

IN THE MATTER OF
JEFFREY M. COHEN, D.C.
Respondent

License Number: S01490

* BEFORE THE MARYLAND
* BOARD OF CHIROPRACTIC
* AND MASSAGE THERAPY
* EXAMINERS

* Case Number: 09-66C

* * * * *

CONSENT ORDER

On February 4, 2010, the Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") charged **Jeffrey M. Cohen, D.C. (the "Respondent")** (D.O.B. 9/29/65), License Number S01490, under the Maryland Chiropractic Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 3-101 *et. seq* (2009 Repl. Vol.)

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

H. O. § 3-501 (a) Practicing without license

Except as otherwise provided in § 3-404 of this title, a person may not practice, attempt to practice, or offer to practice chiropractic in this State unless licensed by the Board.¹

On July 29, 2010, a Case Resolution Conference was convened in this matter. Based upon negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

¹ The exceptions referred to in H.O. § 3-404 are not applicable to this case.

FINDINGS OF FACT

The Board makes the following findings:

1. Respondent was initially licensed to practice chiropractic in the State of Maryland on June 13, 1990..

2. The Respondent's license to practice chiropractic in Maryland expired effective September 1, 2009.

3. At all relevant times, the Respondent maintained an office for the practice of chiropractic at 1900 East Northern Parkway, T-6, Baltimore, Maryland 21239.

4. In July 2009, prior to the expiration of his license, the Board sent the Respondent a renewal packet via first class mail. Included with the renewal packet, was a notification that the Respondent's name had been identified by the Maryland Office of the Comptroller ("the Comptroller"), as having an outstanding tax delinquency. He was advised that the Board could not issue a renewal of his license until it received verification that he had resolved the delinquency. The Respondent acknowledged receipt of the renewal packet.

5. At some time, prior to September 1, 2009, the Respondent attempted to file his Application for Renewal electronically, but his outstanding tax delinquency prevented him from doing so.

6. On September 1, 2009, the Board received, via first class mail, the Respondent's Application for Renewal and the requisite fee.

7. The Board contacted the Comptroller to ascertain whether the tax delinquency had been resolved and learned that the delinquency remained outstanding.

8. On September 23, 2009, the Board left a message on the Respondent's home answering machine, to remind him that his license had expired on September 1, 2009 and that a renewal would not be issued due to his unpaid taxes. The Board unsuccessfully attempted to contact Respondent at his office, but instead spoke with Respondent's wife who stated that the Respondent was making arrangements with the Comptroller to resolve the delinquency. She further stated that the Respondent was not practicing chiropractic at that time.

9. On September 23, 2009, the Board also sent a certified letter to the Respondent, advising him that the law required that he resolve his tax delinquency before a renewal of his license would be issued, and that he could not practice chiropractic during the period of time that his renewal was pending.

10. The law to which the Board's letter referred, H. O. § 1-213(b), provides in pertinent part:

Before any license...may be renewed under this article, the issuing authority shall verify through the office of the Comptroller that the applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing and Regulation or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection.

11. On October 14, 2009, the Board's certified letter dated September 23, 2009, was returned by the U.S. Postal Service as unclaimed by the recipient.

12. On the morning of October 15, 2009, the Board called the Respondent's office to speak with the Respondent. The Board investigator was advised by the receptionist that the Respondent was "seeing" patients.

13. On the afternoon of October 15, 2009, the Board's investigator hand

delivered a letter to the Respondent, at his office, notifying him that he had been practicing chiropractic without a license. The letter further advised the Respondent to "...IMMEDIATELY CEASE AND DESIST" from practicing chiropractic in Maryland and that failure to do so could result in criminal penalties.

14. The Respondent admitted to the Board's investigator that he had practiced chiropractic without a license from the period of September 2, 2009 through October 15, 2009.

15. Attached to the Board's letter was a Consent Agreement that the Respondent signed, agreeing to cease and desist from the practice of chiropractic until he received his renewed license. The Respondent ceased his chiropractic practice pending the reinstatement of his license.

16. Also attached was a Subpoena Duces Tecum directing the Respondent to provide to the Board, ten (10) patient charts selected by the Board's investigator.

17. The Board's review of those ten (10) patient charts confirmed that the Respondent had evaluated and treated patients after his license had expired on September 1, 2009 and had continued to treat patients until October 15, 2009, when the Board ordered the Respondent to cease and desist his practice of chiropractic.

18. On October 15, 2009, the Respondent resolved his tax delinquency.

19. On October 16, 2009, the Board issued a license to the Respondent, allowing him to return to the practice of chiropractic.

