA, WHICHEVER OCCURS  
LATER. IF YOU ARE NOT BROUGHT TO TRIAL WITHIN THOSE TIME



SALINAS DIVISION

\*\*\*\*\*  
RECORD OF CASE EVENTS:

07021993 - CONTINUED

PERIODS, YOU ARE ENTITLED TO HAVE A MISDEMEANOR OR INFRACTION CHARGE AGAINST YOU DISMISSED UNLESS YOU HAVE WAIVED YOUR RIGHT TO A SPEEDY TRIAL. (1382 PC) YOU HAVE THE RIGHT TO BE CONFRONTED BY THE WITNESSES WHO ACCUSE YOU AND TO CROSS-EXAMINE THEM UNDER OATH. YOU HAVE THE RIGHT TO TESTIFY AT YOUR TRIAL AND YOU HAVE THE RIGHT TO REFUSE TO TESTIFY. (CONSTITUTION) YOU HAVE THE RIGHT TO USE THE SUBPOENA POWER OF THE COURT TO COMPEL THE ATTENDANCE OF WITNESSES ON YOUR BEHALF. YOU HAVE THE RIGHT TO HAVE A PEACE OFFICER SERVE THE SUBPOENA FOR YOU. (1326-1328 PC) YOU HAVE THE RIGHT TO APPEAL THE JUDGMENT OF THIS COURT TO THE SUPERIOR COURT OF THE COUNTY OF MONTEREY. YOU MUST FILE YOUR NOTICE OF APPEAL WITHIN 30 DAYS FROM THE DATE YOU ARE SENTENCED. IF YOU CAN'T AFFORD TO HIRE AN ATTORNEY FOR YOUR APPEAL, THE SUPERIOR COURT WILL APPOINT ONE TO ASSIST YOU. (RULES OF COURT 182 & 250) YOU MAY ASK FOR AN INDICATED SENTENCE BEFORE YOU ENTER A PLEA OF GUILTY OR NO CONTEST, IF YOU WISH, AND FIND OUT EXACTLY WHAT YOUR SENTENCE WILL BE. YOU MAY PLEAD GUILTY AND IMPOSE CONDITIONS THAT LIMIT THE AMOUNT OF JAIL TIME OR FINE THAT MAY BE IMPOSED. THE COURT RESERVES THE RIGHT TO DECIDE IF YOUR CONDITIONAL PLEA WILL BE ACCEPTED. (1192.3 PC) IF YOU PLEAD GUILTY/NO CONTEST YOU GIVE UP: 1. YOUR RIGHT TO AN ATTORNEY EVEN A COURT APPOINTED ONE; 2. YOUR RIGHT TO A JURY OR COURT TRIAL; 3. YOUR RIGHT TO CONFRONT AND CROSS-EXAMINE ALL WITNESSES AGAINST YOU; AND 4. YOUR PRIVILEGE AGAINST SELF INCRIMINATION AND YOUR RIGHT TO REMAIN SILENT. IF YOU PLEAD GUILTY OR NO CONTEST, YOU HAVE THE RIGHT TO A DELAY OF AT LEAST 6 HOURS AND NO MORE THAN 5 DAYS BEFORE SENTENCING MAY BE IMPOSED. YOU MAY WAIVE THAT RIGHT AND ASK TO BE SENTENCED EARLIER OR LATER IF YOU WISH. (1449 PC)

