

Conspiracy to Absurdity

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with

William Monroe Adams, D.C.

“There are people standing ‘round, who’ll screw you in the ground” - **Beatles**, 1966

Introduction: This is the incredible true story of William M. Adams, D.C. A highly successful Boston-born chiropractor in Massachusetts, Dr. Adams was targeted by Liberty Mutual Insurance Company (henceforth Liberty) in the early 1990’s for professional “execution.” With the all too willing help and zealous participation of the Gov. Mitt Romney appointed Chiropractic Board of Registration, Dr. Adams’ license was revoked and his career derailed. Pay no attention to the postscript that still lingers on the Massachusetts Chiropractic Board WEB site. This is what really happened.

UNDIPSUTED FACTS OF THE CASE:

1992: Our story starts in February 1992, when patient James P. presented at Dr. Adams’ Somerville clinic on Broadway (aka; Broadway Chiropractic) seeking professional treatment for primarily foot pain. JP was employed by Brake & Truck Supply, Inc. and had injured his foot by dropping a brake shoe on it at work. Liberty Mutual Insurance Company was the WComp insurer of Brake & Truck at the time. Associate doc, Dr. K examined JP, who had also indicated very clearly on his intake sheet that he had substantial **low back pain** as well as the main complaint of foot pain. Dr. K proceeded to begin a treatment rational on patient JP. There were documented 7-8 dates of service for a total bill of \$540.85 subsequently billed and mailed to Liberty in April, 1992. Notes that documented the treatment encounter were submitted as well to Liberty. The adjuster balked at the bills. Be advised, Liberty had already paid the ER bills, lost wages and medical doctors bills. Liberty indicated to Dr. Adams’ office that the office notes sent to Liberty were lost and would his office mind sending another set of daily notes? Dr. Adams’ office saw no problem with that and agreed to do so. What happened in Dr. Adams’ office at that same time, and not made clear in the various case docket notes or other legal memoranda, was that Dr. Adams’ staff were using the an early form of “Quick” notes in which the treating doc swiped an electronic “wand” over various bar

codes on a huge wall chart and appropriate notes were initialized and printed. This is what I would call, computer “assisted” notes. But, as bad luck would have it, there was a computer glitch at the time due, apparently because Dr Adams’ accounting soft ware was not entirely compatible with the “Quick” notes and thus a computer crash occurred with a sizeable loss of data, including many daily notes. This was all documented by Dr. Adams and his IT people. At that point, Dr. K, the treating associate doctor offered to recollect the notes he had previous produced, from memory after the fact in order to comply with Liberty’s request for a second copy of patient JP’s notes. It turns out Liberty had the original set all along and had lied to Dr. Adams about having lost the original notes. Liberty compared the before crash and after crash “recollected” notes and naturally there were differences. **This was the dispositive aspect of Liberty’s entire complaint and case against Dr. Adams;** that he or his associate doctor “fabricated” notes and attempted to “double bill” for patient JP by first billing for WComp foot pain and then billing a second time for back pain, unrelated to the WComp case, on the same treatment dates of service; LBP which Liberty felt the patient allegedly never had. (The reality was that Dr. Adams’ office billed once, and only once, for services that included foot treatment). There was an issue with the coding for manipulative reductions as well. Dr. Adams used CPT 159631 which was the WComp code for any type of adjustment for any region of the body at that time as set by the rate setting commission of the DIA (Dept. of Industrial Accidents). Dr. Adams’ time in professional hell had just begun. **Bear in mind, that the CMRs of Massachusetts had no regulations one way or the other at the time regarding record restoration from memory in the event of a data loss.*

On or about 12/10/92, Dr. Adams filed a 3rd party complaint action on behalf of his office, Broadway Chiropractic against Liberty with the DIA seeking reimbursement of payment for the services rendered by Broadway Chiropractic to patient JP. Again, the total bill came to \$540.85.

1993: On January 4, 1993 a conciliation was held by the Industrial Accident Board (IAB). Liberty’s attorney, Thomas G. Brophy denied liability and contested payment of Adams’ bill of \$540.85 for JP’s foot, stating that Liberty had already paid Adams/Broadway Chiropractic for treatment to JP’s foot and asserted that the outstanding bill from Broadway Chiropractic was for a fake back injury and then produced the two sets of notes/medical records from Broadway concerning treatment to JP. Liberty alleged that Adams/Broadway had attempted to defraud Liberty by their “false” billing for unrelated back treatment and by purposely altering the treatment record for ill-gotten financial gain.