20. On October 20, 2009, the Respondent was interviewed, under oath, regarding the circumstances surrounding his unpaid taxes and his practice of chiropractic after the expiration of his license.

21. During that interview, the Respondent admitted, under oath, to practicing without a license from the period of September 2, 2009 thru October 15, 2009. The Respondent estimated that he treated 10-15 patients per day during the latter part of September thru October 15, 2009. Prior to that time, he testified that he treated 2-3 patients per day.

22. The Respondent also admitted that he was aware: that he owed unpaid taxes; that the Board was unable to issue a license until the taxes had been paid; and that the taxes had not been paid prior to October 15, 2009.

23. Respondent's explanations as to why he had not resolved the tax delinquency included: a misunderstanding that the Comptroller's Office was in communication with the Board as to a potential amnesty program which the Respondent interpreted as "an unofficial extension"; a mistake on the part of the Comptroller's Office whereby it supposedly received the \$6,000 check prior to October 15, 2009 but failed to process it; and a miscommunication between the Respondent and his wife whereby the Respondent mistakenly believed that his wife had resolved the issue on his behalf.

24. The Comptroller verified that the Respondent had not submitted any payment to resolve his tax delinquency prior to October 15, 2009, when he signed the Cease and Desist Agreement issued by the Board. Respondent had not entered into a payment plan pursuant to the 2009 amnesty program, nor had he received an extension for payment of his delinquent taxes.

25. The Respondent's wife stated to the Board that due to personal issues, she misrepresented to the Respondent the status of his tax delinquency and failed to provide the Respondent with several documents pertaining to that delinquency.

26. The Respondent knew or should have known of the delinquency and its impact on his licensing renewal and bears the ultimate responsibility for the renewal of his license to practice chiropractic.

27. The Respondent engaged in the unauthorized practice of chiropractic for all ten (10) patients, by providing professional advice and treatment, without the benefit of an active chiropractic license. The patient charts reveal that the Respondent performed initial evaluations, provided ongoing chiropractic care and treatment and subsequently billed the patients or third party payers for the period beginning September 2, 2009 through October 15, 2009.

28. The Respondent treated patients during the period of time that his license to practice chiropractic had expired. The treatment and care provided to these patients from September 2, 2009 through October 15, 2009, demonstrates that the Respondent practiced chiropractic with an expired license for a period of forty four (44) days.

29. The Respondent's conduct as set forth above, in whole or in part, constitutes his unauthorized practice of chiropractic, in violation of H.O. § 3-501 (a).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent is guilty of the unauthorized practice of chiropractic, in violation of H.O. § 3-501 (a).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of Sept., 2010, by a majority of a quorum of the Board considering this case:

ORDERED, that the Respondent's license to practice Chiropractic be and is hereby **REPRIMANDED**; and it is further

ORDERED, that the Respondent be placed on probation for a period of **TWO (2) YEARS** , to commence on the date that the Board executes this Consent Order; and it is further

ORDERED that within two (2) years, of the date that the Board executes this Consent Order, the Respondent shall pay in full a civil fine in the amount of **five thousand (\$5,000.00) dollars**, by certified check made payable to the "Maryland Board of Chiropractic and Massage Therapy Examiners" mailed to the Board's office; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of Probation and this Consent Order, the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, or opportunity for an evidentiary hearing before an Administrative Law Judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, may impose any sanction which the Board may have imposed in this case under H. O. § 3-501 (a) , including a probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said allegations of violation of the terms and condition of this Consent Order shall be proven by a preponderance of the evidence; and be it further

ORDERED that after two (2) years from the date of this Consent Order, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through

an order of the Board, or a designated Board committee. The Board, or designated Board committee, will grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that the Applicant shall practice according to the Maryland Chiropractic Act and in accordance with all applicable laws, statutes and regulations; and it is further

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

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol.)

SEP 15 2010
Date

Done for / by direction of
Kay B. O'Hara, D.C., Board President
Maryland Board of Chiropractic and Massage
Therapy Examiners

CONSENT

I, Jeffrey Cohen, D.C., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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 as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

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

8/31/10
Date

Jeffrey Cohen, D.C.
Jeffrey Cohen, D.C.

Approved by: _____
Paul Weber, Esq.

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Anne Arundel :

I HEREBY CERTIFY that on this 31st day of August, 2010, before me, a Notary Public of the foregoing State personally appeared Jeffrey Cohen, D.C., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Jayne M. Ransford
Notary Public

My Commission Expires: 2/21/12