PENALTIES: THE MAXIMUM PENALTY FOR MOST MISDEMEANOR OFFENSES IS 1 YEAR IN THE COUNTY JAIL AND A FINE OF UP TO \$1000 PLUS PENALTY ASSESSMENTS (PENALTY ASSESSMENTS ARE NOW MORE THAN THE FINE ITSELF AND ARE REQUIRED BY STATUTE TO BE ADDED TO THE FINE IMPOSED). YOU MAY BE REQUIRED TO PAY RESTITUTION TO THE VICTIM OR TO THE STATE RESTITUTION FUND ALSO. (1464 PC PLUS NUMEROUS OTHERS) (1203.04 PC) FOR SOME OFFENSES THE COURT MAY ALSO SUSPEND YOUR RIGHT TO DRIVE AND IMPOUND YOUR CAR AT YOUR EXPENSE. YOU MAY BE REQUIRED TO ATTEND AND COMPLETE COUNSELING SESSIONS. IF YOU ARE CONVICTED OF DRIVING UNDER THE INFLUENCE OF ALCOHOL AND HAVE A HIGH BLOOD ALCOHOL LEVEL (.20 OR MORE) OR IF YOU REFUSED TO TAKE A CHEMICAL TEST, YOUR SENTENCE MAY BE ENHANCED OR MADE GREATER PURSUANT TO SECTION 23206.1 OF THE VEHICLE CODE. IF YOU ARE CONVICTED OF DRIVING UNDER THE INFLUENCE OF

SALINAS DIVISION

\*\*\*\*\*

RECORD OF CASE EVENTS:

07021993 - CONTINUED

ALCOHOL AND HAVE A BLOOD ALCOHOL LEVEL OF DOUBLE THE LEGAL LIMIT OR MORE (.16) YOU SHOULD EXPECT TO BE REQUIRED TO INSTALL AN INTERLOCK DEVICE ON YOUR CAR TO PREVENT YOU FROM STARTING YOUR CAR WITH ANY ALCOHOL IN YOUR BODY. FOR SOME OFFENSES YOU MAY BE REQUIRED TO REGISTER WITH THE SHERIFF OR THE CHIEF OF POLICE. (290 PC, 11590 HS) IF YOU ARE NOT A CITIZEN OF THE UNITED STATES OF AMERICA, YOU ARE HEREBY ADVISED THAT CONVICTION OF THE OFFENSE FOR WHICH YOU HAVE BEEN CHARGED MAY HAVE THE CONSEQUENCE OF DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATE OF AMERICA, OR DENIAL OF NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATE OF AMERICA. (1016.5 PC) UPON SATISFACTORY COMPLETION OF PROBATION OR ONE YEAR AFTER SENTENCING IF NO PROBATION IS IMPOSED, YOU MAY THEN BE ABLE TO WITHDRAW YOUR PLEA OR VERDICT, HAVE A NOT GUILTY PLEA ENTERED, AND HAVE YOUR RECORD CLEARED IN SOME CASES. (1203.4 PC) IF YOU ARE CHARGED ONLY WITH AN INFRACTION, YOUR RIGHTS ARE A LITTLE DIFFERENT THAN THOSE CHARGED WITH A MISDEMEANOR. IF YOU ARE CHARGED ONLY WITH AN INFRACTION, YOU DO NOT HAVE THE RIGHT TO A COURT APPOINTED ATTORNEY AND YOU DO NOT HAVE THE RIGHT TO A JURY TRIAL. YOU DO HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY OF YOUR CHOICE AND YOU HAVE THE RIGHT TO A TRIAL BY JUDGE. YOU CAN NOT BE SENTENCED TO JAIL FOR AN INFRACTION. THE MAXIMUM PENALTY IS A FINE ONLY OF \$250 PLUS PENALTY ASSESSMENTS (19 E PC) IF YOU ARE CHARGED WITH A FELONY, YOU HAVE THE RIGHT TO A PRELIMINARY HEARING WHICH MUST BE HELD WITHIN 10 COURT DAYS OF THE DAY YOU ARE ARRAIGNED OR ENTER A PLEA, WHICHEVER OCCURS LATER. (859 B PC) YOU MAY NOT WAIVE YOUR RIGHT TO A PRELIMINARY HEARING UNLESS YOUR ATTORNEY AGREES TO THE WAIVER. (860 PC) FOR A FELONY CASE, YOU REALLY SHOULD HAVE AN ATTORNEY HELP ADVISE YOU. YOU CAN GO TO PRISON ON A FELONY CASE.