The conciliation hearing was continued to 2/4/93 where Liberty by it’s attorney reasserted their case: stating that Liberty had already paid Adams/Broadway Chiropractic for treatment to JP’s foot and asserted that the outstanding bill from Broadway Chiropractic was for a fake back injury and then produced to two sets of notes/medical records from Broadway concerning treatment to JP. Liberty alleged that Adams/Broadway had attempted to defraud Liberty by their “false” billing for unrelated back treatment and by purposely altering the treatment record for ill-gotten financial gain.

On or about 3/18/93 John Nicholson, on behalf of Liberty filed a complaint with the Insurance Fraud Bureau (“IFB”) of Massachusetts against Adams/Broadway Chiropractic.

The IAB held another conference on 3/22/93 before Judge Richard S. Tirrell where Liberty, by its attorney Thomas G. Brophy denied liability and contested payment of Adams’ bill of \$540.85 for JP’s foot, stating that Liberty had already paid Adams/Broadway Chiropractic for treatment to JP’s foot and asserted that the outstanding bill from Broadway Chiropractic was for a fake back injury on the same dates of service that the patient had already been treated for foot pain and then produced the two sets of notes/medical records from Broadway concerning treatment to JP. Liberty alleged that Adams/Broadway had attempted to defraud Liberty by their “false” billing for unrelated back treatment and by purposely altering the treatment record for ill-gotten financial gain.

The IAB held another conference on April 5, 1993 before Judge Richard S. Tirrell at which time Liberty’s attorney Thomas G. Brophy denied liability and contested payment of Adams’ bill of \$540.85 for JP’s foot, stating that Liberty had already paid Adams/Broadway Chiropractic for treatment to JP’s foot and asserted that the outstanding bill from Broadway Chiropractic was for a fake back injury and then produced the two sets of notes/medical records from Broadway concerning treatment to JP. Liberty alleged that Adams/Broadway had attempted to defraud Liberty by their “false” billing for unrelated back treatment and by purposely altering the treatment record for ill-gotten financial gain. *At the conclusion of this conference, Judge Tirrell denied Adams/Broadway Chiropractic’s claim under MGL (mass general law), Ch. 152, ss 13, 30 in the amount claimed based upon the aforementioned allegations of fraud and deceit. Dr. Adams appealed to a *hearing de novo* (a new hearing on a matter, conducted as if the original hearing had not taken place) to be held on July 29 and August 30, 1993.

At the subsequent July 29/August 30 hearing, Judge Tirrell was presiding. Liberty, by its attorney Brophy reiterated its same argument. Adams denied that fraud had taken place and explained the reality of the situation, on deaf ears again as it turned out. Judge Tirrell ruled against Adams. He amended that ruling in a subsequent September 20, 1993 decision:

- 1) All claims brought herein pursuant to Sec. 13 and 30 of the Act are hereby denied and dismissed (against Adams).
- 2) The 3rd party claimant, Dr. Adams, shall pay the insurer as costs and attorney fees in the sum of \$3500 to the DIA along with a penalty equal to six times the average weekly wage of the Commonwealth, or \$3,259.90, to Liberty as provided in ss14(2) of the Act.
- 3) This decision shall be forwarded, through the office of the Senior Judge, to the IFB and to the Div. of Registration of the Board of Chiropractors for appropriate action as required by MGL Ch. 152, ss 14(2). *Prior to this meeting, Liberty’s council offered to drop the “fraud” charges if Adams would agree to drop his bill. Dr. Adams refused.

Adams/Broadway appealed Judge Tirrell's decision 9/20/93 decision to the IAB reviewing Board. Before this Board, Liberty, through its attorney Thomas Brophy reiterated its entire identical argument. The review Board affirmed the decision.

1994:

Based upon the 9/20/93 decision of Judge Tirrell, the Board of Chiropractic Registration, on 11/28/94 issued an order to "show cause" charging Adams with fraud, gross misconduct and other charges. Adams delayed their action with motions.

