

RETURN DATE: MARCH 25, 2008	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	
<i>Plaintiff,</i>	:	
	:	HARTFORD JUDICIAL DISTRICT
v.	:	AT HARTFORD
	:	
CONNECTICUT CHIROPRACTIC	:	
ASSOCIATION, INC.;	:	
CONNECTICUT CHIROPRACTIC	:	
COUNCIL, INC.; and	:	
ROBERT L. HIRTLE, JR.	:	
<i>Defendants.</i>	:	MARCH 5,2008

**STIPULATED JUDGMENT AND RELEASE AS TO THE  
DEFENDANT CONNECTICUT CHIROPRACTIC ASSOCIATION, INC.**

The Office of the Attorney General (“OAG”) and the Connecticut Chiropractic Association, Inc. (“CCA”) hereby stipulate, agree and enter into the following Stipulated Judgment and Release (the “Judgment”) as follows:

**Section A: Preamble**

1. The CCA is a corporation organized under the laws of the State of Connecticut, and has its principal place of business in Rocky Hill, Connecticut.
2. Pursuant to Conn. Gen. Stat. § 35-32, Richard Blumenthal, Attorney General of the State of Connecticut, conducted an antitrust investigation into allegations that CCA and Connecticut Chiropractic Council, Inc. (“CCC”) members conspired among themselves and conspired with others, including Robert L. Hirtle, Jr. (“Hirtle”), an

individual in Hartford, Connecticut who is a practicing attorney, to restrain competition by, among other things, encouraging, facilitating, entering into, and implementing agreements, express or implied, among its members and others to fix or increase the prices paid for chiropractic services, and to boycott third-party payers to obtain higher reimbursement for chiropractic services (hereinafter, the “OAG’s Investigation”).

3. As a result of the OAG’s Investigation, the OAG has reason to believe that the CCA, by and through its officers, members, counsel and employees, violated the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-24, *et seq.* Specifically, the OAG has reason to believe that the CCA, acting in concert with co-conspirators Connecticut Chiropractic Council (“CCC”) and Robert L. Hirtle (“Hirtle”), restrained competition by, among other things, encouraging, facilitating, entering into, and implementing agreements, express or implied, among the CCA’s members and Hirtle, to coordinate a group boycott of American Specialty Health (“ASH”) in order to obtain higher reimbursement for chiropractic services.

4. For the purposes of this Judgment, the following definitions shall apply:

a. “Connecticut Chiropractic Association, Inc.” or the “CCA” means the Connecticut Chiropractic Association, its directors, officers, employees, agents and representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups, and affiliates, controlled by the CCA, and the respective directors, officers, employees, agents and representatives, successors, and assigns of each. This definition expressly excludes the CCA’s members.

b. “Connecticut Chiropractic Council” or “CCC” means the Connecticut Chiropractic Council, its directors, officers, employees, agents and representatives,

predecessors, successors, and assigns; its subsidiaries, divisions, groups, and affiliates, controlled by the CCC, and the respective directors, officers, employees, agents and representatives, successors, and assigns of each. This definition expressly excludes the CCC's members.

c. "Robert L. Hirtle" or "Hirtle" was the CCA's legal counsel at all times relevant herein. His principal address is 185 Asylum Street, Hartford, CT 06103.

d. "Chiropractor" means a person licensed to engage in that branch of the healing arts as defined in Conn. Gen. Stat. § 20-24.

e. "Panel" means the list or group of providers that have entered into a participation agreement with the payer to deliver health care services to enrollees of the health service, benefit plan, or payer.

f. "Participation agreement" means any agreement between a payer and a provider in which the payer agrees to pay the provider for the provision of health care services, and in which the provider agrees to accept payment from the payer for the provision of health care services.

g. "Payer" means any person that purchases, reimburses for, or otherwise pays for all or part of any health care services, including, but not limited to, chiropractic services, for itself or for any other person. "Payer" includes, but is not limited to, any health insurance company; preferred provider organization; prepaid hospital, medical, or other health service plan; health maintenance organization; government health benefits program; employer or other person providing or administering self-insured health benefits programs; and patients who purchase health care for themselves.

h. “Person” means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, partnerships, and governments.

i. “Preferred provider network” is an entity that pays claims for the delivery of health care services, accepts financial risk for the delivery of health care services and establishes, operates or maintains an arrangement or contract with providers relating to (1) the health care services rendered by the providers, and (2) the amounts to be paid to the providers for such services. A preferred provider network is not a managed care network.

j. “Provider” means any person including, but not limited to, chiropractors, physicians, and hospitals, that supplies health care services to any other person.

k. “Reimbursement” means any payment, whether cash or non-cash, or other benefit received for the provision of chiropractic goods and services.

