

**BEFORE THE MINNESOTA
BOARD OF CHIROPRACTIC EXAMINERS**

In the Matter of
JEFFREY MICHAEL STYBA, D.C.
License No. 4899

**FINDINGS OF FACT,
CONCLUSIONS, AND
FINAL ORDER**

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Chiropractic Examiners ("Board") on Thursday, September 22, 2011, convened at 2829 University Avenue S.E., Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraph VI.B. of the Stipulation and Order ("2011 Order") issued by the Board to Jeffrey M. Styba, D.C. ("Respondent"), on April 14, 2011. At the hearing, the Complaint Panel ("Panel") presented by affidavit evidence of Respondent's violations of the 2011 Order. Geoffrey S. Karls, Assistant Attorney General, appeared on behalf of the Panel. Todd A. Crabtree, Esq., appeared with and on behalf of Respondent. Karen B. Andrews, Assistant Attorney General, was present as legal advisor to the Board. As members of the Panel that initially reviewed the matter, Howard Fidler, D.C., Board member, and Larry Spicer, D.C., Executive Director of the Board, did not participate in deliberations and did not vote in the matter. Robert Daschner, D.C., Board and Panel member, was not present at the hearing.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes sections 148.01 to 148.108 (2010) to license, regulate, and discipline persons who apply for, petition, or hold licenses as chiropractors and is further authorized pursuant to Minnesota Statutes sections 214.10

and 214.103 (2010) to review complaints against chiropractors, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed the 2011 Order. In paragraph VI.B. of the 2011 Order, Respondent expressly acknowledged and agreed to several procedures the Panel may use to resolve alleged noncompliance with or violation of the 2011 Order, pursuant to Minnesota Statutes section 148.10, subdivision 1(a)(10). The 2011 Order remained in full force and effect at the time the conduct described in paragraph 5 below occurred.

3. Respondent expressly acknowledged and agreed in paragraph VI.B. of the 2011 Order that if Respondent violates the 2011 Order, the Panel may seek additional disciplinary action.

4. Respondent expressly acknowledged and agreed in paragraph VI.B. of the 2011 Order that in the event the Board received evidence Respondent violated the terms of the 2011 Order, he would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board may impose additional disciplinary action against Respondent's license.

5. The Board received information Respondent violated the terms of the 2011 Order and engaged in acts or omissions which would be in violation of Minnesota Statutes section 148.10 as follows:

a. Paragraph V.B.1 of the 2011 Order requires Respondent to enroll in and successfully complete the National Board of Chiropractic Examiners ("NBCE") Post Licensure Examination in Ethics and Boundaries (the "Examination") at its first offering following the effective date of the order. The first offering of the Examination was in June 2011. Respondent did not sit for the June 2011 Examination.

b. Respondent took the Examination in August 2011. Respondent failed to obtain a passing grade in three of the five areas tested.

c. Paragraph V.B.2 of the 2011 Order requires Respondent to complete not less than ten (10) hours of continuing education in healthcare documentation and proper coding procedures within 60 days of the effective date of the order by a sponsor pre-approved by the Board. Respondent failed to do so.

d. Paragraph V.C. of the 2011 Order requires Respondent to pay a \$30,000 civil penalty within 60 days of the 2011 Order or to make monthly payments pursuant to the alternative installment schedule. Respondent failed to make the lump sum payment within 60 days and failed to make any installment payments for the months of May, June, July, and August. Respondent failed to make any payments until September 2011.

6. On August 19, 2011, Respondent's attorney was served with a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing ("Notice") by first-class mail, and an Order of Removal of Stay of Suspension was imposed. The Complaint Panel had probable cause to remove the stay of suspension.

CONCLUSIONS

Based on the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 148.10, 214.10, and 214.103 (2010).

2. The Complaint Panel gave proper notice of the alleged violations to Respondent pursuant to paragraph VI.B. of the 2011 Order.

3. The Complaint Panel has the burden of establishing the statutory violations charged by a preponderance of the evidence.

4. The Complaint Panel has proved by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 148.10, subdivision 1(a)(10), and the 2011 Order.

5. As a result of the violations set forth above and pursuant to the terms of the 2011 Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice chiropractic.

ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the 2011 Order issued to Respondent on April 14, 2011, and the Order of Removal of Stay of Suspension issued to Respondent on August 19, 2011, are hereby **RESCINDED** and shall have no future force or effect, except as explicitly stated herein.

2. IT IS FURTHER ORDERED that Respondent's license to practice chiropractic in the State of Minnesota is hereby **SUSPENDED** immediately for an indefinite period of time.

3. IT IS FURTHER ORDERED that, while suspended, Respondent shall not:

a. Engage or attempt to engage in any act or practice in the State of Minnesota which constitutes the practice of chiropractic under Minnesota Statutes section 148.01 and Minnesota Rules 2500.0100, subpart 9b;

b. Advertise, use any of the terms or letters "Doctor of Chiropractic," "Chiropractor," "D.C.," or any other title or letters under any circumstances as to lead the public or patients to believe that he is engaged in the practice of chiropractic;

c. Imply to patients or other persons by words or conduct that Respondent is authorized to practice chiropractic in Minnesota;

d. Hold any ownership interest in, or operation of a firm that engages in the practice of chiropractic except as authorized by Minnesota Statutes chapter 319B;

e. Provide, direct, or assist in the provision of chiropractic care to any person or engage in any other procedure or practice which may be undertaken in this state only by licensed health personnel or by the lawful delegates, assistants, technicians, or aids of such personnel;

f. Benefit financially from the operation of an active chiropractic office; or

g. Supervise or influence others, or be in a position to influence others, in the practice of chiropractic.

4. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from his license no sooner than 24 months from the date of this Order. His license may be reinstated, if at all, as the evidence dictates and upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent manner in the practice of chiropractic. At the time of Respondent's petition, Respondent shall meet with a Board Complaint Panel. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

a. Evidence of satisfactory completion of all terms of the 2011 Order.

b. If requested by the Panel, evidence of an independent audit of Respondent's patient accounts to ensure that all appropriate patient funds have been refunded. Such audit shall be conducted by a Certified Public Accountant, pre-approved by the Board, and

shall take into account all monies received, all services provided, and the distribution or final disbursements of all prepaid funds.

5. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute violation of a Board order for purposes of Minnesota Statutes section 148.10, subdivision 1(a)(10), and provide grounds for further disciplinary action.

6. IT IS FURTHER ORDERED that nothing herein shall limit the Panel's or the Board's right to take disciplinary or corrective action against Respondent's license based on conduct by Respondent not specifically referred to herein.

7. IT IS FURTHER ORDERED that this Order constitutes disciplinary action and will be sent to all appropriate data banks.

8. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement of his license and his meeting with a Complaint Panel, take any of the following actions:

- a. Issue an unrestricted license to Respondent.
- b. Issue a license to Respondent with limitations and/or conditions placed upon the scope of Respondent's practice.
- c. Continue the suspension of Respondent's license upon Respondent's failure to meet the burden of proof.

Dated: 10/06, 2011

MINNESOTA BOARD OF
CHIROPRACTIC EXAMINERS

By: 

RICHARD R. TOLLEFSON, D.C.
Presiding Board Member

AG: #2888471-v1