1995:

In January, 1995, even the IFB determined that there was "insufficient evidence of criminal conduct to warrant further action against Adams." The IFB thereafter opted not to pursue further investigation of Liberty's claim of Dr. Adams' alleged fraud. Undaunted by the IFB's new finding, the Board continued to investigate preparatory for their prosecution.

1996:

In June, 1996, Attorney Thomas Brophy, on behalf of Liberty filed a complaint and subsequent Amended Complaint in Suffolk Superior Court against Dr. Adams seeking payment by Dr. Adams to Liberty of the amount previously ordered by Judge Tirrell on 9/20/93 with Liberty costs and fees. **It should be noted for the record that although the medical/chiropractic records submitted to Liberty were different and that references were made to the patient's back being treated, all the bills submitted to Liberty were for treatment of the foot only.*

Interestingly, around this same time, Dr. Adams' attorneys obtained reasonable documents as a result of repeated Discovery requests. Liberty admitted, for the first time, that they had NEVER PAID DR. ADAMS for any treatment to patient JP. This, of course, is what Dr. Adams had been saying the entire time. As many of you might already know, "Discovery" is the process whereby both sides of a legal battle are compelled to hand over to the opposing attorneys all pertinent documents, witness lists, etc. The logic behind this is for both sides to know what the other has and perhaps compel one party or the other to make a settlement based on the strengths or weaknesses of either side. This strategy really does keep many cases out of an already clogged court system. It has been determined that about 90% of District Court cases across the entire United States are either dropped or settled *before* going in front of a judge. (Freer, R., Perdue, W., "Civil Procedure-Cases, Materials, and Questions," 2nd Ed., Anderson Publishing Co., 1997). Similarly, the U.S. Supreme Court rejects 96% of the petitions that come before it each year. Still, the Supremes will hear several hundred cases, year in and year out. (ibid.) In this case (also known as "the instant" case), Liberty Mutual provided Dr. Adams with veritable treasure trove of internal memoranda, E-mails, letters, etc. Among those found was an admission that Liberty Mutual had NEVER paid Dr. Adams' bill. To boot, they knew it all along! It wasn't like there was a miscommunication with Liberty personnel; they knew they hadn't paid Adams and yet, kept insisting that they had, in sworn legal documents. Liberty Mutual's own documents further showed how they had enjoyed deceiving the court and Dr. Adams' legal team.

Internal E mails showed individual adjusters cheering and laughing over how they had “brought down” Dr. Adams. It was a party atmosphere at Liberty Mutual; right up until Dr. Adams rang the “reality bell.”

On 9/11/96, the Chiropractic Board acted by imposing the following sanction: “Based on the Findings of Fact and Rulings of Law set forth above (previous findings), the Board hereby orders the REVOCATION of Respondent’s Mass. License to practice as a chiropractor, Lic. # 1136. In this case, the Board states, for the benefit of all future Board of Registration of Chiropractors, that it can conceive of no circumstances under which the Respondent’s license to practice chiropractic should be reinstated.” **Sure, “no circumstances,” except for the fact that Liberty had been lying through its teeth the entire time, that is. As a health consequence to Dr. Adams, by the stressful affairs and social assault, he developed and has been diagnosed with Adult Onset Asthma within three months after 9/11 and lying comatose in a hospital three years later, 36 hours near death all due to a violent asthma attack.*

10/23/96: Dr. Adams had appealed the Board’s decision to the Mass. SJC (Supreme Judicial Court) which by a single judge ordered a stay of the revocation of his license on this day.

Legal Discussion: There is a concept in law called “*Res Judicata*.” It means, “that which was decided.” In this case, the Chiropractic Board exercised *Res Judicata*; there was no hearing or even semi-court room environment for Dr. Adams to plead his case to the Board. They reasoned that since Judge Tirrell had found him guilty, he must be guilty. The logic being, “There’s no reason for us to re-tread the same case so we’ll just go ahead and find him guilty too.” The Chiropractic Board, as is their want, quickly moved to show the world that Dr. Adams, DC had had his license revoked. So, as stated, on September 11, 1996, the Chiropractic Board of Massachusetts, based largely on *Res Judicata*, which is to say, based on the administrative record already reached, and without a hearing for Dr. Adams **and** (incredibly) physically barring Judge Mitchell Sikora from the hearing room by Joseph Boyle, DC and Ned Barowski, DC; as they wrote the harshest imposition of a medical provider in the history of the Commonwealth of Massachusetts. Which is to say, the Board ordered the revocation of Dr. Adams’ license. You’re asking, “Who is Mitchell Sikora?” Judge Sikora was not only Dr. Adams’ attorney at the time, he was the editor of the original CMRs of Chiropractic in Massachusetts. Literally, no one was more intimately familiar with the CMRs than Judge Sikora and even he was barred from testifying before the Board. To this day, the Board WEB site still shows that his license was revoked. Read on.

