

OHIO STATE CHIROPRACTIC BOARD
ANNUAL REPORT



Fiscal Year 2008

July 1, 2007 - June 30, 2008

❧ Introduction ❧

The Ohio State Chiropractic Board is a state government agency that was established by the legislature in 1975 to regulate the practice of chiropractic and to protect the health, safety and welfare of the public. The Board is responsible for examining and licensing chiropractic physicians and enforcing the provisions of Chapter 4734 of the Ohio Revised Code and the Administrative Code adopted by the Board.

The Ohio Attorney General is the statutory legal counsel to the Board. An Assistant Attorney General from the Health and Human Services Section represents the Board in administrative hearings and court proceedings.

❧ Mission Statement ❧

As servants of the public, our purpose is to protect the public health, safety and welfare...

Our mission is to proactively protect the health and welfare of Ohio's citizens and to regulate the chiropractic profession with vision by setting high standards for licensure and by fairly and consistently enforcing those standards through examination of new doctors, annual license renewal, clinic inspections, and timely investigation and disciplinary action when indicated.



∞ Board Staff

The Board employs six full time employees to carry out its duties and responsibilities. The regular working hours of the Board are Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding state holidays.

Kelly A. Caudill, Executive Director

Ms. Caudill serves as the chief enforcement officer for the Board, enforcing the laws and rules governing the practice of chiropractic in Ohio. Ms. Caudill also directs and manages all activities and programs of the Board office, carries out the Board Members' directives, and oversees all legal and legislative activities.

Elizabeth N. Moore, Administrative Assistant

Liz serves as liaison to the Board members for their administrative support needs and acts for the Director by relieving her of a variety of difficult administrative duties. Liz functions as the Board's office manager and is responsible for auxiliary functions such as personnel, public information, fleet management, fiscal, travel, payroll, records retention and inventory. Liz also manages the administrative rule making process and is responsible for editing and updating the Board's website, applications, newsletters, publications, annual reports and forms.

Laurie A. Allison, Licensing Coordinator

Laurie handles initial licensing, examinations, annual license renewal and continuing education. Laurie acts as the front desk receptionist and provides support to the Board and staff.

M. Kate Borloglou, Paralegal

Kate is responsible for gathering preliminary case information and researching data to support the legal and enforcement staff, processing public records requests, conducting basic investigations and monitoring doctors subject to discipline and Quality Intervention participants. Kate is also responsible for reporting the Board's disciplinary actions to the appropriate databanks.

Thomas J. Hollis, Investigator

Rex J. Waldenmyer, Investigator

Rex and T.J. conduct investigations relative to complaints involving the practice of chiropractic. These investigations may be highly specialized, complex and long-term. Investigations of persons rendering chiropractic services are conducted to determine the facts in each case, ascertain the exact basis of the complaint, and confirm allegations for administrative, civil, and criminal actions.

☞ Chiropractic Board Members & Terms of Office

The Board is comprised of four chiropractic physicians and one public member. The Governor, with the advice and consent of the Senate, appoints the members to four-year terms. Members are eligible to be re-appointed once. Board members are compensated hourly for actual time devoted to the Board's affairs, and are reimbursed for expenses incurred in the performance of their official duties.

Anna Villarreal, D.C., Esq., President ♦ Chillicothe, Ohio

Appointed: 01/08/2003

Reappointed: 12/08/2006

Term Expires: 11/02/2010

Mark A. Korchok, D.C., Vice-President ♦ Cincinnati, Ohio

Appointed: 01/08/2004

Reappointed: 02/20/2008

Term Expires: 11/02/2011

Richard J. Maynard, D.C. ♦ Lancaster, Ohio

Appointed: 12/08/2006

Term Expires: 11/02/2010

¹Don T. Shaffer, D.C. ♦ Brookville, Ohio

Appointed: 05/13/2008

Term Expires: 11/02/2009

²John P. Kennedy, Esq. ♦ Columbus, Ohio

Appointed: 10/18/2007

Term Expires: 11/02/2009

☞ Board Meetings

During Fiscal year 2008, the Board conducted 8 meetings at the Board office on the following dates: August 9, August 23, September 20, November 1 and December 13, 2007; January 10, February 21, April 17 and June 12, 2008.

All meetings of the Board are open to the public. Upon request, any person may obtain advance notification of the time, place and purpose of all meetings of the Board. The Board's meeting dates are posted on its website.

