

NORTH CAROLINA  
WAKE COUNTY

NORTH CAROLINA BOARD  
OF CHIROPRACTIC EXAMINERS

In the Matter of: )  
 )  
JOSEPH J. HARDEE, DC, )  
 Respondent. )

**FINAL AGENCY DECISION**

THIS MATTER coming on to be heard before the Board of Chiropractic Examiners at a special meeting held on December 6, 2001, in Raleigh, North Carolina; and at the call of the case, the respondent was present and represented by his co-counsel, attorneys George G. Hearn and Hart Miles, and the staff of the Board was represented by its counsel, attorney Vance C. Kinlaw. All parties affirmed their readiness to proceed; and after hearing the evidence presented and giving due consideration to the arguments of counsel and the record as a whole, the Board makes the following:

Findings of Fact

1. The following member of the Board were present, heard the evidence and participated in the decision rendered herein: Dr. Steve Willen, presiding, Dr. Rick Davis, Dr. Tom Brown, Dr. James Brown and Mr. Staten Wilcox. Dr. Dennis Hall, Secretary of the Board, was also present but did not participate in the Board's decision because of his earlier participation in the Chiropractic Review Committee's investigation and determination of probable cause.
2. The respondent, Dr. Joseph J. Hardee, DC is a duly licensed chiropractic physician maintaining an office and clinic in Raleigh, North Carolina.
3. This matter comes before the Board upon a formal complaint filed on October 8, 2001 by the Board's attorney, Vance C. Kinlaw. The complaint alleges that Dr. Hardee was convicted of two felonies in the Superior Court of Wake County on December 15, 2000 and for that reason has violated N.C.G.S. 90-154(b)(2), which statute provides that conviction of a felony is grounds for disciplinary action by the Board. The complaint of October 8, 2001 supercedes an earlier complaint filed on August 17, 2000 which was withdrawn by written stipulation of the parties.
4. By written stipulation, Dr. Hardee accepted service of the complaint of October 8, 2001, waived any defect in service and waived his right to a probable cause hearing.
5. By written stipulation and by his oral plea of "guilty and responsible" at hearing, Dr. Hardee admits that he was convicted of two felonies and for that reason has violated N.C.G.S. 90-154(b)(2).
6. On October 24, 2000, the Grand Jury of Wake County issued an indictment in File no. 00 CRS 382011 alleging that on February 10, 1999, Dr. Hardee feloniously obtained possession of

twelve tablets of Tylenol with Codeine, a controlled substance, by misrepresentation, fraud and deception in that he caused a prescription written in the name of his daughter by a High Point dentist to be transferred to a drug store in Raleigh, where Dr. Hardee had the prescription filled for his own use or other unauthorized use.

7. On October 9, 2000, the Grand Jury of Wake County issued an indictment in File no. 00 CRS 77168 alleging that between January 2000 and June 2000, Dr. Hardee feloniously embezzled and fraudulently misapplied and converted to his own use the sum of \$9,294.55 which was the property of his employer, Back & Neck Center of North Raleigh, Inc.

8. On December 15, 2000, Dr. Hardee personally appeared in Wake County Superior Court and pleaded guilty to the foregoing two felony charges. He was duly convicted and sentenced to a term of imprisonment for 8-10 months, but said sentence was then suspended, and Dr. Hardee was placed on supervised probation for 36 months upon the following terms and conditions:

- a. that he make restitution to the victim of the embezzlement in the amount of \$1,943.10;
- b. that he serve an active term in custody of three days;
- c. that he perform 300 hours of community service;
- d. that he submit to a substance abuse evaluation;
- e. that he inform any medical doctor prescribing medication of his conviction for Obtaining a Controlled Substance by Fraud and inform his probation officer of any prescription medication;
- f. that he follow any recommendation of the Chiropractic Board concerning substance abuse.