1997:

In March, 1997, Dr. Adams appealed the decision with the Mass. Appeals Court for a STAY and to reopen the hearing and proceedings before the IAB based upon newly discovered evidence and manifest injustice. Liberty vehemently opposed Adams’ petition again alleging the same identical fraud argument. On or about May 7, 1997, Dr. Adams petitioned the IAB to reopen the hearing before the IAB Reviewing Board, based on newly discovered evidence and manifest injustice. On July 7, 1997, Dr. Adams obtained

from the Mass. Appeals Court a STAY of the decision of the IAB Reviewing Board decision and petitioned the Reviewing Board to reopen the case. On July 30, the IAB Reviewing Board issued the following memorandum: “On July 7, 1997, the Mass. Appeals Court stayed proceeding in that court and granted the plaintiff (Adams) leave to reopen the entire issue with the DIA”

On October 24, 1997, and again on April 29, 1998 Judge Tirrell reopened and reheard Bill Adams’ entire case, front to back and his 3rd party Complaint action against Liberty. At both hearing dates, Liberty, via Attorney Thomas Brophy reiterated their exact same fraud argument.

1998:

On June 26, 1998, Judge Tirrell, entered his landmark decision: “In light of the stipulation entered into by the parties as well as the testimony of additional witnesses, particularly that of the employee, JP that he actually did receive back treatment, and in consideration of the new evidence introduced in the instant hearing specifically that neither the original bill was NEVER paid, and that the insurer was never actually billed for services related to the employee’s back (separately), I find insufficient evidence to conclude that the 3rd Party claimant, Broadway Chiropractic engaged in conduct consistent with criminal fraud or an activity that violated the terms of ss 14(2). I therefore vacate my prior findings and orders as contained in my Hearing decision of August 31, 1993 as amended on September 20, 1993. Pursuant to MGL Ch. 152, as amended (The Act) I make the following recommendations: i) The insurer’s complaint against Broadway Chiropractic pursuant to MGL Ch. 152 ss14(2) is hereby denied and dismissed. ii) The legal findings and orders as contained in my original Hearing decision of August 31, 1993, as amended on September 20, 1993 are vacated.”

Simply a stunning victory and vindication for Dr. William Adams. All chiropractors should feel great about this outcome. A hugely funded insurance company was defeated by a single chiropractor.

Wait, it gets better

1999:

October 28, 1999: Attorney Brophy representing Liberty appealed the June 28, 1998 decision, once again invoking their same identical argument, despite the fact that Bill Adams had proven Liberty wrong on every conceivable issue. On this day, the IAB Reviewing Board affirmed the new decision by Judge Tirrell, thus dismissing Liberty’s appeal.

2000:

On or about November 7, 2000, Dr. Adams and the Board of Registration of Chiropractors stipulated with the Mass. SJC that Dr. Adams will be allowed to regain his license to practice in Massachusetts. Finally, vindication for Bill Adams was at hand. In a sweeping indictment against Liberty Mutual and its deceptive, fraudulent, corrupt and unprofessional handling of its original complaint against Dr. Adams, the Massachusetts

Appellant court found for Dr. Adams. The complete decision and all of its text can easily be called up on line by Googling the following citation: William Adams v. Liberty Mutual Insurance Company. Docket # 02-P-31, Middlesex County, heard by Judge Hiller B. Zobel on a motion for Summary Judgement. It is a 15 page document that recounts the sordid history of this fiasco and roundly slams Liberty Mutual Insurance Company. As a result of this Appellant decision, the Chiropractic Board was forced to retract their earlier decision. However, to this day, the Board has refused to reverse the order of the revocation nor will they grant a license based on his current 35 or so years of accrued CE credits. That is to say, the Board still wants Dr. Adams to take the mandatory 12 hours of CE/year to cover for the 10 years he has not had a license. Dr. Adams argues that he took enough hours back in the day to satisfy 35 years of practice such as the entire DABCO program. It remains to be seen how this sub-argument will settle.

