

IN THE MATTER OF

*

BEFORE THE

IAN NOEL

*

MARYLAND STATE

Respondent

*

ACUPUNCTURE BOARD

Unlicensed

*

Case Number: 18-04

* * * * *

CONSENT ORDER

On September 11, 2018, the Maryland State Acupuncture Board (the “Board”) charged IAN NOEL (the “Respondent”) under the Maryland Acupuncture Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) § 1A-101 *et seq.* (2014 Repl. Vol.).

The Board charged the Respondent with violating the following provisions of the Act:

Health Occ. § 1A-401. Practicing without license.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice acupuncture in this State unless licensed by the Board.

Health Occ. § 1A-402. Misrepresentation.

- (a) *In general.* -- Unless authorized to practice acupuncture under this title, a person may not represent to the public, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice acupuncture in this State.
- (b) *Certain representations prohibited.* – Unless authorized to practice acupuncture under this title, a person may not use the words or terms “acupuncturist”, “licensed acupuncturist”, “L.Ac.”, or any other words, letters, or symbols with the intent to represent that the person is authorized to practice acupuncture.

Health Occ. § 1A-403. Penalties.

...

(b) *Civil penalties.* – A person who violates § 1A-401 or § 1A-402 of this subtitle is subject to a civil fine not to exceed \$50,000 to be assessed by the Board in accordance with regulations adopted by the Board.

Additionally, the following relevant statutes apply under Health Occ.:

Health Occ. § 1A-101. Definitions.

...

(f) *Practice acupuncture.* – (1) “Practice acupuncture” means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health.

(2) “Practice acupuncture” includes:

- (i) Stimulation of points of the body by the insertion of acupuncture needles;
- (ii) The application of moxibustion; and
- (iii) Manual, mechanical, thermal, or electrical therapies only when performed in accordance with the principles of oriental acupuncture medical theories[.]

The following relevant regulations apply:

Md. Code Regs. 10.26.02.02

.02 Definitions.

...

B. Terms Defined.

...

(2) "Acupuncture" means a form of health care, based on a theory of energetic physiology, that describes the interrelationship of the body organs or functions of a human or animal with an associated point or combination of points.

...

(8) "Practice acupuncture" means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health including:

(a) Stimulation of points of a human or animal body by the insertion of acupuncture needles;

(b) The application of moxibustion; and

(c) Manual, mechanical, thermal, or electrical therapies *only* when performed in accordance with the principles of oriental acupuncture medical theories[.]

On November 26, 2018, a panel of the Board was convened as a Case Resolution Conference ("CRC") in this matter. Based on negotiations occurring as a result of this CRC, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

The Board finds:

BACKGROUND

1. The Respondent is not and has never been licensed to practice acupuncture in Maryland.
2. At all times relevant, the Respondent was not licensed in Maryland by any health occupations licensing board.
3. The Respondent does not hold a degree in acupuncture from an accrediting body recognized by the Board.

4. At all times relevant to these charges, the Respondent owned a practice located in Baltimore City (“Practice A”)¹ that he described as “holistic health coach[ing].”

5. On or about January 25, 2018, the Board received notice from the Maryland State Board of Physicians (“Board of Physicians”) that on or about December 14, 2017, the Respondent had been ordered to Cease and Desist from the practice of medicine based on evidence that he had engaged in the unauthorized practice of medicine; and that he had been charged under the Medical Practice Act and the Maryland Naturopathic Medicine Act for the unauthorized practice of medicine and naturopathic medicine. The Cease and Desist Order and charges involved allegations that the Respondent had also engaged in the practice of acupuncture without a license.

6. On January 30, 2018, the Board of Physicians issued a Final Cease and Desist Order, ordering that the Respondent immediately cease and desist from the unauthorized practice of medicine.

7. On May 3, 2018, the Respondent entered into a Consent Order with the Board of Physicians which concluded that he had engaged in the unauthorized practice of medicine and naturopathic medicine and imposed an \$80,000 fine.

8. The Board initiated an investigation which included subpoenaing investigative documents from the Board of Physicians, subpoenaing patient records from the Respondent, and conducting interviews of two patients of the Respondent who confirmed

¹ In order to maintain confidentiality, identifying names will not be used in this document.

they had received acupuncture treatments conducted by the Respondent. The results of the Board's investigation are set forth in pertinent part below.

BOARD OF PHYSICIANS' INVESTIGATION

Site Visit of Practice A and Search and Seizure of Records

9. On or about October 26, 2017, Physician Board staff applied for and were granted a Search and Seizure warrant for Practice A by the District Court of Maryland for Baltimore City, based on probable cause that the Respondent had engaged in the unauthorized practice of medicine.
10. On or about October 26, 2017, Physician Board staff served the Respondent with a Search and Seizure warrant at the location of Practice A. Practice A had an examination room that contained but was not limited to two examination tables, illustrations of anatomic and acupuncture sites, and a sharps container. The Respondent's office area contained medical supplies including alcohol, acupuncture needles, and a sharps container.
11. Practice A had a posted sign referring to the clients as "patients."
12. During the search, Physician Board staff seized more than 500 patient records, many of which contained documentation of acupuncture treatment having been rendered.
13. During Physician Board staff's October 26, 2017 search of Practice A, the sharps container was full of used acupuncture needles.