¹ Dr. Shaffer was appointed to complete the term of Dr. Earl Wiley who passed away on 11/20/07.

² Mr. Kennedy was appointed to complete the term of Mr. Larry Price who resigned effective 8/10/07.

∞ Educational Meetings & Conferences

- ◇ October 19-21, 2007 – Dr. Villarreal attended the Federation of Chiropractic Licensing Boards District II Meeting in Ft. Walton Beach, Florida.
- ◇ November 9-11, 2007 – Drs. Bleser and Korchok participated in the National Board of Chiropractic Examiners' Part IV testing in Atlanta, Georgia.
- ◇ May 1-4, 2008 – Dr. Villarreal attended the Federation of Chiropractic Licensing Boards 82nd Annual Congress in Atlanta, Georgia.
- ◇ May 16-18, 2008 – Dr. Villarreal participated in the National Board of Chiropractic Examiners' Part IV testing in Atlanta, Georgia.

∞ Board Memberships

The Board is an active member of the following organizations:

Federation of Chiropractic Licensing Boards

The Federation of Chiropractic Licensing Boards is a non-profit organization established in 1926 as the professional association for governmental regulatory boards responsible for chiropractic licensure. Membership is comprised of chiropractic licensing boards from the United States and Territories, Canada, Australia and Mexico.

As a member of the FCLB the Board receives free online reporting to the Chiropractic Information Network/Board Action Databank (CIN-BAD) an on-line computer database that tracks the disciplinary actions taken against chiropractic physicians in all jurisdictions, PowerPoll surveys regarding interpretative scope of practice issues, and educational conference communication. The FCLB serves as the Board's reporting agent to the Health Integrity and Protection Data Bank.

American Chiropractic Association (ACA)

The American Chiropractic Association promotes the highest standards of ethics and patient care, contributing to the health and well-being of millions of chiropractic patients. ACA provides the Board with the most current coding information to ensure accurate coding and reporting of chiropractic services.

Federations of Associations of Regulatory Boards (FARB)

The Federation of Associations of Regulatory Boards is a non-profit organization established in 1974 to promote excellence in the regulation of professions to protect the public. Member associations are of regulatory boards across disciplines, jurisdictions, and professions. FARB's annual training events contribute to the continual development of excellence in regulation for the purpose of public protection.

Council on Licensure, Enforcement and Regulation (CLEAR)

The Council on Licensure, Enforcement and Regulation promotes regulatory excellence through conferences, educational programs, networking opportunities, publications, and research services for those involved with, or affected by, professional and occupational regulation. CLEAR's membership has included representatives of all governmental sectors, the private sector, and many others with an interest in this field. CLEAR serves and supports the international regulatory community and its vital contribution to public protection.

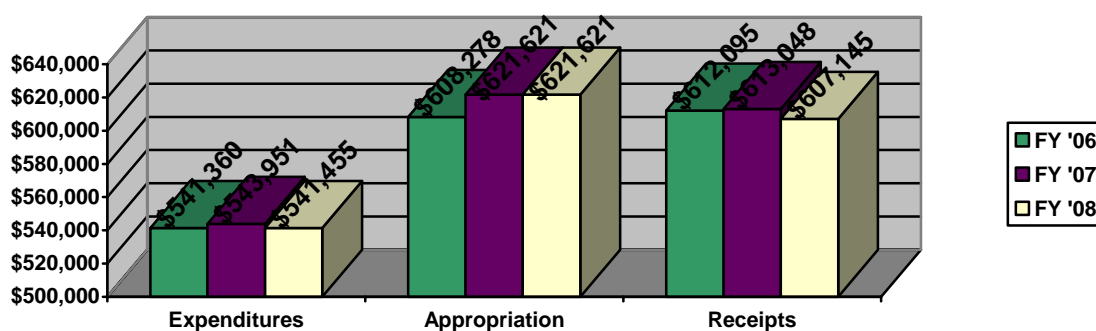
Citizen Advocacy Center (CAC)

Citizen Advocacy Center serves the public interest by enhancing the effectiveness and accountability of health professional oversight bodies. As a resource for health professional boards, CAC offers training, research and networking opportunities for public members and for the health care regulatory, credentialing, and governing boards on which they serve.