So what next? Victory was not complete. Read on:

2001:

William Adams, DC filed a complaint/lawsuit in Superior Court against Liberty Mutual, C.A. (civil action) NO. 2001-2809.

- i) From 1/4/93 to 10/28/99 Liberty by its servants, agents, and/or employees have knowingly, relentlessly, vigorously, intentionally, maliciously prosecuted and pursued William Adams, DC and/or Broadway Chiropractic with repeated false allegations of insurance fraud.
- ii) Liberty continued to allege insurance fraud by Adams from 1996 to 1999 even after Attorney Brophy and Liberty admitted they had lied for over three years in IAB proceedings and a complaint to the IFB that Adams had been paid for care to JP and that Adams had billed Liberty for back care to JP which was unrelated to JPs WComp claim.
- iii) Liberty failed to disclose to the Board of Registration of Chiropractic that the decision of Judge Tirrell dated 9/20/93 was based on error and the false and fraudulent representations of Liberty that Adams had attempted to defraud Liberty. (A simple phone call indicating non-payment of the original bill together with admonitions of their own fraudulent testimony would have changed the entire matter.)

This is the gist of Dr. Adams complaint against Liberty Mutual. Dr. Adams incurred attorney fees and expenses in the amount of over \$300K and sustained a provable loss of over \$11M in income over the projected years of productive work that would have taken place if not for this incessant harassment. Dr. Adams' current attorney, Larry Frisoli has absorbed nearly \$1.5M in expenses, equal to 500 hours of legal work to be paid out of settlement as a favor to Dr. Adams. The expense to Liberty for their attorney fees and costs we estimate to be nearer to \$1.8M. Thus, over \$3 Million has been spent in litigation over an unpaid \$540.85 bill. All this, because Liberty Mutual decided they wanted Dr. Adams, DC out of business. Among other charges, Adams is suing for "Malicious Prosecution" along with MGL 93A and 176D claims, gross fraud, gross deceit, malicious misrepresentation of facts and failure to disclose information before the

following legal bodies in the Commonwealth of Massachusetts: in sum, including appearances before the SJC twice, the MASSACHUSETTS APPELLATE COURT twice, the SUFFOLK SUPERIOR COURT once, the DIA four times, the ATTORNEY GENERAL'S OFFICE three times, the CHIROPRACTIC BOARD OF REGISTRATION four times; thus on approximately 16 occasions Liberty Mutual perpetuated their fraud before these collective Massachusetts legal bodies. All told, including pain and suffering, treble damages, loss of income, loss of future income, interest, punitive damages and malicious prosecution, Dr. Adams is seeking \$52M in total damages. (See Superior Court Docket CA #2001-2809). **As an aside, Dr. Adams' other business ventures were severely restricted by this virus of mis-information by Liberty Mutual as he was unable to obtain a transfer of an "all-alcohol license" for his 230 seat restaurant/bar/jazz club after licensing authorities learned of his chiropractic license revocation. He was also disallowed a license to practice chiropractic in Maryland due to the revocation of his license in Massachusetts as a continuation of a defamation equal to modern identity theft: Dr. Adams is a native American and Irish gentleman and the son of a Naval Tug Boat Captain formerly assigned to vessel #540 (note the irony) and under his piloting he would re-dock and re-position the U.S.S. Constitution bi-annually.*

CONCLUSION: As of this writing, Dr. Adams has opted to not actually activate his license. He reckons that the Board cannot meddle with his affairs as much without an actual license in hand. The lawsuit against Liberty Mutual for the egregious, contemptuous case they proffered against Dr. Adams and the court, still drags on. It is expected to be heard later in 2006 with a possible resolution by December, 2006 or by Spring of 2007. The Appellate Court slammed Liberty Mutual for their behavior during this fiasco. The Chiropractic Board of Registration was forced into "restoring practicing privileges" to Dr. Adams. Yet, the Board of Chiropractic still lists his license as having been revoked and refuses to change Dr. Adams' status on their WEB site. His name should be fully exonerated with an apology from the Board.