14. The Respondent displayed a 1994-1995 diploma on the wall of Practice A that stated, “Ian E. Noel” was a member of the American Association of Acupuncture and Oriental Medicine.²

15. The Respondent displayed several acupuncture charts on Practice A’s walls.

Physician Board staff interview of the Respondent

16. On or about December 14, 2017, Physician Board staff conducted an under-oath interview of the Respondent (the “interview”).

17. The Respondent acknowledged during the interview that he had practiced acupuncture at Practice A.³

18. During the interview, the Respondent estimated that he had performed acupuncture treatment at Practice A on approximately 8 to 10 clients over the prior 6 to 8 months.⁴

19. The Respondent stated during the interview that he primarily used Teishin needles, which are blunt and do not puncture the skin. The Respondent also acknowledged that he had performed “cupping”⁵ and had used acupuncture needles on patients. Additionally, the Respondent stated that he had used a piezo, an acupuncture device used for stimulation.

Misrepresentation as an Acupuncturist

20. On or about November 28, 2017, Wholesale Distributor A responded to a Subpoena issued by the Board of Physicians (requesting documents submitted to Wholesale

² A fee-based organization.

³ Although in the past, an acupuncturist saw patients at Practice A, the Respondent stated that he had not employed an acupuncturist for “awhile.”

⁴ The Respondent’s records (and needles used) reflect that his response underestimated the number of acupuncture procedures he had performed over the past several months.

⁵ Alternative medicine procedure in which special cups are placed on the skin for a few minutes to create suction.

Distributor A by the Respondent), and informed Physician Board staff that it was a wholesale distributor of herbal dietary supplements, and that the company sold its products exclusively to licensed healthcare practitioners. The Respondent had purchased products from Wholesale Distributor A for approximately 20 years. The Respondent had represented himself to Wholesale Distributor A as a certified acupuncturist with a Ph.D.

ACUPUNCTURE BOARD'S INVESTIGATION

Review of billing records

21. Review of the Respondent's billing records reflected that he billed the following patients for acupuncture treatments during 2017:

- Patient A – billed \$95 for treatment on 7/11 and 7/19;
- Patient B – billed \$95 for treatment on 10/9 and 10/17;
- Patient C – billed \$95 for treatment on 8/10 and 8/21;
- Patient D – billed \$95 for treatment on 7/20, 7/27 and 8/16;
- Patient E – billed \$95 for treatment on 9/18, 9/29 and 10/3;
- Patient F – billed \$95 for treatment on 7/5, 7/19, 8/9 and 8/15;
- Patient G – billed \$95 for treatment on 8/8, 8/22, 9/15 and 9/28;
- Patient H – billed \$95 for treatment on 8/15, 8/22 and 9/6;
- Patient I – billed \$95 for treatment on 7/10, 7/17, 7/24 and 7/31; and
- Patient J – billed \$95 for treatment on 7/10 and 7/24.

Patient interviews

22. On or about May 16, 2018, the Board investigator conducted a telephone interview of Patient A. Patient A stated that she had received acupuncture treatment at Facility A from the Respondent since approximately 2003. Patient A confirmed that she had received acupuncture from the Respondent in 2017, consistent with the billing dates specified in ¶ 21.

23. On or about May 16, 2018, the Board investigator conducted a telephone interview of Patient I. Patient I stated that she had received acupuncture treatment at Facility A from the Respondent since June 2009. Patient I confirmed that she had received acupuncture from the Respondent in 2017, consistent with the billing dates specified in ¶ 45.

II. CONCLUSIONS OF LAW

Based on the Findings of Fact as outlined in whole or in part above, the Board concludes as a matter of law that the Respondent engaged in the practice of acupuncture without a license in violation of Health Occ. § 1A-401.

Based on the Findings of Fact as outlined in whole or in part above relating to the Respondent misrepresenting himself as a practitioner of acupuncture, the Board concludes a matter of law that the Respondent violated Health Occ. § 1A-402(a) and (b).

III. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the Board, hereby

ORDERED that the Respondent shall continue to cease and desist from engaging in the practice of acupuncture; and it is further

ORDERED that the Respondent shall not apply for licensure as an acupuncturist in Maryland; and it is further

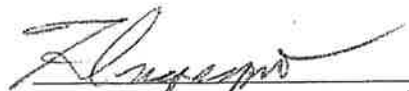
ORDERED that within **TWENTY-FOUR (24) MONTHS** of the date of this Consent Order, the Respondent shall pay a civil fine in the total amount of fifteen thousand dollars (\$15,000.00). The payment or payments shall be by certified or bank guaranteed check(s) made payable to the Maryland State Board of Acupuncture. The check(s) should be mailed to: Maryland State Board of Acupuncture, 4201 Patterson Avenue, Baltimore, Maryland, 21215; and it is further

ORDERED that the Respondent's failure to pay the \$15,000.00 in full within **TWENTY-FOUR (24) MONTHS** of the date of this Consent Order shall be considered a violation of this Consent Order; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601 (2014 & 2016 Supp.).

1/8/19
Date


Thomas Ingegno, L.Ac., Chair
Maryland State Acupuncture Board

CONSENT

I, Ian Noel, by affixing my signature hereto, acknowledge that:

I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the sole purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that I might have filed after any such hearing.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

12/27/2018
Date



Ian Noel

NOTARY

STATE/ DISTRICT OF Maryland

CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 27th day of December, 2018, before me, a Notary Public of the State/District and County aforesaid, personally appeared Ian Noel, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.


Notary Public

My commission expires:

SCHERRON JOSEPH LEE
NOTARY PUBLIC
BALTIMORE CITY
MARYLAND
My Commission Expires 04-28-2021