☞ Budgetary Matters

As required by ORC 4734.54, all receipts of the Board are deposited in the Occupational and Professional Licensing Fund (4K9). The aggregate of all fees collected in FY 2008 exceeded the Board's biennial operating expenditures.

☞ Fiscal Summary



☞ Statement of Revenue

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
Renewal Fees	\$562,250	\$561,000	\$560,750
Application Fees	\$24,300	\$23,100	\$28,275
Penalty Fees	\$13,050	\$11,400	\$9,750
Licensee Rosters	\$5,890	\$6,080	\$6,175
License Certifications	\$2,180	\$1,880	\$1,580
Duplicate License	\$135	\$270	\$450
Civil Fines	\$4,000	\$9,250	\$0
Miscellaneous	\$290	\$68	\$165
TOTAL	\$612,095	\$613,048	\$607,145

⌘ Administrative Rules

During FY 2008 the Board proposed the rescission, adoption or amendment of the following administrative rules which were electronically filed on August 20, 2007 with the Joint Committee on Agency Rule Review, the Legislative Service Commission and the Secretary of State's Office. The proposed rules were placed on the Register of Ohio website and public notice was mailed to all active licensees. A public hearing was held on September 20, 2007 at the Vern Riffe Center for Government and the Arts. The rules were made effective November 15, 2007.

Proposed Rule Adoptions

4734-6-07	Addresses of Licensees (rescinded & drafted as new)
4734-8-07	Terminating Patient Relationship
4734-8-08	Universal Precautions
4734-9-06	Sexual Misconduct (rescinded & drafted as new)
4734-10-01	Maintaining a Certificate to Practice Acupuncture
4734-10-02	Acupuncture Course of Study Approval
4734-10-03	Application for Acupuncture Certificate
4734-10-04	Acupuncture Certificate Renewal Requirements
4734-10-05	Acupuncture Referral

Proposed Rule Amendments

4734-6-08	Pre-Chiropractic Educational Requirements
4734-7-01	Chiropractic License Renewal Requirements
4734-7-02	Application and Requirements for Approval of Continuing Education
4734-7-03	Continuing Education
4734-7-04	Inactive License; Restoration of License
4734-8-03	Quality Intervention Program
4734-9-02	Advertising and Solicitation
4734-9-03	Signage and Display of License
4734-9-08	Professional Ethics
4734-9-10	Conduct Following Action Against a License

⌘ Five Year Rule Review

The Board reviews each of its rules every five years to determine whether to continue without change, amend, or rescind each rule in accordance with ORC §119.032. Prior to the scheduled review date of a rule, the Board shall review the rule to determine whether the rule should be continued without amendment, be amended or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted.

During FY 2008 the Board reviewed the following rules and filed them with no changes:

4734-1-03	Payment of Fees
4734-1-04	Agents of the Board
4734-1-05	Parliamentary Authority
4734-1-07	Committees and Advisory Groups
4734-1-08	Investigative Procedures
4734-2-01	Public Notice of Rules
4734-2-02	Five Year Rule Review
4734-2-03	Rules Hearings
4734-3-01	Board Records and Documents; Personal Information System

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4734-3-02	Public Records
4734-4-01	Hearings; Disciplinary Procedures
4734-4-02	Representatives; Appearances; Communications; Applicability
4734-4-03	Continuances
4734-4-04	Out-of-state Attorneys
4734-4-05	Authority and Duties of Hearing Officers
4734-4-06	Broadcasting and Photographing Administrative Hearings
4734-4-07	Depositions in Lieu of Testimony at Hearing and Transcripts of Prior Testimony for Submission at Hearing
4734-4-08	Witnesses; Subpoenas; Witness Fees
4734-4-09	Evidence; Judicial Notice of Board Records; Stipulations; Certified Copy of Conviction Deemed Conclusive
4734-4-10	Limited Discovery Procedures
4734-4-11	Motions
4734-4-12	Pre-Hearing Conferences; Status Conferences
4734-4-13	Post Hearing Procedures; Reports and Recommendations; Newly Discovered Evidence; Addressing the Board
4734-4-14	Requesting Adjudication Hearing; Timing of Hearing; Notification of Hearing; Requirements for Filing; Calculation of Time; Transcripts
4734-6-01	Application for Licensure
4734-6-02	Licensure by Endorsement
4734-6-05	License for Voluntary Public Service
4734-6-06	Jurisprudence Examination
4734-6-09	Character and Fitness Standards
4734-6-10	Review of Applicants
4734-7-05	Forfeiture of License; Restoration
4734-8-06	Board Consideration of Sanctions
4734-9-01	Fine Schedules
4734-9-04	Ownership of Chiropractic Practices
4734-9-05	Confidentiality
4734-9-09	Fee Splitting Prohibited
4734-9-10	Conduct Following Action Against a License