WHAT WE CAN LEARN & RECOMMENDATIONS:

This bizarre case neatly summarizes all that is wrong, biased, agenda driven and unprofessional with the insurance industry. A rogue group of claims adjusters and attorneys in 1993 commenced a course of action against a highly successful Boston chiropractor with several offices in Metro Boston that treated WComp and Personal Injuries. It was never considered by anyone that Liberty might have been lying. The insurance companies, including Liberty, enjoy an odd sense of privilege and omnipotence such that if they say something is so, people automatically think it must be so. No question is asked of their integrity or truth in speaking. As we have seen, that is a fatal legal mistake. The message Liberty tried to send, and almost got away with was, "If in doubt, blame the chiropractor. Put your blind faith in the insurance companies and when push comes to shove, insurance companies can outspend anyone to make a point." With \$78.824 Billion in assets, it's hard to argue with that (from **Fortune 500**). The President of Liberty, Ted Kelly made \$28M in salary LAST YEAR and the company now ranks #102 on the **Fortune 500** list (ibid). The Attorney General of NY and Conn. is suing Liberty for RICO racketeering including bid rigging of multi-million

dollar contracts (see Consumeraffairs.com dated July 7, 2006). Liberty acts as if it is above the law. As recently as June, 2006 Attorney Brophy of Liberty was deposed by Dr. Adams' attorney Larry Frisoli. (Attorney Frisoli is on the November 5, 2006 ballot for the Attorney General's office). Under oath, Mr. Brophy admitted that he had numerous conversations with the Board regarding Adams' license throughout the entire ordeal. Why?

Currently, Ned Barowski, DC is the Chairman of the Board and has been since the mid 1990's. He holds frequent votes among the other 5 members of the Board to see who will support him for a bizarre obsession with a LIFETIME Chairmanship. Dr. Barowski stopped practicing several years ago and doesn't even live in Massachusetts anymore. Joseph Boyle, DC, former Chairman, now vice-chairman, also doesn't practice. He consults MD/DC offices. Wayne Comeau, DC also apparently doesn't practice anymore. Michael Frustaci, DC doesn't practice either. He is a full time Peer Reviewer/IME/insurance consultant. Dr. Mark Elfman, the newest Board member actually does practice as does Secretary of the Board Kirk Shilts, DC.

I feel the time has long past when Statutory Rules and Regs be enacted to govern the doctors serving on the Chiropractic Board of Registration in Massachusetts. We field practitioners are held to lofty standards, therefore, why shouldn't the DCs on the Board be held to the same high standard? Here are my suggestions:

- 1) **TERM LIMITS**: No Board member may stay on the Board longer than 4 years.
- 2) **TERM LIMITS**: No Board member may be Chairman longer than 2 years.
- 3) **IN PRACTICE**: All Board members must be full time practicing chiropractors living in Massachusetts.
- 4) **BOARD MEETINGS**: Must be open to the public. That is the supposed mandate for the "open to the public" credo of this Board, but it is seldom applied. Currently, almost immediately upon entering the board meeting room, invocation of "Executive Session" is heard. The hackneyed, continual excuse for that is that the Board and the Board lawyers don't want to expose "prosecution strategy" to the public and especially to Massachusetts DCs. **more on this shortly*. That said, should the Board meetings ever be truly "open to the public" again, there may very well be a rare and extenuating exception to this. But the general rule should be "open to the public." This would serve to keep the Board fair about their dealings with the rank and file chiropractors in this Commonwealth to say nothing of the consumers the Board keeps saying it "protects" from DCs.
- 5) **ACCOUNTABILITY**: The Board should be held accountable as to how much taxpayer money they spend each year. This figure should be made available semi-annually on the Board WEB site. Currently, the Board merely sends many of the consumer complaints into "Investigations" which is almost always followed by a lengthy "Prosecution" process. All this costs money. The Board members may volunteer their time, but these investigators and lawyers in the prosecution department cost money and it is the taxpayers that foot the bill. Currently, the Board has no restraint, no incentive for restraint and just keeps throwing a great deal of the cases into these departments with absolutely no consideration of cost.

This is taxpayer money that the Board sees fit to continually spend. It is also too secretive. Everyone should have access to a truthful accounting of money spent by this Board and why it is spent.