### **Section B: Investigation**

1. Based upon the OAG’s Investigation, including a thorough review of the documents provided by the parties, the OAG has filed a complaint against co-conspirators CCA, CCC, and Hirtle, in which allegations of violations of the antitrust law uncovered through the OAG’s Investigation are set forth, (hereinafter “the Complaint”). The Complaint is attached as Appendix A hereto.

2. The CCA denies all of the OAG’s allegations, including those made in the Complaint and those made in this Stipulated Judgment and Release.

### **Section C: Terms and Conditions**

NOW THEREFORE, for and in consideration of the representations in the Preamble set forth above, Section A, supra, and the mutual promises, covenants and

obligations set forth below, and for the good and valuable consideration as stated herein, the receipt and sufficiency of which is hereby acknowledged, the OAG and the CCA agree as follows:

**The Settlement Payment**

1. The CCA agrees to pay the State of Connecticut the total sum of Fifty Thousand Dollars (\$50,000) as a civil penalty in full and final settlement of all allegations and potential claims related to the OAG's Investigation (the "Settlement Amount"). The CCA shall make payment of the Settlement Amount by certified check or bank teller check made payable to "Treasurer of the State of Connecticut" and delivered to Michael Cole, Chief, Antitrust Department, Office of the Attorney General, 55 Elm Street, Hartford, CT 06106. The CCA shall make its payment in two equal installments, the first no later than five (5) business days from the Effective Date of this Judgment, and the second twelve (12) months after the Effective Date of this Judgment.

**The CCA's Assurances**

2. The CCA commits that it shall not engage or attempt to engage in violations of Conn. Gen. Stat. §§ 35-24 *et seq.* (the Connecticut Antitrust Act). Specifically it agrees that it will cease and desist from:

a. Entering into, adhering to, participating in, maintaining, organizing, implementing, enforcing, or otherwise facilitating any combination, conspiracy, agreement, or understanding between or among any chiropractors:

i. To negotiate on behalf of any chiropractor with any payer regarding any term, condition, or requirement upon which any chiropractor deals, or is willing to deal, with any payer, including, but not limited to, price terms; or

- ii. To deal, refuse to deal, or threaten to refuse to deal with any payer.
- b. Requesting, proposing, urging, advising, recommending, advocating, or attempting to persuade in any way any chiropractor to deal or not deal with a payer, or accept or not accept the terms or conditions, including, but not limited to, price terms, on which the chiropractor is willing to deal with a payer;
- c. Exchanging or facilitating in any manner the exchange or transfer of information among chiropractors concerning any chiropractor's willingness to deal with a payer, or the terms or conditions, including price terms, on which the chiropractor is willing to deal with a payer;
- d. Organizing, sponsoring, facilitating or participating in any meeting or discussion that the CCA expects or reasonably should expect will facilitate communications concerning one or more chiropractors' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement;
- e. Continuing a formal or informal meeting that the CCA expects or reasonably should expect will facilitate communications concerning one or more chiropractors' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement;
- f. Continuing a formal or informal meeting of chiropractors after any person makes any statement concerning one or more chiropractors' intentions or decisions,

that if agreed to would violate this Judgment, unless the CCA immediately ejects such person from the meeting;

g. Continuing a formal or informal meeting where the CCA knows or reasonably should know that two or more persons are communicating concerning one or more chiropractors' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement; or

h. Attempting to engage in any action prohibited by this Judgment; and

i. Encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that, if taken by the CCA, would be prohibited by this Judgment.

3. The CCA agrees that it will establish and maintain an antitrust training and education program, completion of which will be required for all officers, members, and employees of the CCA. Within thirty (30) days of the effective date of this Judgment, the CCA shall submit to the OAG a draft of the intended training and education program for review and approval by OAG prior to implementation.