Examination Activity

The Board requires all applicants for licensure to successfully take and pass a Jurisprudence examination. The Board holds four exams per year. This is a one-day examination that is proctored by the Board staff. During the Jurisprudence Examination Orientation each of the Board members give a brief speech to the licensees prior to the examination. Once the examinations are graded, the Board members present each passing applicant with their exam score and license number. The Board also administers an oath to the applicants as a group.

Examination Date	Applications Denied	Licenses Issued	Exam Failures
August 23, 2007	0	28	0
November 1, 2007	1	18	0
February 21, 2008	0	29	0
June 12, 2008	1	16	0
Totals:	2	91	0

Proposed Application Denials

Joseph A. Hans, D.C.

Licensure Applicant

Case No. 2008 CHR 057

Date of Action: April 18, 2008

Violated Codes and/or Rules: Ohio Revised Code § 4734.20, §4734.31 (C)(3), (C)(7) and (C)(35) and Ohio Administrative Code § 4734-6-01 (O) and § 4734-6-09

The Board denied Dr. Hans' Application for Licensure to Practice Chiropractic in the State of Ohio filed with the Board on August 29, 2007 for allegedly committing acts or actions that demonstrate that he does not possess the character and fitness to practice chiropractic in the State of Ohio and for prior disciplinary action from the Georgia Board of Chiropractic Examiners.

A hearing on this matter is scheduled for September 18, 2008.

David P. Norris, D.C.

Licensure Applicant

Case No. 2008 CHR 041

Date of Action: April 18, 2008

Violated Codes and/or Rules: Ohio Revised Code § 4734.20, §4734.31 (C)(1), (C)(3) & (C)(7) and Ohio Administrative Code § 4734-6-01 (O) and § 4734-6-09

The Board denied Dr. Norris' Application for Licensure to Practice Chiropractic in the State of Ohio filed with the Board on February 19, 2008 for allegedly committing acts or actions that demonstrate that he does not possess the character and fitness to practice chiropractic in the state of Ohio and for his conviction of one felony.

A hearing on this matter has been scheduled for August 21, 2008

☞ License Activity

License activity as of June 30, 2008

Chiropractic Licenses	Temporary Licenses	Voluntary Public Service Licenses	Preceptorships	Acupuncture Certificates
2,283	7	0	20	6
Inactive	Retired	Forfeited	Deceased	
58	11	25	5	

☞ Continuing Education Programs

The Board reviewed **88** proposed continuing education programs for license renewal credit during FY 2008. Of these requests for approval, **81** continuing education programs were approved and **7** were denied.

∞ Enforcement Statistics

The Executive Director serves as the Chief Enforcement Officer and enforces the laws and rules governing the practice of chiropractic. All complaints are reviewed to determine preliminary disposition: closure, referral to another agency, full field investigation, or hold open pending further information. Random compliance inspections are conducted by Board Investigators to ensure compliance with the Board's laws and rules. The Board regularly works with law enforcement agencies statewide to investigate and prosecute misconduct by chiropractic physicians and the unlicensed practice of chiropractic.

Investigations

Investigations opened in FY 2008: 66
FY 2008 investigations completed during FY 2008: 18
FY 2007 investigations completed during FY 2008: 16
FY 2006 investigations completed during FY 2008: 1
FY 2005 investigations completed during FY 2008: 4
FY 2004 investigations completed during FY 2008: 5
FY 2003 investigations completed during FY 2008: 2

Number of Investigations by Category in Fiscal Year 2008

Advertising:	10	Miscellaneous:	6
Billing:	11	Sexual Misconduct:	1
Conviction:	7	Telemarketing:	11
Ethics:	1	Treatment:	13
Impairment:	1	Unlicensed Practice:	4
License Denial:	2		

Miscellaneous Actions

Violation Letters Issued: 28
Compliance Inspections / Site Visits: 205
Investigative Subpoenas Issued: 54

Formal Actions

Formal Charges (Citations):	8	Warning Letters:	0
Consent Agreements:	3	Goldman Hearings Held:	1
Voluntary Surrenders:	0	Disciplinary Hearings Held:	1
Letters of Admonition:	0	Mental & Physical Exams Ordered:	0
License Revocations:	2	Chemical Dependency Monitoring Agreement:	0

Notice of Opportunity for Hearings Issue During FY 2008

The following information is current as of June 30, 2008. Specific details of disciplinary action are listed in the formal discipline section. The present status of a case may be obtained by contacting the Board office.