- 6) **CHIROPRACTOR REDRESS:** In Civil and Criminal court, the wrongly accused can sue for “improper or false prosecution.” Here, with the Board of Registration, the chiropractors on the Board are apparently statutorily immune from legal consequence for their actions. I find this inadequate. I propose therefore, that the Board members be statutorily liable for a lawsuit in the event it is discovered that any or all members acted improperly to the detriment of the chiropractor that was disciplined.
- 7) **BOARD RECORD KEEPING:** Currently, the Board keeps the ongoing “record” of what happens at Board meetings. I got a sample of the notes recently when I requested that all records from my “extensive” (Board word) 10 year investigation be furnished to me. I thought there would be hundreds of pages of notes forthcoming. What I got from Ms. Joanne Termine, Board assistant secretary, were four pages of notes in which I was mentioned by docket number only in two sentences. The note taking at the Board is sub-standard. It is lacking important detail. In any given Board meeting, there is marked the time the meeting started, identification of those Board members present to establish a quorum, mention the docket numbers (almost all of whom are referred to investigations or prosecutions) and then mark the time the meeting ended. Occasionally a broad issue is mentioned that may have been discussed but there is no substance as to what the discussion actually was or who said what in these notes. I propose that all Board meetings be recorded either on tape and/or with a stenographer. They can be stored and any interested party can get a copy burned onto a CD for a modest fee. Transcribing would be an extra cost to the interested party. This would have several advantages; 1) It would obviously fully document exactly what is going on at these meetings, 2) Settle any disputes as to what was said or not at a meeting if a dispute arises later between parties, 3) Keep the Board more open and fair in their dealings with the chiropractors they are disciplining and “protecting the public from.” Additionally, in the event a chiropractor wants to seek further legal remedies, a detailed record of every spoken word of what was said would be a useful, discoverable tool for the plaintiff.
- 8) **DISCIPLINE HEARINGS:** Currently, some doctors are found guilty before the fact and only then offered a hearing with a Board member of the Board’s own choosing. In my case, I was found guilty and then offered a last minute “Show Cause” hearing with Dr. Barowski. Dr. Dave Taylor was scheduled to be my hearings office but according to Dr. Taylor, Dr. Barowski held yet another “Chairman for Life” vote several weeks before my hearing and when Dr. Taylor didn’t support him, Dr. Taylor was excused from the Board. I propose a system that includes a preliminary, informal meeting with the accused doctor and the Board to explain his/her side of the story before any formal investigation is instituted. Oddly, the Board already does this occasionally. It should be done regularly. Following that, a “show cause” hearing should be mandated BEFORE final findings are reached by the Board.

EPILOGUE:

Dr. Adams' nightmare with Liberty Mutual and the additional aggravation meted out by the Chiropractic Board is unique in many ways. However, in some respects, his treatment is typical. Consider the following true additional examples:

- 1) John Haberströh, DC: To briefly summarize a long case, the Board began chasing me in 1996 on two small complaints about bills that were paid in full. A few years later, one of my associates made a typo in a case file. The pronoun "she" was used instead of "he" in a male patient's file. Dr. B, the doctor in question with the typo, admitted to a clerical error and got one year's probation. However, since I employed him, the Board came after me with a vengeance in 2003 due to Dr. B's "guilty" admission. I was subsequently hounded for "unprofessional conduct" and "failure to maintain an adequate clinical record." The Board wanted to revoke my license and wouldn't stop harassing me. They even contacted former Board Chairman Mark Davini, DC to be their expert witness against me. I have spoken to Mark since then. He told me that they presented a total of 3 files for his review and asked if he could find a "pattern" of abuse in the files. He said he told them those files were the best files he had ever seen. He only wished more chiropractors did files like mine. Undaunted by their "expert witness", the Board pressed on with more threatening letters from lead prosecutor on the case, Ms. Pasqua Scibelli. I finally bit the bullet and settled on a consent agreement in 2005. My consent agreement actually states I did nothing wrong which is probably why I am not displayed on the Board WEB site. My punishment for Dr. B's typo? Two years probation, 36 hours of record keeping, \$2500 fine, the hiring of a clinical auditor and a report to the Board that I have achieved "Compliance" in my office as well as a clinical monitor who must review about 10 of my files randomly every 4 months. This all took the Board 10 years to conclude. One of my other former associates who relocated to Vermont many years ago, was located and told that if he testified against me and signed a confession that the prosecutors composed, they would not discipline him. This associate, Dr. F, thus "confessed", saying, in effect, that I had mind controlled him into over-utilizing on virtually every case that came into the office where he was working. This, I gather, was part of the "prosecution strategy" that must remain in "executive session." I thought to Google this doctor years later. It seems he was about to lose his license in Vermont at the same time he agreed to this "deal" with prosecutors George Webber and Pasqua Scibelli; for unprofessional conduct in Vermont. In a related aspect to this fiasco, a certain Peer Reviewer tried to blackmail me by demanding huge sums of money "or else he would make complaints and IME my practice into the ground." I complained to the Board and it was dismissed immediately. Later, that same IE fulfilled his promise by making a complaint to the Board that they found me summarily guilty of. I didn't know it had happened until AFTER my consent agreement. The complaint? I exposed that IE by revealing that his CV had been partly faked. The Board turned around and found me guilty of slander. In any event, that particular "guilty" finding didn't actually affect me, but it does showcase the odd sense of priorities this Board, Chief