9. Dr. Hardee was convicted of one drug-related offense prior to the felony conviction of December 15, 2000, the details of which are as follows: on August 28, 1997, upon his plea of guilty, Dr. Hardee was convicted in the Superior Court of Alamance County of the misdemeanor offense of Obtaining a Prescription Drug by Fraud (File no. 97 CRS 16271; offense date: June 26, 1997). He was sentenced to supervised probation for a term of twelve months and required to submit to a substance abuse evaluation.

10. Pursuant to N.C.G.S. 150B-22, it is the policy of the State of North Carolina and, therefore, the Board of Chiropractic Examiners, to attempt to resolve disciplinary complaints through informal procedures. In conformity with this policy, Dr. Dennis Hall, in his capacity as Secretary of the Board, entered into an Informal Settlement Agreement with Dr. Hardee on or about December 28, 2000. The decretal portion of the Informal Settlement Agreement reads as follows:

1. Dr. Hardee shall voluntarily surrender his license to practice in this State for a period of three years, said period of voluntary license suspension to commence January 15, 2001.
2. After not less than six months has elapsed of the term of suspension, Dr. Hardee may apply to the Board of Examiners for reinstatement of his license on a probationary basis, provided he demonstrates to the satisfaction of the Board:

- (a) that he has been continuously enrolled in a drug treatment program approved in advance by the Board which includes regular contact with a licensed health care provider specializing in drug dependency rehabilitation; and
  - (b) that he has made satisfactory progress towards recovery from drug dependency; and
  - (c) that in the opinion of his treating health care provider, Dr. Hardee can resume the practice of chiropractic without posing a threat to the health and safety of the public.
3. The Board of Examiners shall give due consideration to any application for the restoration of license submitted by Dr. Hardee which satisfies the provisions of this Settlement Agreement, and may, in the exercise of its discretion, restore his license to practice under such terms and conditions as it deems appropriate pursuant to G.S. 90-154(a).

11. In the period between the signing of the Informal Settlement Agreement on or about December 28, 2000 and the date upon which his license suspension was to take effect (January 15, 2001), Dr. Hardee contacted the attorney for the Board and asked for elaboration as to exactly what he would not be permitted to do in the context of working in a chiropractic clinic. In response to his inquiry, Dr. Hardee received from the Secretary of the Board a letter dated January 10, 2001 which reads as follows:

During the term of license suspension, an unlicensed chiropractor may *not*:

1. Be present during business hours at a chiropractic office or clinic in which he has an ownership interest or which has been advertised to the public as his office or clinic.
2. Interpret or analyze x-rays.
3. Make a diagnosis or perform any component of physical examination that requires clinical judgment or interpretation.
4. Perform any adjustment or manipulation, either by hand or by instrument, regardless of whether the adjustment or manipulation is offered for a fee or at no charge.
5. Consult with, make any report of findings to, or develop any treatment plan for a patient.
6. Sign or submit any insurance claim form.
7. Own an interest in a chiropractic office or clinic after twelve months have elapsed without reinstatement of license.
8. Purchase an interest in any chiropractic office or clinic until his license is reinstated.

12. Dr. Hardee opened his current office and clinic, located at 4940-B Capital Blvd. in Raleigh and known as Capital Chiropractic, in July 2000, using \$30,000.00 borrowed from Phyllis Faulkner and Thomas Lockdean, neither of whom is a chiropractor. In anticipation of the period of license suspension scheduled to commence January 15, 2001, Dr. Hardee made the following changes in the operation of Capital Chiropractic:

- (a) He transferred nominal ownership of the clinic to Phyllis Faulkner and Thomas Lockdean;
- (b) He removed his name from the exterior and interior signs and stationery of Capital Chiropractic;
- (c) He hired Dr. Alicia Nossov, a relatively inexperienced chiropractor licensed since 1997, to perform adjustments upon the patients of Capital Chiropractic at the rate of \$7.50 per adjustment.

13. From and after December 28, 2000, the date upon which he entered into the Informal Settlement Agreement, Dr. Hardee made no attempt to obtain employment as a chiropractic assistant at any clinic other than Capital Chiropractic. It was always his intention to remain at Capital Chiropractic and keep Capital Chiropractic open and receiving patients during the period of his license suspension. He considered it a matter of financial survival for him to do so.

