

NORTH CAROLINA  
CABARRUS COUNTY

NORTH CAROLINA BOARD  
OF CHIROPRACTIC EXAMINERS

In the Matter of: )  
)  
STEVEN IRA COHEN, DC, )  
Respondent. )

**FINAL AGENCY DECISION**

THIS MATTER coming on to be heard before the Board of Chiropractic Examiners at its regular meeting held on April 28, 2007, in Greensboro, North Carolina; and at the call of the case, the respondent was present and represented by his counsel, Larry C. Economos, and the staff of the Board of Examiners was represented by its counsel, Vance C. Kinlaw. All parties affirmed their readiness to proceed; and after hearing the evidence presented and giving due consideration to the arguments of counsel and the record as a whole, the Board makes the following:

Findings of Fact

1. The following members of the Board were present, heard the evidence, and participated in the decision rendered herein: Dr. John Webster, presiding, Dr. T.L. Bradley, Dr. Jill Trull, and Dr. Randy Schilsky. Dr. Dennis Hall Sr., Secretary of the Board, was also present but did not actively participate in the hearing and was not privy to the Board's deliberations due to his earlier participation in the formation of the charge against the respondent.
2. The respondent, Dr. Steven Ira Cohen, DC, was formerly a licensed chiropractic physician in North Carolina and maintained a chiropractic office in Greenville. This matter comes before the Board upon Dr. Cohen's request for reinstatement of license.
3. There is an unresolved disciplinary complaint pending against Dr. Cohen. The complaint was filed on October 28, 2005 by Dr. Dennis Hall Sr. in his capacity as Secretary of the Board. The complaint alleges that Dr. Cohen violated N.C.G.S. 90-154(b)(2) by having been convicted of three felonies on or about April 20, 2005.
4. Dr. Cohen waives probable cause and admits that he is guilty of having been convicted of three felonies as stated in Dr. Hall's complaint.
5. On January 14, 2004, Dr. Cohen was charged in an Indictment filed by the U.S. Attorney for the Eastern Division of the Eastern District of North Carolina with two counts of devising and participating in a scheme that utilized the U.S. Mail to defraud health care benefit plans, in violation of 18 U.S.C. § 1341. Dr. Cohen's felonious conduct consisted of filing claims and receiving payments for rendering treatment on a day when his patient was not actually present in his clinic.

6. On April 15, 2004, Dr. Cohen was charged in an Indictment filed by the U.S. Attorney for the Eastern Division of the Eastern District of North Carolina with one count of participating in a conspiracy to defraud health care benefit plans by using invalid provider numbers and billing and receiving payments for services that were not performed (needle electromyographies), in violation of 18 U.S.C. §§1347 and 371.

7. On April 20, 2005, Dr. Cohen appeared before the U.S. District Court and, upon his plea of guilty, was convicted of the three felonies described above. He began an active prison sentence immediately and was incarcerated for eighteen months, from April 2005 until February 2007. He was required to make restitution in the amount of \$7,331.50. The relevant federal case numbers are 4:03-CR-77-1H4 and 4:04-CR-28-1H2.

8. Dr. Cohen voluntarily surrendered his chiropractic license on February 20, 2006.

9. During the time period in which Dr. Cohen engaged in unlawful conduct, he suffered from moderate to severe attention deficit hyperactivity disorder as well as bipolar disorder type 1 with hypermanic phases. These conditions contributed to the unlawful conduct.

BASED ON THE FOREGOING Findings of Fact, the Board enters the following:

#### Conclusions of Law

1. The Board of Chiropractic Examiners is duly constituted and has jurisdiction of subject matter and of the person of the respondent. Dr. Cohen's application for reinstatement and the disciplinary complaint filed October 28, 2005 are properly before the Board for adjudication on the merits. With respect to the complaint, the burden of proof is borne by the staff of the Board, and the standard of proof is the greater weight of the evidence. The application for reinstatement is addressed to the sound discretion of the Board.
2. N.C.G.S. 90-154(b)(2) states that "conviction of a felony or of a crime involving moral turpitude" is grounds for disciplinary action by the Board.
3. Conviction of two counts of Health Care Fraud by Mail pursuant to 18 U.S.C. § 1341 and one count of Conspiracy to Commit Health Care Fraud pursuant to 18 U.S.C. §§ 1341 and 371 constitute violations of N.C.G.S. 90-154(b)(2).
4. Under N.C.G.S. 90-154(a), the Board has the authority to impose sanctions, singly or in combination, when it finds that a practitioner is guilty of an offense described in N.C.G.S. 90-154(b). Sanctions may include suspension of a license to practice chiropractic and placing a chiropractor on probationary status.
5. Under the Chiropractic Disciplinary Guidelines currently used by the Board, conviction of a felony falls within the "Most Serious" category of disciplinary violations. The presumptive

sanctions for this category, when neither aggravating or mitigating factors predominate, range from 90-day suspension of license to permanent license revocation. Probation upon specified terms and conditions may also be added to license suspension.