Scott W. Palmer, D.C.

License No. 3305

Case No. 2007 CHR 036

Notice of Opportunity for Hearing issued July 25, 2007 for allegedly violating Ohio Revised Code § 4734.31 (C)(7), (C)(9), (C)(25) & (C)(32) and Ohio Administrative Code § 4734-9-02 (B), (C), (D), (E), (F) and (H)(7).

James M. Cooper, D.C.

License No. 3629

Case No. 2007 CHR 037

Notice of Opportunity for Hearing issued November 7, 2007 for allegedly violating Ohio Revised Code § 4734.31 (C)(7), (C)(19), (C)(20), (C)(23), (C)(30), (C)(31) and (C)(32) and Ohio Administrative Code § 4734-8-04 (A), §4734-9-02 (B), (C), (H)(1) & (H)(7) and § 4734-9-07 (B), (C)(2), (C)(3) and (C)(4).

Beth Moon Rich, D.C.

License No. 1153

Case No. 2008 CHR 008

Notice of Opportunity for Hearing issued November 7, 2007 for allegedly violating Ohio Revised Code § 4734.31 (C)(7), (C)(8), (C)(13), (C)(23) and Ohio Administrative Code § 4734-8-04 (B) and § 4734-9-05.

James G. Cuckovich, D.C.

License No. 1500

Case No. 2007 CHR 012

Notice of Opportunity for Hearing issued November 7, 2007 for allegedly violating Ohio Revised Code § 4734.31 (C)(7), (C)(8), (C)(20) & (C)(30) and Ohio Administrative Code § 4734-6-07 (A), § 4734-8-04 (A), § 4734-8-05 (A) & (B), § 4734-9-07 (B), (C)(3) & (C)(4) and § 4734-9-08 (E).

Gregory S. Dew, D.C.

License No. 2533

Case No. 2007 CHR 049

Notice of Automatic Suspension and Notice of Opportunity for Hearing issued November 18, 2008 in accordance with the provisions of Ohio Revised Code § 4734.36.

Christopher J. Tomshack, D.C.

License No. 2074

Case No. 2008 CHR 051

Notice of Opportunity for Hearing issued April 22, 2008 for allegedly violating Ohio Revised Code § 4734.31 (C)(7), (C)(8), (C)(31) & (C)(32) and Ohio Administrative Code § 4734-9-02 and § 4734-9-08.

Formal Disciplinary Actions Taken During FY 2008

Henry J. Bell, D.C.

License No. 2225

Case No. 2007 CHR 033

Date of Action: November 1, 2007

Violated Codes and/or Rules: Ohio Revised Code § 4734.31 (C)(1)

On or about December 13, 2006 in the Franklin County Court of Common Pleas, Columbus, Ohio, Dr. Bell pled guilty to one count of Workers' Compensation Fraud, in violation of Ohio Revised Code § 2913.48, a felony of the fifth degree and one count of Forgery, in violation of Ohio Revised Code § 2913.31, a felony of the fifth degree.

Dr. Bell entered into a Consent Agreement with the Board wherein he received a 6 month suspension with 4 months stayed, 2 year probation under compliance monitoring, 12 hours of documentation continuing education and additional probationary stipulations.

Matthew F. Ellis, D.C.

License No. 3567

Case No. 2007 CHR 008

Date of Action: November 1, 2007

Violated Codes and/or Rules: Ohio Revised Code § 4734.31 (C)(7) and Ohio Administrative Code § 4734-9-06 (C) & (F)

Dr. Ellis commenced into a relationship with a patient that impaired his professional judgment and engaged in discussions of an intimate sexual nature with the patient that were not related to her legitimate needs.