14. Dr. Hardee misrepresented to Dr. Nossov the circumstances surrounding her employment at Capital Chiropractic. He told her that his problem with the Board of Examiners was attributable to the fraudulent conduct of another chiropractor he once worked for and that the agreement he had entered into with the Board permitted him to do everything but adjust.

15. In March 2001, the Secretary of the Board hired Mr. Ronald E. Clark, a citizen and resident of Wake County, to pose as a new patient and present at Capital Chiropractic for the purpose of observing whether Dr. Hardee was actively practicing. Mr. Clark submitted to four office visits at Capital Chiropractic from March 20 through March 26, 2001 and a fifth visit on May 3, 2001.

16. At the first office visit, Dr. Hardee greeted Mr. Clark and confirmed that Capital Chiropractic was accepting new patients. Dr. Hardee examined Mr. Clark, performed numerous orthopedic tests and recorded his examination findings on a tape recorder. Dr. Hardee then took three x-rays of Mr. Clark and placed him on an intersegmental traction (IST) table. Dr. Hardee then analyzed and interpreted the x-rays and made a report of his findings to Mr. Clark. Dr. Hardee recommended a treatment plan involving hot and cold compresses, a cervical pillow and a home cervical traction unit. Dr. Hardee called in Dr. Nossov, who massaged Mr. Clark's shoulders and adjusted his neck using an activator. Mr. Clark paid Dr. Hardee directly by check at the end of the visit, and Dr. Hardee told him to return the following day for further treatment.

17. At the second office visit, Dr. Nossov took an additional x-ray and attempted to adjust Mr. Clark's neck but did not use sufficient force to obtain a complete release. After conferring with Dr. Nossov, Dr. Hardee administered an Acuspark device to Mr. Clark's neck and back and massaged his back. Then Dr. Hardee performed a chiropractic adjustment on Mr. Clark's cervical spine. Mr. Clark paid Dr. Hardee directly by check at the end of the visit, and Dr. Hardee told him to return for further treatment the next day.

18. At the third office visit, Dr. Nossov placed Mr. Clark on an IST table. After 15 to 20 minutes, she escorted him to another room, where Dr. Hardee palpated Mr. Clark's back and

administered therapy using the Acuspark and a massager. Dr. Hardee instructed Dr. Nossov to adjust C-7 (i.e., the seventh cervical vertebra), which she did. Mr. Clark paid Dr. Hardee directly by check at the end of the visit, and Dr. Hardee told him to return for treatment in three days.

19. At the fourth office visit, Dr. Nossov placed Mr. Clark on an IST table for ten minutes, then adjusted his neck and back. Dr. Hardee palpated his neck and back and administered massage therapy and the Acuspark. Dr. Hardee instructed Mr. Clark to return in two days for further treatment. However, upon instructions from the Secretary of the Board, Mr. Clark did not do so.

20. At the request of the Secretary of the Board, Mr. Clark scheduled a fifth office visit on May 3, 2001 to observe whether there had been any changes in the treatment procedures at Capital Chiropractic since the fourth visit on March 26. Dr. Hardee greeted Mr. Clark and placed him on an IST table. Dr. Nossov adjusted his upper back and neck. After requesting and receiving business cards from both doctors, Mr. Clark paid by check and left, not to return.

21. During the period when Dr. Nossov worked at Capital Chiropractic, January 15 to July 20, 2001, the clinic averaged approximately 60 patient office visits per week. Dr. Hardee was usually present during business hours and greeted patients. Dr. Hardee performed the initial physical examination, interpreted and analyzed the x-rays, and developed the diagnosis for almost every new patient. Dr. Hardee provided "listings," written instructions to Dr. Nossov specifying where on the spine to adjust, for almost every new patient.

22. During the same period, Dr. Hardee developed treatment plans for all but three new patients and made the report of findings to new patients in the majority of cases.

