



**Citation Order
Via Certified Mail**

March 22, 2013

David Manago, D.C.
26990 Crown Valley Parkway, #C
Mission Viejo, CA 92691

Citation Number: 2013-10838
License Number: 14686
Violation(s): CCR 317a – gross negligence; CCR 317b – repeated negligent acts

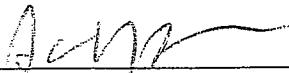
In accordance with Business and Professions Code section 125.9 and Title 16, California Code of Regulations section 390 et al, this citation is being issued by the Board of Chiropractic Examiners (Board) against your license for the violation(s) found following review of a complaint and/or investigation.

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

Unless contested, using the attached Acknowledgement Receipt Form, this citation shall become the final order of the Board on **April 23, 2013**. You must comply immediately with the order of abatement and pay the \$500.00 fine. Compliance with the order of abatement is **due within 30 days** of the citation order date.

Payment of the fine is to be made payable to the Board of Chiropractic Examiners by check or money order. Please include the citation number on the payment. **DO NOT SEND CASH.** Mail to:
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Attn: C.Villanueva

FAILURE TO COMPLY WITH THIS CITATION MAY RESULT IN DISCIPLINARY ACTION AGAINST YOUR LICENSE. If you have any questions regarding this matter, contact Christina Villanueva (916) 263-5373.



Sandra Walkef
Compliance Manager
Board of Chiropractic Examiners

3/22/2013

Date

Attachments: California Code of Regulations section 390
Business and Professions Code section 125.9
California Code of Regulations section 317a; 317b
Proof of Correction and Compliance with Order of Abatement
Citation/Fine Remittance Form with Courtesy Envelope
Acknowledgement Receipt Form
Declaration of Service

Cause for Citation

On July 16, 2012 the Board received a complaint alleging the use of a device that was banned from use. The Board contacted you for information regarding the specifics of the device in question. The Board sent the complaint to an expert on January 25, 2013 along with all documentation submitted by you. The expert found that you are in violation of CCR 317a – gross negligence and CCR 317b – repeated negligent acts due to the following:

- The device in question (a contact locating instrument – non-FDA approved device) appears to use essentially the same identical principle of a machine identifying the presence of a subluxation or the energy associated with a subluxation to guide treatment (Toftness Radiation Detector), which is also a non-FDA approved device
- You used the non-FDA approved device to diagnose, assess, and treat patients
- You repeatedly used the instrument (a contact locating device) provided by Toftness that is substantially similar to and which employs essentially the same basic principles as a Toftness Radiation Detector
- In January 1982, there was permanent nationwide injunction against the manufacturing, promoting, selling, leasing, distributing, shipping, delivery, or using in any way any Toftness Radiation Detector or any article or device that is essentially the same as or employs the same basic principles as the Toftness Radiation Detector. The device that you used and that is in question was found to be essentially the same as or employs the same basic principles.

Fine Penalty

The fine assessed on this citation is \$500.00.

Order of Abatement

The Board orders that you immediately take such measures as are necessary to ensure future compliance of CCR 317 by following appropriate standards in care by no longer using the device that is essentially similar to the Toftness Radiation Detector that was banned in 1982.

Appeal Rights

Any person issued a citation may request a hearing in accordance with California Code of Regulations, Title 16, Section 390.4. You may request an informal conference or appeal before an administrative law judge, or both. **Using the enclosed Acknowledgement Receipt Form, you may request an Administrative Hearing at the same time an informal conference is requested. If you wish to request both, you must submit your request for both. Please note that the time frames that allow you to request a conference and hearing run concurrently.**

Request for Informal Conference

To request an informal conference, please return the enclosed Acknowledgement Receipt Form to the Board office **within 14 calendar days** from receipt of the citation. The informal conference can be conducted by submitting a written argument in lieu of attending an informal conference in person, by appearing in person or by telephone. **You must state in your Acknowledgement Receipt Form whether you are submitting a written argument for review, or whether you are requesting to appear in person or by telephone for an informal conference.** Written arguments must be received with your request for an informal conference which will be scheduled within 30 calendar days of receipt of your request.

Request for Administrative Hearing

To request an administrative hearing directly, please submit a written request within 30 days from the date on this citation. If you request an administrative hearing using the

Acknowledgement Receipt Form, you must do so within 30 days from the date on this citation and must indicate what parts of the citation you are contesting. The Office of Administrative Hearings will schedule a formal public hearing before an administrative law judge. A deputy attorney general will represent the Board at the public hearing. After the hearing, the Administrative Law Judge will issue a proposed decision, based upon the findings of fact, affirming, modifying or vacating the citation, or directing other appropriate action. The Board members will then vote to either adopt or nonadopt the proposed decision. You will be notified of the Board's decision.

If you appeal this citation by requesting an informal conference or an administrative hearing, the days given for compliance will be held in abeyance only for the violation(s) you contest. The time to correct all uncontested violations must be adhered to as given.

If you fail to notify the Board within the allotted time that you intend to appeal the citation, it shall be deemed a final order and shall not be subject to further administrative review. Any questions or concerns should be directed to Christina Villanueva (916) 263-5373.