Dr. Ellis entered into a Consent Agreement with the Board wherein he received a 30 day stayed suspension, 12 hours of Ethics and Boundaries continuing education, required to take and pass the NBCE Ethics and Boundaries Examination and additional probationary stipulations.

Scott W. Palmer, D.C.

License No. 3305

Case No. 2007 CHR 036

Date of Action: April 17, 2008

Violated Codes and/or Rules: Ohio Revised Code § 4734.31 (C)(7), (C)(9) & (C)(32) and Ohio Administrative Code § 4734-9-02 (B), (C), (D), (E) and (F)

Dr. Palmer employed an agent by the name of Charles Henderson to act on behalf of Dr. Palmer and/or Palmer Therapy and Chiropractic. Mr. Henderson failed to adhere to Dr. Palmer's telephone solicitation script and solicited for patronage in a false, fraudulent, deceptive, and/or misleading manner; failed to include chiropractic, chiropractor, doctor of chiropractic, chiropractic physician or the initials D.C. during a solicitation; offered free medical services, a free medical exam, free x-rays and consultation with the doctor or specialist and failed to include a disclaimer for the gratuitous services offered and referred to Palmer Therapy and Chiropractic solely as Palmer Therapy which is not registered with the Ohio Secretary of State.

Dr. Palmer entered into a Consent Agreement with the Board wherein he received a 30 day suspension with 15 days stayed, required to record and maintain all telephone solicitations for 1 year from the date of the call, \$2,000 fine and additional probationary stipulations. Dr. Palmer shall not contract with or employ Charles Henderson in any capacity.

Donald W. Allamong, D.C.

License No. 1545

Case No. 2004 CHR 086

Date of Action: April 28, 2008

Violated Codes and/or Rules: Ohio Revised Code § 4734.31 (C)(7), (13), (16) & (17), § 4734.10 (A)(3) and Ohio Administrative Code § 4734-7-05 (E)

Dr. Allamong was found guilty of 25 allegations contained in the Board's Notice of Opportunity for Hearing issued June 16, 2006 for 20 counts of making a false, fraudulent or deceitful statement to the Board in a filing required by the Board; 3 counts of not possessing the character and fitness to practice chiropractic in the state of Ohio and 2 counts of not being able to practice chiropractic according to acceptable and prevailing standards of care by reason of chemical dependency and mental illness.

The Board issued an Adjudication Order to Dr. Allamong wherein his Application for Reinstatement of License to Practice Chiropractic in the state of Ohio was refused, his license to practice chiropractic in the state of Ohio was revoked for no more than 5 years and he was assessed a \$2,500 fine.

Dr. Allamong appealed the Board's Order to the Franklin County Court of Common Pleas on May 13, 2008.

Gregory Scott Dew, D.C.

License No. 2533

Case No. 2007 CHR 049

Date of Action: June 13, 2008

Violated Codes and/or Rules: Ohio Revised Code § 4734.36

On or about April 1, 2008 in the Court of Common Pleas, Mahoning County Ohio, Dr. Dew was convicted of four counts of Rape, felonies of the first degree in violation of Ohio Revised Code § 2904.02 (A)(2)(B) and two counts of Gross Sexual Imposition, a felony of the fourth degree in violation of Ohio Revised Code § 2907.05 (A)(1). Dr. Dew was also convicted of one count of Corruption of a Minor, a felony of the third degree in violation of Ohio Revised Code § 2907.04 (A).

Dr. Dew's license to practice chiropractic in the state of Ohio was permanently revoked.

∞ Quality Intervention Program

The QIP is a *confidential* alternative to formal disciplinary proceedings. The mission of the QIP is to effectively address licensees with quality of care and communication issues that may have developed due to poor practice patterns or failure to keep up with current standards of practice. The QIP is under the umbrella of the Board's investigatory process and for this reason participation in the QIP is confidential and not subject to discovery in any civil proceeding.

If QIP intervention is successful, the licensee will benefit by improving his or her practice patterns, thus providing valuable chiropractic care to his or her patients; the patients and community will benefit by having a better practitioner available to address their needs; the Board will have protected the public without having an adverse impact on the availability of chiropractic care.

During FY 2008 three licensees were invited to participate in the QIP, all of whom accepted the invitation. Each licensee was invited due to poor documentation and recordkeeping. All three chiropractic physicians are currently working to complete the QIP.

**77 South High Street, 16th Floor
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