4. The training and education program shall be designed to cover, at a minimum, compliance with federal and state antitrust laws.

5. The CCA agrees that for a period of five (5) years from the date of this Judgment, the CCA shall:

a. Maintain a copy of each document distributed at each meeting of the CCA's board of directors, the CCA district meeting, or seminar or training session sponsored in whole or in part by the CCA for a period of five (5) years from the date of

distribution, along with records showing the date of the meeting or seminar at which the document was distributed; and

b. Maintain a copy of each document relating to the CCA's compliance with the antitrust training and education program required by this Judgment and which is distributed to any CCA member or members for a period of five (5) years from the last date of its distribution, along with records showing the date(s) of distribution and each person to whom the document was distributed.

6. The CCA agrees that within thirty (30) days of this Judgment it will provide a dated and signed notification letter in the form set forth in Appendix B of this Judgment along with a copy of the Complaint and Judgment in this matter to each of the following:

a. Current officers and directors, and to each other agent, representative, or employee of the CCA whose activities are affected by this Judgment, or who has responsibilities with respect to the subject matter of this Judgment;

b. Current members; and

c. The payers listed on Appendix C.

7. The CCA agrees that for a period of five (5) years after the date of this Judgment, and within thirty (30) days of the date that the person assumes such position, it will distribute a dated and signed notification letter in the form set forth in Appendix B of this Judgment, along with a copy of the Complaint and Judgment in this matter, to each new officer and director of the CCA, and to each other new agent, representative, or employee of the CCA whose activities are affected by this Judgment, or who has responsibilities with respect to the subject matter of this Judgment.



8. The CCA agrees that for a period of five (5) years after the date that this Judgment becomes final, it will provide each new member with a dated and signed notification letter in the form set forth in Appendix B of this Judgment, along with a copy of the Judgment and attached Complaint in this matter, within thirty (30) days of the new member's admission to the CCA

9. The CCA agrees that it will publish a notification letter in the form set forth in Appendix B of this Judgment, along with a copy of this Judgment and the attached Complaint, on the CCA website no later than fourteen (14) days after the date of this Judgment and such letter shall remain on the website for a period of five (5) years.

10. The CCA agrees that it shall notify the OAG at least thirty (30) days prior to any proposed material change in the CCA, such as a petition for bankruptcy commenced by CCA, dissolution, assignment, sales resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries. The CCA agrees that it shall notify the OAG as soon as reasonable, no later than five (5) business days after a petition for bankruptcy filed against CCA.

11. For ten (10) years after the Effective Date of this Judgment, on or before its anniversary date, the CCA shall certify to the OAG:

a. Whether it has complied with each term and condition set forth in Sections C.1 and C.2 of this Judgment;

b. Whether it has complied with the provisions of Sections C.3 through C.10 herein regarding notification of this Judgment and regarding antitrust compliance training; and

c. The names of the current officers, directors, and key employees of the CCA.

**The OAG's Release of the CCA**

12. The OAG does hereby fully and finally release the CCA and its members, who were members during the period August 1, 2006 through the Effective Date of this Judgment, from any civil claim, action, suit or proceeding the OAG has asserted for the antitrust violations alleged in the Complaint filed by OAG and attached hereto as Appendix A. The payment of the civil penalty required by this Judgment fully discharges the CCA from any obligation to pay restitution, additional civil penalties, and costs and expenses of litigation, including attorneys' fees, to the State of Connecticut pursuant to the antitrust violations alleged in the Complaint attached hereto as Appendix A.

**Notice to Parties**

13. Unless otherwise stated in writing subsequent to the Effective Date of this Judgment, all notifications and communications made pursuant to this Judgment shall be submitted to the persons listed below:

a. For the OAG:

Michael Cole, Assistant Attorney General  
Chief, Antitrust Department  
Office of the Attorney General  
55 Elm Street  
Hartford, CT 06106  
(860) 808-5040  
fax (860) 808-5033  
[Michael.Cole@po.state.ct.us](mailto:Michael.Cole@po.state.ct.us)

b. For the CCA:

Michael P. Shea, Esq.  
Day, Pitney LLC  
242 Trumbull Street  
Hartford, CT 06103  
(860) 275-0146  
fax (860) 275-0343  
[mpshea@daypitney.com](mailto:mpshea@daypitney.com)