DEFENDANT INFORMED OF THE CHARGE(S) ALLEGED.  
DEFENDANT ENTERS A PLEA OF NOLO CONTENDERE AS CHARGED.  
DEFENDANT ORALLY STATES THAT HE HAS READ AND UNDERSTANDS THE ACKNOWLEDGEMENT OF WAIVER OF RIGHTS FORM, AND THE MAXIMUM AND MINIMUM PENALTIES FORM, WHICH HE HAS SIGNED, AND IS INCORPORATED HEREIN.  
DEFENDANT WAIVES TIME FOR SENTENCING.  
IMPOSITION OF SENTENCE SUSPENDED, AND DEFENDANT PLACED ON PROBATION FOR A PERIOD OF 3 YRS; 0 MOS; 0 DAYS. TYPE OF PROBATION: CONDITIONAL.  
OBEY ALL LAWS.

SALINAS DIVISION

\*\*\*\*\*  
RECORD OF CASE EVENTS:

07021993 - CONTINUED

VOLUNTARILY SUBMIT TO A SEARCH OF YOUR PERSON, VEHICLE  
OR RESIDENCE AT THE REQUEST OF ANY PEACE OFFICER OR  
PROBATION OFFICER, DAY OR NIGHT WITH OR WITHOUT THE  
NECESSITY OF A SEARCH WARRANT WITH OR WITHOUT PROBABLE  
CAUSE FOR N/A.  
DEFENDANT ACCEPTS PROBATION.  
ALL SENTENCE ELEMENTS FOR THIS PROCEEDING ENTERED.

07301993 10:30 \*\* OUT OF COURT ENTRIES BY CLERK; ANGELICA MARTINEZ AT  
10:30 A.M..  
COPY OF DOCKET ISSUED TO DEFT, FEE APPLIED IN THE AMOUNT  
OF \$3.50 RECEIPT NUMBER 1561A001.

04041997 09:42 \*\* OUT OF COURT ENTRIES BY CLERK; ANTHONY FUSCO AT 9:42  
A.M..  
CERTIFIED COPY OF DOCKET ISSUED TO STATE OF CA DIVISION  
OF INVESTIGATION, FEES EXEMPT PURSUANT TO GC 6103.



I HEREBY CERTIFY THAT THE FOREGOING DOCUMENT IS A  
TRUE COPY OF THE ORIGINAL ON FILE IN MY OFFICE.

DATE 9/17/03  
SHERRI L. PEDERSEN, CLERK OF THE SUPERIOR COURT

Original Signatures on file  
at the OBCE Office

JUL 2 1993

JUL 2 1993

1 DEAN D. FLIPPO  
 District Attorney  
 2 Monterey County  
 DOUGLAS MATHESON  
 3 Deputy District Attorney  
 Consumer/Environmental Protection Division  
 4 P.O. Box 1369  
 Salinas, CA 93902  
 5 (408) 755-5070  
 6 Attorneys for Plaintiff

ERNEST A. MAGGINI  
 MONTEREY COUNTY CLERK  
*Ernest A. Maggini* DEPUTY  
 ERNEST A. MAGGINI  
 MONTEREY COUNTY CLERK  
*Ernest A. Maggini* DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 9 FOR THE COUNTY OF MONTEREY

10 PEOPLE OF THE STATE OF CALIFORNIA, )  
 11 )  
 Plaintiff, )  
 12 )  
 vs. )  
 13 )  
 PENINSULA HEALTH CARE GROUP, a )  
 14 California corporation, dba )  
 CYPRESS MEDICAL GROUP, )  
 15 )  
 16 Defendant. )

CASE NO.: 97002  
 STIPULATED FINAL JUDGMENT

17  
 18 Plaintiff PEOPLE OF THE STATE OF CALIFORNIA, appearing  
 19 through its attorneys, Dean D. Flippo, District Attorney of the  
 20 County of Monterey, California, by Douglas Matheson, Deputy  
 21 District Attorney, and Defendant PENINSULA HEALTH CARE GROUP,  
 22 doing business as CYPRESS MEDICAL GROUP, appearing through its  
 23 attorneys, Spiering, Swartz & Kennedy, by Andrew H. Swartz;  
 24 Pursuant to stipulation for entry of Final Judgment  
 25 signed by counsel for both parties, whereby Plaintiff and  
 26 Defendant consent to the entry of this Stipulated Final  
 27 Judgment, without the taking of evidence, and without trial  
 28 or adjudication of any facts herein, without this Judgment