prosecutor George Webber and the rest of the prosecutors have for chiropractic field practitioners and the protection they provide IE doctors. Robert Stephenson, DC: Is proudly named by this Board on the Board WEB site as having “acknowledged having billed for services he never provided.” After months of requests I finally obtained a copy of Dr. S’s consent agreement. He said, nor “acknowledged” no such thing. The Board blurb is not true. In fact, his consent agreement actually says, “The Licensee has not had any findings entered against him for violation of any Board regulation, or state or federal law.” I am intimately familiar with this case because he was my associate when all this happened. The actual complaint was filed by a videographer/investigator working for one of the insurance companies. The actual complaint states, “. . . treating four individuals for soft tissue injuries from minor auto accident. Surveillance showed all four in exam rooms less than 5 minutes. Provider (Dr. S) charge for two treatment modalities each. Surveillance tape available.” It took us two years to get that tape, back in the day. 1) It is 10 minutes long with almost 5 minutes edited out, this per the time counter at the bottom right of the tape. 2) It does not show any of the patients inside any exam rooms. It was taken OUTSIDE of the office in Brockton at night. The angle of the video shows the four patients going into the office. They quickly disappear from view because the tape only shows a small portion of the entrance foyer. 3) The patients were adjusted and put on IST. 4) It is important to point out that there were no other patients in the office. None of these four needed any time consuming procedures like a re-exam. We had four IST tables in that office at the time. I eventually made my own “stunt” tape INSIDE the office to show that barring other interruptions or other patients etc, four patients could indeed be adjusted and administered IST in a leisurely fashion within 10 minutes. We timed it and I narrated the entire video that we made. To this day I have no idea whether or not the prosecutors even bothered looking at it. The insurance tape would have been thrown out of any normal court as having been tampered with and thus not having met even minimal evidentiary standards as prima fascia evidence. Not so with the DPL. Chief Prosecutor George Webber also wouldn’t allow depositions from the patients in question. We had signed statements from the entire staff in the office including the doctor, the four patients but we were disallowed from entering deposition transcripts. Seven people say the treatments did take place, one guy in a van outside of the office alleged that the treatments didn’t take place and that is what is believed.

CONCLUSION:

A fair way to proceed would be to have true oversight of the Board and its prosecutors. They are self contained with minimal oversight and no ability for anyone to check on what they are doing. This Board needs the same oversight and regulatory statutes as well as disciplining that all practicing chiropractors undergo in this Commonwealth. At last November’s Board sponsored “Note Taking-Compliance” seminar, it was said that there is Board oversight. It was explained that there are a bunch of lawyers in the room and the Board is being watched by them. Not so I say. I used to go to Board meetings before the secretive and constant “executive session” spree. When I did attend these meetings, the sum total input from Board Lawyers was strictly procedural, as in, i) how to phrase a

letter of support to Mitt Romney, ii) what to say when chasing people out of the room for “executive session”, iii) how to phrase letters of any kind, iv) how to legally speak with DC’s lawyers, etc. There is no oversight. The Board does what it does and the lawyers simply tell them how to say and do it with more legal authority. Considering the abbreviated “notes” rendered from each meeting, the absence of audio recordings at these meetings together with no real oversight, we have a problem that needs some addressing. Curiously, we don’t see Prosecutor George Webber going after Liberty for any of the issues in Dr. Adams’ case. The system is flawed and it needs change.

**Submitted to the MCS for publication September, 2006.*