President  
Connecticut Chiropractic Association  
2257 Silas Deane Highway  
Rocky Hill, CT 06067

### **Cooperation with the OAG**

14. The CCA commits that the CCA and its parent corporation(s), subsidiaries and affiliates, predecessors, successors and assigns shall fully and promptly cooperate with the OAG with regard to the OAG's Investigations, and related proceedings and actions, of any other person, corporation or entity. The CCA commits that the CCA and any subsidiaries and affiliates, predecessors, successors or assigns shall use their reasonable best efforts to ensure that all its officers, directors, members, employees, and agents also fully and promptly cooperate with the OAG's Investigation and related proceedings and actions, except to the extent any such persons are represented by separate counsel.

15. Cooperation with the OAG's Investigation shall include without limitation, the following:

a. The CCA shall accept service of subpoena(s) and shall produce pursuant thereto any information and all documents or tangible evidence reasonably requested

by the OAG and any compilation or summaries of information or data that the OAG reasonably requests be prepared;

b. Except to the extent such persons are represented by separate counsel, the CCA shall use reasonable best efforts to cause its officers, directors, employees and agents to attend any proceedings at which the presence of any such persons is reasonably requested by the OAG and use its reasonable best efforts to have such persons answer any and all inquiries that may be put by the OAG (or any of the OAG's deputies, assistants or agents) to any of them at any proceedings or otherwise ("proceedings" include but are not limited to any meetings, interviews, depositions, hearings, trial or other proceedings);

c. The CCA shall fully, fairly and truthfully disclose all information and produce all records and other evidence in its possession relevant to all inquiries reasonably made by the OAG concerning the OAG's Investigation;

d. In the event any document is withheld or redacted on grounds of privilege, a written statement shall be submitted to the OAG by the CCA indicating:

- i. The type of document;
- ii. The date of the document;
- iii. The author and recipient of the document;
- iv. The general subject matter of the document;
- v. The reason for withholding the document; and
- vi. The number of pages of the document, with their Bates numbers or range of Bates numbers.

16. Nothing herein shall prevent the CCA and its successors and assigns from providing such evidence to other regulators, or as otherwise required by law.

**Miscellaneous Provisions**

17. This Judgment shall be governed by the laws of the State of Connecticut. The Court has jurisdiction over the subject matter of this Judgment and over each of the parties.

18. Nothing in this Judgment shall be construed to create a waiver of the State of Connecticut's sovereign immunity.

19. The exclusive jurisdiction for resolving any disputes under this Judgment shall be the Superior Court of the State of Connecticut, Judicial District of Hartford.

20. This Judgment constitutes the complete agreement between the OAG and the CCA and may not be amended except by a writing signed by the OAG and the CCA and entered by the Court.

21. The bold-faced paragraph captions in this Judgment are for convenience only and do not add to, detract from or change the substantive language or terms of this Judgment.

22. The undersigned individuals signing this Judgment on behalf of the CCA represent and warrant that they are duly authorized by the CCA to execute this Judgment.

23. The undersigned individual signing this Judgment on behalf of the OAG represents that he is signing this Judgment in his official capacity and that he is duly authorized to execute this Judgment..

24. The OAG and the CCA agree that should any nonmaterial portion or portions of this Judgment be found to be void, unenforceable or otherwise invalid by any court of competent jurisdiction after the exhaustion of all rights to appeal, the entire Judgment shall not be nullified and such invalid portion or portions shall be severed from the remainder of the Judgment as if they had never been entered into and the remainder of the Judgment shall be enforced.

25. This Judgment may be executed in counterparts, each of which shall constitute an original and all of which shall be deemed to constitute one and the same agreement.

26. The Effective Date of this Judgment shall be the date upon which all of the Parties below have executed this Judgment.

27. The CCA is entering into this Judgment without trial or adjudication of any issue of fact or law. No part of this Judgment shall constitute evidence against the CCA

with respect to any issue of law or fact. No part of this Judgment shall be treated or construed as an admission of liability or wrongdoing by the CCA.

28. Nothing in this Judgment is intended to or shall be construed to restrict the CCA's exercise of its rights under the Noerr-Pennington doctrine and the First Amendment.