SATISFACTION OF JUDGMENT  
 ENTERED ON July 26, 1993  
 ERNEST A. MAGGINI, CLERK  
*Ernest A. Maggini* DEPUTY

1 constituting any evidence, findings or admission by Defendant  
2 as to any issue of fact or law, including any matters or  
3 disputes that Defendant, or its officers or employees may  
4 have with the State Board of Chiropractors, and without this  
5 judgment having any legal or equitable affect or constitute an  
6 admission by Defendant, or any of its officers or employees as  
7 to any matter, including any matter before the State Board of  
8 Chiropractors.

9 Defendant PENINSULA HEALTH CARE GROUP, doing business as  
10 CYPRESS MEDICAL GROUP, having denied all allegations of  
11 wrongdoing, including all such allegations of the Complaint, and


12 The Court having read and considered this matter, and  
13 good cause appearing,

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

15 1. Defendant PENINSULA HEALTH CARE GROUP, doing business  
16 as CYPRESS MEDICAL GROUP, shall pay to the County of Monterey,  
17 through Dean D. Flippo, District Attorney of the County of  
18 Monterey, simultaneously herewith, the sum of ONE HUNDRED  
19 THOUSAND DOLLARS AND NO/100 (\$100,000.00), as civil penalties  
20 pursuant to Business and Professions Code Sections 17206 and  
21 17536 and further that this judgment shall not constitute an  
22 admission of liability by the Defendant or any officer, director  
23 or employee thereof.

24 DATED: 7-2, 1993

25 JUL 2 1993

  
Original Signatures on file  
at the OBCE Office  
JUDGE OF THE SUPERIOR COURT  
RICHARD M. SILVER

28 People vs. Peninsula Health Care Group, Cypress Medical Group,  
Case No. 97002

DANIEL E. LUNGREN, Attorney General  
of the State of California  
CHRISTIANA TIEDEMANN,  
Deputy Attorney General  
50 Fremont Street, Room 300  
San Francisco, CA 94105  
Telephone (415) 356-6346

Attorneys for Complainant

BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF CALIFORNIA

In the Matter of the	)	No. 98-19
Accusation Against:	)	
	)	ACCUSATION
DONALD LEE HAYES	)	
17445 Sierra Way	)	
Monument, Colorado 80132	)	
License No. 11923	)	
	)	
Respondent.	)	

Complainant, M. Elizabeth Ware, charges and alleges as follows:

1. She is the Executive Director of the Board of Chiropractic Examiners, State of California (hereinafter "the Board") and makes and files this accusation solely in her official capacity.

2. Respondent Donald Lee Hayes (hereinafter "respondent") was issued License No. 11923 in 1978. At all times herein mentioned respondent's license has been in full force and effect.

EXHIBIT A

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RELEVANT STATUTES AND REGULATIONS

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3. Section 1000-10 subdivision (a) and (b) of the Business and Professions Code states, in pertinent part, that the Board may, by rule or regulation, adopt rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and protection of the public and that the Board may take disciplinary action against a licensee for a violation of the rules and regulations adopted by the Board or for any cause specified in the Chiropractic Act.

4. Title 16, California Code of Regulations, section 317 constitutes part of the rules and regulations of the Board, and, in pertinent part, states that the Board shall take action against any holder of a license who is guilty of unprofessional conduct. Unprofessional conduct is defined therein to include, but not to be limited to:

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

5. Section 490 of the Business and Professions Code states, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Title 16, California Code of Regulations, section 317.5 constitutes part of the rules and regulations of the Board, and, in pertinent part, states that in any order in resolution of a disciplinary proceeding before the Board of Chiropractic

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1 Examiners, the board may request the administrative law judge  
2 direct a licentiate found to have committed a violation or  
3 violations of the Chiropractic Initiative Act to pay a sum not to  
4 exceed the reasonable costs of the investigation and enforcement  
5 of the case.