23. During the same period, Dr. Hardee handled all discussions with attorneys concerning pending personal injury claims, prepared and mailed billing statements to insurers and attorneys and prepared personal injury treatment narratives. However, Dr. Nossov, not Dr. Hardee, signed the narratives.

24. By his own admission, Dr. Hardee performed chiropractic adjustments or manipulations upon a small number of patients during the period January 15 to July 20, 2001.

25. On July 20, 2001, Dr. Nossov saw for the first time the Secretary of the Board's letter of January 10, 2001 setting forth the numerous professional activities proscribed to Dr. Hardee from January 15 forward. She immediately left the employ of Capital Chiropractic out of concern that she might be held accountable for treatment decisions made by Dr. Hardee during his period of license suspension.

26. Despite being advised in writing of the limitations upon his activities that the Secretary of the Board expected him to observe, Dr. Hardee continued to practice chiropractic during the period of license suspension called for in the Informal Settlement Agreement. In so doing, he wilfully violated the Informal Settlement Agreement and demonstrated a lack of trustworthiness.

27. Dr. Hardee has been licensed to practice chiropractic in North Carolina since 1983. Until the issuance of the disciplinary complaint on August 17, 2000, no disciplinary complaints or grievances had been filed against him.

28. In January 1996, Dr. Hardee suffered a herniated disc which led his treating neurosurgeon to prescribe pain medication. Six weeks later he suffered a second, more severe disc herniation which led to higher dosages of pain medication. In April 1996, Dr. Hardee was involved in a head-on motor vehicle collision and suffered two cerebral hemorrhages. His symptoms included moderate motor loss in the upper extremities, sensory loss in the arm and face and impaired visual acuity.

29. Dr. Hardee's physical impairments were sufficiently severe to require him to temporarily give up his chiropractic practice between May 1996 and November 1997 and take up work as clinical researcher. However, the travel requirements of this position exacerbated his back and radiating leg pain. He continued to take prescription medication for pain and by this time had developed a functional dependency upon pain-killers.

30. By his own admission, Dr. Hardee's dependency upon prescription pain-killers lasted from the spring of 1996 until sometime in 1999. The date of offense for his first drug conviction, June 26, 1997, and for his second drug conviction, February 10, 1999, fall within Dr. Hardee's self-admitted period of dependency.

31. Dr. Hardee asserts that he has overcome his drug dependency by following a rehabilitative exercise program and diet.

32. During the pendency of the second drug charge, and upon the advice of his attorney, Dr. Hardee voluntarily submitted to a drug assessment from Street Corner Network. This assessment, dated October 4, 2000, stated that there was no evidence of current drug dependency and no treatment needed. On October 5, October 10 and November 8, 2000, Dr. Hardee submitted to urine drug screens, and for each screen the results were negative, i.e., no traces of drugs were found.

33. Dr. Hardee submitted to additional urine drug screens on July 12, August 10, August 20, August 29, September 4, September 24, October 8 and November 8, 2001. For each of these screens, the results were negative.

34. On August 24, 2001, Dr. Hardee was interviewed by Olgierd Pucilowski, MD, PhD, at the Center for Adult Psychiatry, P.A. & Associates. In Dr. Pucilowski's opinion, Dr. Hardee did not have any psychiatric disorders coded on either axis I or axis II, nor was there any evidence that he had experienced any such disorders in the past. Specifically, as of August 24, 2001, Dr. Hardee had no symptoms or history suggestive of major mood/anxiety disorders, psychotic disorders, alcohol/substance abuse or cognitive disorders.

35. On September 7, 2001, and in contemplation of his disciplinary hearing before this Board, Dr. Hardee presented at RECOVERY Works, a substance abuse counseling service in Raleigh. He

was given a standardized assessment and urine drug screen. The drug screen was negative, and the assessment, conducted by Anderson D. Orr, M.Ed., M.R.E., Program Director of RECOVERY Works, indicated that there was no evidence of current substance dependency or abuse and thus no clinical reason for recommending treatment. Nevertheless, based on Dr. Hardee's acknowledgment of a "functional dependency" on pain medications in the past and his need to comply with his professional board, Mr. Orr deemed it appropriate to admit Dr. Hardee to a short-term outpatient program focusing on relapse prevention skills and cognitive-behavioral coping strategies.