29. The terms of this Judgment shall terminate on March 5, 2028.

IN WITNESS WHEREOF, the OAG and the CCA set their hands and seals on the dates set forth below:

**The Office of the Attorney General**

**RICHARD BLUMENTHAL**  
**Attorney General**  
**State of Connecticut**

By

\_\_\_\_\_ Date: \_\_\_\_\_  
Michael E. Cole, Assistant Attorney General  
Chief, Antitrust Department  
Office of the Attorney General

**Connecticut Chiropractic Association, Inc.**

By

\_\_\_\_\_ (Seal) Date: \_\_\_\_\_  
Michael P. Kane, D.C.  
President

## APPENDIX B

[Connecticut Chiropractic Association Letterhead]

To Whom It May Concern:

The Connecticut Chiropractic Association (“CCA”) has entered into an a Stipulated Judgment and Release (the “Judgment”) with the Office of the Attorney General of Connecticut (“OAG”) to settle allegations that the CCA, acting in combination with the Connecticut Chiropractic Council (“CCC”) and Robert L. Hirtle (“Hirtle”), violated the antitrust laws by, among other things, conspiring to fix or increase prices paid for chiropractic services and to boycott third-party payers. The CCA has expressly denied those allegations and has made no admission of liability or wrongdoing. As part of the Judgment, the CCA is required to notify each of its officers and directors, its agents, representatives and employees who have responsibilities with respect to the subject matter of the Judgment, its members, and third party payers of the Judgment, and to provide each such person a copy of the Judgment and the Complaint in this matter.

Under the terms of the Judgment, the CCA is prohibited from:

1. Fixing prices or encouraging others to fix prices for any chiropractic good or service;
2. Organizing, participating in, or enforcing any agreement (a) to negotiate on behalf of any chiropractor or group of chiropractors regarding any term, condition, or requirement of dealing with any payer or provider; or (b) to deal or refuse to deal with, boycott or threaten to boycott, any payer or provider;
3. Advising, recommending, advocating, or attempting to persuade in any way any chiropractor to accept or not accept any aspect, term or condition of any existing or proposed participation agreement;
4. Soliciting or communicating any chiropractor’s views, decisions or intentions concerning his or her willingness or intent to enter into any participation agreement;
5. Organizing, sponsoring, facilitating or participating in any meeting or discussion that the CCA expects or reasonably should expect will facilitate communications concerning any chiropractor’s intentions with respect to entering into any participation agreement;
6. Encouraging or assisting any person to take any action that, if taken by the CCA would violate this order;



7. Continuing any meeting at which one or more chiropractors has made any statement concerning his or her intentions or decisions with respect to entering into any existing or proposed participation agreement. If one chiropractor expresses his or her intentions or decisions regarding whether to enter into a participation agreement, the CCA is required to eject such person forthwith from the meeting or discussion. If two or more chiropractors express such intentions or decisions the CCA is to terminate the meeting forthwith.

In addition, the CCA is required, under the terms of the Judgment, to maintain records, including, but not limited to, retaining copies of all materials distributed at CCA meetings and seminars sponsored by the CCA. The CCA must maintain other records as specified in the Judgment, along with a record of its distribution.

Copies of the Complaint and Judgment are enclosed.

/s/

President

Connecticut Chiropractic Association

## APPENDIX C

Aetna, Inc.  
151 Farmington Avenue  
Hartford, CT 06156

Anthem Blue Cross and Blue Shield  
Operations Center and East Headquarters  
370 Bassett Road  
North Haven, CT 06473

CIGNA Corporate Headquarters  
Two Liberty Place  
1601 Chestnut Street  
Philadelphia, PA 19192

ConnectiCare  
175 Scott Swamp Road  
P.O. Box 4050  
Farmington, CT 06034-4050

Empire BlueCross BlueShield  
One Liberty Plaza  
New York, NY 10006

Health Net, Inc.  
P.O. Box 10198  
Van Nuys, CA 91410-0198

Oxford Health Plans, LLC  
United Healthcare  
450 Columbus Boulevard  
Hartford, CT 06103

Unicare/WellPoint, Inc.  
120 Monument Circle  
Indianapolis, IN 46204

United Healthcare  
450 Columbus Boulevard  
Hartford, CT 06103