6 FIRST CAUSE FOR DISCIPLINARY ACTION

7 7. Respondent is subject to disciplinary action pursuant to  
8 Title 16, California Code of Regulations section 317(g) and  
9 Business and Professions Code sections 490 and 1000-10 in that he  
10 has been convicted of a misdemeanor offense which is  
11 substantially related to the qualifications, functions and duties  
12 of a chiropractor as follows:

13 A. On July 2, 1993, respondent entered a plea of nolo  
14 contendere in the Monterey County Municipal Court to one  
15 misdemeanor violation of Business and Professions Code section  
16 1000-15 (use of the designation "Dr." without additional use of  
17 "D.C.")

18 C. On July 2, 1993 respondent was placed on three  
19 years of conditional probation pursuant to the no contest pleas  
20 set forth above with the usual and standard conditions of  
21 probation.

22 D. The underlying circumstances of respondent's  
23 conviction are as follows: Respondent owned and operated a  
24 clinic known as Peninsula Health Care Group in Monterey County  
25 California. Respondent referred to himself in literature and  
26 advertising for the Clinic as "Dr. Hayes" without disclosing to  
27 patients and prospective patients that he was not a medical

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1 doctor and was instead a chiropractor, as required by law.

2 WHEREFORE, complainant prays that the Board hold a hearing  
3 on the matters alleged herein and following said hearing issue a  
4 decision suspending or revoking the chiropractic license issued  
5 to Donald Lee Hayes, awarding costs of investigation and  
6 prosecution pursuant to Title 16, California Code of Regulations  
7 section 317.5, and taking such other and further action as the  
8 Board deems proper.

9 Dated: October 6, 1997

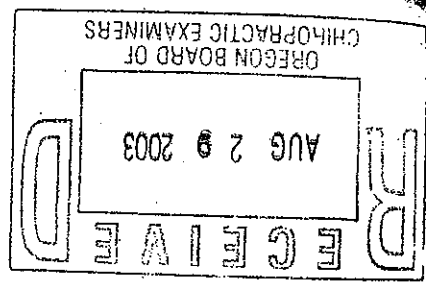
Original Signatures on file  
at the OBCE Office

M. ELIZABETH WARE, Executive Director  
Board of Chiropractic Examiners  
State of California  
Complainant

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1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 CHRISTIANA TIEDEMANN,  
Deputy Attorney General  
3 50 Fremont Street, Suite 300  
San Francisco, CA 94105  
4 Telephone (415) 356-6346  
5 Attorneys for Complainant



9 BEFORE THE  
10 BOARD OF CHIROPRACTIC EXAMINERS  
11 STATE OF CALIFORNIA

14 In the Matter of the  
15 Accusation Against: )  
DONALD LEE HAYES )  
16 17445 Sierra Way )  
17 Monument, Colorado 80132 )  
License No. 11923 )  
18 Respondent. )  
19

No. 98-19  
PROPOSED DECISION  
PURSUANT TO  
STIPULATION

20 IT IS HEREBY STIPULATED by and between Donald Lee Hayes  
21 (hereinafter "respondent"), by and through his attorney of  
22 record, Andrew H. Swartz, Spiering, Swartz & Kennedy, and the  
23 Board of Chiropractic Examiners of the State of California, by  
24 and through Christiana Tiedemann, Deputy Attorney General, as  
25 follows:

26 1. That respondent has received and read the accusation  
27 which is presently on file and pending in case No. 98-19 before  
the Board of Chiropractic Examiners of the State of California.

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1 A copy of the accusation is attached hereto as Exhibit A.