36. Dr. Hardee completed the recommended course of 26 hours of substance abuse education and counseling on October 22, 2001 and submitted to two additional drug screens prior to his exit interview on November 13, 2001. These drug screens were also negative.

37. Dr. Hardee's enrollment and successful completion of the RECOVERY Works program did not occur within the period January 15-July 15, 2001, as contemplated in the Informal Settlement Agreement. Dr. Hardee did not obtain the Board's advance approval of the RECOVERY Works program, as contemplated in the Informal Settlement Agreement.

38. Mr. Orr testified at hearing as an expert witness in substance abuse assessment and counseling. He stated that he could not observe any current evidence of a substance abuse problem which would hinder Dr. Hardee from participating in any professional or work-related activities. He also stated that someone who has used pain medications is at a higher risk for developing problems in the future and that under stress a person with Dr. Hardee's history could go back to such behavior again.

39. Mr. Orr further testified that recidivism or relapse is a statistically significant problem for persons overcoming substance abuse dependency. Regardless of the type of treatment, seventy per cent of patients in recovery relapse within the first year. Mr. Orr recommended that Dr. Hardee be monitored closely in his practice and be required to submit to random drug screens, focusing on barbiturates and prescription medicine, for a period of two to five years from the date of hearing.

BASED on the foregoing Findings of Fact, the Board enters the following:

#### Conclusions of Law

1. This Board is duly constituted and has jurisdiction of subject matter and of the person of the respondent. The complaint filed October 8, 2001 is properly before this Board for adjudication on the merits.

2. By written stipulation of the parties, which stipulation is accepted by this Board, the Informal Settlement Agreement of December 28, 2000 is nullified; and this Board is free to fashion its own final agency decision pursuant to G.S. 90-154(a) and G.S. 150B-42.

3. G.S. 90-154(b)(2) states that conviction of a felony or of a crime involving moral turpitude is grounds for disciplinary action by the Board.

4. G.S. 90-143 requires an applicant for licensure as a chiropractic physician in this State to present satisfactory evidence of good moral character. After licensure, a chiropractic physician has an affirmative duty to maintain good moral character.

5. G.S. 90-154(b)(3) states that addiction to or severe dependency upon alcohol or any other drug that impairs the ability to practice safely is grounds for disciplinary action by the Board. In cases where, as in the instant case, a former dependency upon prescription medication is admitted but may not pose so severe a threat to patients as to warrant disciplinary action under this section, a chiropractic physician has an affirmative duty to report to the Board on the progress of his recovery efforts and to submit to such supervision and monitoring as may be necessary to protect the public.

6. Obtaining a Controlled Substance by Fraud, in violation of G.S. 90-108, is both a felony and a crime involving moral turpitude.

7. Embezzlement, in violation of G.S. 14-90, is both a felony and a crime involving moral turpitude.

8. A respondent's wilful violation of an Informal Settlement Agreement entered into with the Secretary of the Board is evidence of a lack of trustworthiness and the loss of good moral character.

9. G.S. 90-154(a) authorizes this Board to impose any of the following sanctions, singly or in combination, when it finds that a practitioner is guilty of having been convicted of a felony or of a crime involving moral turpitude: permanent revocation of license, suspension of license, censure, issuance of a letter of reprimand, or placing a practitioner on probationary status and requiring him to report regularly to the Board upon the matters which are the basis of probation.