2 2. That respondent is fully aware of his right to a hearing  
3 on the charges and allegations contained in the accusation, his  
4 right to reconsideration, to appeal and to any and all other  
5 rights which may be accorded him pursuant to the California  
6 Administrative Procedure Act, and he hereby fully and voluntarily  
7 waives his right to a hearing, to reconsideration, to appeal and  
8 to any and all other rights which may be accorded him pursuant to  
9 the California Administrative Procedure Act with regard to  
10 Accusation No. 98-19.

11 3. That M. Elizabeth Ware, complainant in this case, as  
12 Executive Officer of the Board of Chiropractic Examiners, State  
13 of California, made and filed the accusation in her official  
14 capacity as such and not otherwise.

15 4. That respondent admits the truth of the allegations of  
16 paragraph 7 of the accusation and that he is subject to  
17 disciplinary action by the Board pursuant to Title 16, California  
18 Code of Regulations, section 317(g) and Business and Professions  
19 Code section 490 and 1000-10 as a result of being convicted of a  
20 criminal offense substantially related to the qualifications,  
21 functions and duties of his chiropractic license.

22 5. That in order to avoid the expense and time of an  
23 administrative hearing in this matter, respondent wishes to  
24 surrender chiropractic license number 11923.

25 6. That based on the foregoing recitals, **IT IS HEREBY**  
26 **STIPULATED AND AGREED** that the Board of Chiropractic Examiners  
27 may issue the following order:

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1 (a) On the effective date of this decision, respondent  
2 surrender his chiropractic license (license number 11923) to  
3 Board. Respondent shall relinquish his wall license and pocket  
4 renewal license to the Board or its designee within ten (10) days  
5 of the effective date of this decision.

6 (b) Respondent may not apply for a California chiropractic  
7 license for two (2) years from the effective date of this  
8 decision.

9 (b) Should respondent apply to the Board for re-licensure  
10 on or after two years from the effective date of this decision,  
11 respondent must meet all current requirements for licensure at  
12 that time, including but not limited to filing a current  
13 application and taking and passing the California chiropractic  
14 law exam prior to the issuance of a new license. Respondent  
15 shall not be required to re-take the national chiropractic exam,  
16 which he has passed, as condition of re-licensure in California.

17 (c) In consideration of respondent's surrender of his  
18 license without the necessity of an administrative hearing, the  
19 Board agrees to waive reimbursement of the costs of prosecution  
20 and investigation authorized under Title 16, California Code of  
21 Regulations section 317.5.

22 (d) The Board of Chiropractic Examiners, by its adoption of  
23 this stipulation, accepts the surrender of respondent's  
24 chiropractic license and agrees, based on such surrender and the  
25 terms and conditions set forth in this stipulation, that it will  
26 not further prosecute the accusation on file against respondent.

27 IT IS FURTHER STIPULATED AND AGREED that the terms set forth

1 herein shall be null and void, and in no way binding upon the  
2 parties hereto, unless and until accepted by the Board of  
3 Chiropractic Examiners of the State of California.

4 Dated: 5/4/98

DANIEL E. LUNGREN  
At \_\_\_\_\_  
Original Signatures on file  
By \_\_\_\_\_  
at the OBCE Office  
CHRISTIANA TIEDEMANN  
Deputy Attorney General

7  
8 Dated: 4/29/98

SPIERING, SWARTZ & KENNEDY  
Original Signatures on file  
at the OBCE Office  
ANDREW H. SWARTZ  
Attorney for Respondent

9  
10  
11  
12 I hereby certify that I have read this stipulation and  
13 agreement in its entirety, that my attorney has fully explained  
14 the legal significance and consequences thereof, and that I fully  
15 understand all of the same

16 Dated: 4/28/98

Original Signatures on file  
at the OBCE Office  
DONALD LEE HAYES  
Respondent

18  
19 ORDER

20 The foregoing Proposed Decision Pursuant to Stipulation is  
21 adopted as the Decision of the Board of Chiropractic Examiners of  
22 the State of California. This Decision shall become effective on  
23 July 11, 1998.

24 IT IS SO ORDERED this 11 day of June, 1998.

25  
26 BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF CALIFORNIA

27 By Shirley Foreman D.C.  
Board President