WHEREFORE, upon his plea of guilty, the North Carolina Board of Chiropractic Examiners hereby finds the respondent, Dr. Joseph J. Hardee, guilty of having been convicted of two felonies, in violation of G.S. 90-154(b)(2). It is ordered, adjudged and decreed that Dr. Hardee be sanctioned as follows:

1. Dr. Hardee's license to practice chiropractic in North Carolina is suspended for a term of five years.

2. The aforesaid five-year license suspension is stayed, and Dr. Hardee is placed on probationary status for a period of five years under the following terms and conditions:

(a) Dr. Hardee shall serve a period of active license suspension for thirty-six months. During this period of active license suspension, Dr. Hardee shall not:

(1) Consult with any patient or recommend treatment to any patient;

- (2) Own any interest or shares in a chiropractic office;
  - (3) Examine or diagnose any patient;
  - (4) Analyze or interpret the x-rays of any patient;
  - (5) Produce x-rays except under the direct supervision of a licensed chiropractic physician;
  - (6) Sign any insurance form or produce any clinical narrative;
  - (7) Employ a licensed chiropractic physician to perform professional duties in any facility in which Dr. Hardee has had or currently has a financial interest;
  - (8) Perform any manipulation or adjustment upon any patient;
  - (9) Indicate to the public in any manner that he holds a license to practice chiropractic in North Carolina.
- (b) During the period of active license suspension, Dr. Hardee may perform the duties of a chiropractic assistant, as defined by the Board.
- (c) Prior to returning to practice at the conclusion of the thirty-six month period of active license suspension, Dr. Hardee shall obtain advance approval from the Board with respect to any professional business arrangements in which he intends to enter. The Board shall approve any proposed arrangement which conforms to applicable law.
- (d) Prior to returning to practice at the conclusion of the thirty-six month period of active license suspension, Dr. Hardee shall apply to the Board for the appointment of a mentor to supervise and monitor his compliance with the laws governing the practice of chiropractic during the remaining twenty-four months of his probation.
- (e) During his entire five-year probationary period, including the thirty-six month period of active license suspension, Dr. Hardee shall submit to the Board on a quarterly basis the results of a urine drug screen. The Board may, in its discretion, require additional random drug screens without advance notice to Dr. Hardee.

3. Upon a showing that Dr. Hardee has wilfully failed to comply with the foregoing terms of probation, the five-year license suspension set forth in Paragraph 1 of this decree shall be invoked.

4. This Final Agency Decision shall be effective thirty days after the day recited below.

THIS is the 28<sup>th</sup> day of March, 2002.

North Carolina Board of Chiropractic Examiners

By: Steve Willen, DC, President  
Steve Willen, DC, President

NORTH CAROLINA  
WAKE COUNTY

NORTH CAROLINA BOARD  
OF CHIROPRACTIC EXAMINERS

In the Matter of :

JOSEPH J. HARDEE, D.C.,  
Respondent.

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**SUPPLEMENTAL ORDER**

THIS MATTER coming before the Board of Examiners upon a written petition for relief filed by the respondent, Dr. Joseph J. Hardee, at its regular quarterly meeting held on October 23, 2004 in Greensboro; and after reviewing the petition and giving due consideration to the oral arguments of Dr. Hardee and his counsel, the Board makes the following:

Findings of Fact

1. On March 28, 2002, the Board of Examiners entered a Final Agency Decision imposing certain disciplinary sanctions, including license suspension, upon Dr. Hardee based on his having been convicted of two felonies. Dr. Hardee exercised his right to appeal the Board's Decision, and various appellate courts stayed enforcement of the Decision until October 6, 2004, at which time the North Carolina Supreme Court dissolved its stay, thereby allowing the Decision to take full force and effect.
2. Dr. Hardee, through counsel, represents to the Board that notice of the Supreme Court's dissolution of stay was served upon him on October 15, 2004.
3. The decretal portion of the Decision of March 28, 2002 states, in pertinent part:

WHEREFORE, upon his plea of guilty, the North Carolina Board of Chiropractic Examiners hereby finds the respondent, Dr. Joseph J. Hardee, guilty of having been convicted of two felonies, in violation of G.S.90-154(b)(2). It is ordered, adjudged and decreed that Dr. Hardee be sanctioned as follows:

1. Dr. Hardee's license to practice chiropractic in North Carolina is suspended for a term of five years.
2. The aforesaid five-year license suspension is stayed, and Dr. Hardee is placed on probationary status for a period of five years under the following terms and conditions:

- (a) Dr. Hardee shall serve a period of active license suspension for thirty-six months. During this period of active license suspension, Dr. Hardee shall not:
- (1) Consult with any patient or recommend treatment to any patient;
  - (2) Own any interest or shares in a chiropractic office;
  - (3) Examine or diagnose any patient;
  - (4) Analyze or interpret the x-rays of any patient;
  - (5) Produce x-rays except under the direct supervision of a licensed chiropractic physician;
  - (6) Sign any insurance form or produce any clinical narrative;
  - (7) Employ a licensed chiropractic physician to perform professional duties in any facility in which Dr. Hardee has had or currently has a financial interest;
  - (8) Perform any manipulation or adjustment upon any patient;
  - (9) Indicate to the public in any manner that he holds a license to practice chiropractic in North Carolina.

3. Dr. Hardee's petition for relief, in the form of a letter to the Board from Dr. Hardee's counsel dated October 22, 2004, requests that the Board amend its Decision so as to delay his license suspension for up to 180 days to permit him to secure a caretaker physician to maintain his practice while he is unlicensed. In the alternative, Dr. Hardee requests that the Board amend its Decision to permit him up to twelve months within which to sell his practice.

4. Dr. Hardee's clinic is a sole proprietorship located in Raleigh and known as Capital Chiropractic Health Center. Dr. Hardee estimates that he currently has approximately 400 active patients.

BASED on the foregoing Findings of Fact, the Board of Examiners enters the following:

Conclusions of Law

1. Dr. Hardee's petition for relief dated October 22, 2004 is addressed to the discretion of the Board.

2. Dr. Hardee's license to practice chiropractic in North Carolina was suspended on October 15, 2004, the date upon which he was served with notice of the Supreme Court's dissolution of stay. Therefore, he is currently unlicensed.

3. G.S. 90-157.3 provides that all owners of a chiropractic practice must be licensed by the Board. G.S. 90-147 provides that any person practicing chiropractic in this State without possessing a license shall be guilty of a Class 1 misdemeanor.

4. The Board of Examiners has an affirmative duty to protect the health, safety and welfare of chiropractic patients. This duty is multi-faceted. It includes both facilitating continuity of patient care when a physician is unable to treat for an extended period and also making certain that chiropractic services are delivered to patients only by licensed physicians.

WHEREFORE, it is hereby ordered that the Final Agency Decision in the matter of Dr. Joseph J. Hardee issued March 28, 2002 be and the same is hereby amended as follows:

1. In the decretal portion of the Decision, subsection 2(a)(2), which reads as originally issued, "Own any interest or shares in a chiropractic office" is amended to read, "From and after December 6, 2004, own any interest or shares in a chiropractic office".
2. In the decretal portion of the Decision, subsection 2(a)(7), which reads as originally issued, "Employ a licensed chiropractic physician to perform professional duties in any facility in which Dr. Hardee has had or currently has a financial interest" is amended to read, "From and after December 6, 2004, employ a licensed chiropractic physician to perform professional duties in any facility in which Dr. Hardee has had or currently has a financial interest".

3. Except for the two foregoing amendments, the Final Agency Decision of March 28, 2002 is unchanged in all other respects. Dr. Hardee is cautioned that he has been deprived of a chiropractic license since October 15, 2004 and may not lawfully engage in the practice of chiropractic until such time as his license is restored by the Board. This prohibition against practice specifically includes the interval between the date of this Order and December 6, 2004.
4. In the event he elects to hire or otherwise arrange for a caretaker physician to operate Capital Chiropractic Health Center until December 6, 2004, Dr. Hardee is directed to immediately notify the Board as to the name of said caretaker physician.

THIS is the 28 day of October, 2004.

N.C. BOARD OF CHIROPRACTIC EXAMINERS

BY: Thomas M. Brown  
Thomas M. Brown, President