6. Part III of the Chiropractic Disciplinary Guidelines sets forth numerous aggravating and mitigating factors commonly considered by the Board in selecting sanctions. Pursuant to Part III, the Board finds as follows:

- A. The mitigating factors present in Dr. Cohen's case are:
  - (1) Dr. Cohen poses little or no danger to the public; and
  - (2) Dr. Cohen has no recent history of disciplinary violations; and
  - (3) Dr. Cohen's misconduct did not result in substantial actual harm to the patient or victim; and
  - (4) Dr. Cohen acknowledged culpability at an early stage of the disciplinary process, cooperated with the Board, and voluntarily undertook rehabilitation or remedial measures prior to the disposition of the case; and
  - (5) Dr. Cohen's misconduct was partly or wholly caused by physical or mental disability or impairment; and
  - (6) Dr. Cohen's misconduct has been addressed by the criminal justice system.
- B. The aggravating factor present in Dr. Cohen's case is that he has been convicted of crimes related to the practice of chiropractic.

7. In the judgment of the Board, the mitigating factors outweigh the aggravating factor. Therefore, in conformity with the Chiropractic Disciplinary Guidelines, sanctions imposed against Dr. Cohen shall fall within the lower end of the presumptive range for a "Most Serious" violation.

8. Due to his incarceration in federal prison, Dr. Cohen was removed from his chiropractic practice and suffered a constructive suspension of license for eighteen months.

WHEREFORE, upon his plea of guilty, the North Carolina Board of Chiropractic Examiners hereby finds the respondent, Dr. Steven Ira Cohen, guilty of having been convicted of three felonies, in violation of N.C.G.S. 90-154(b)(2). It is ordered, adjudged and decreed that Dr. Cohen be sanctioned as follows:

- 1. Dr. Cohen's license to practice chiropractic in North Carolina shall be suspended for five years. This sanction is stayed upon the following terms and conditions:

- A. Dr. Cohen shall serve a period of active license suspension of one year, but he shall be given credit against this suspension from the date of his voluntary license surrender, February 20, 2006, until the date of this Decision, thereby satisfying and extinguishing the active license suspension.
  
- B. Dr. Cohen shall take the following examinations:
  - (1) The Special Examination in Chiropractic given by the National Board of Chiropractic Examiners; and
  - (2) The Ethics Examination given by the National Board of Chiropractic Examiners; and
  - (3) The Jurisprudence Examination given by the North Carolina Board of Chiropractic Examiners.
  
- C. At such time as the testing agencies certify to the Board that Dr. Cohen has passed all the foregoing examinations, his chiropractic license shall be reinstated, and he shall be placed on probationary status for five years under the following terms and conditions:
  - (1) He shall obtain treatment for attention deficit hyperactivity disorder and bipolar disorder with a health care provider approved by the Board. For the year of probation, Dr. Cohen's health care provider shall submit written monthly progress reports to the Board. For the remaining four years of probation, the health care provider shall submit quarterly progress reports to the Board. In its discretion, the Board may require Dr. Cohen to consult with additional health care providers if his medical conditions so warrant.
  - (2) Within six months after license reinstatement, Dr. Cohen shall complete twelve classroom hours, approved in advance by the Board, in the subjects of coding and compliance. These hours shall be in addition to the twenty-four hours of continuing education needed for annual license renewal.
  - (3) Dr. Cohen shall enter into a one-year contract with an entity approved by the Board to monitor and evaluate his compliance with this order and with all other laws governing the practice of chiropractic. This entity shall provide to the Board, at least quarterly, a report summarizing Dr. Cohen's level of compliance.

2. If Dr. Cohen wilfully fails to comply with this Decision, the five-year license suspension now stayed shall be invoked.
3. This Decision shall become effective on the day it is served upon the respondent. This decision is subject to judicial review as set forth in N.C.G.S. 150B-43 *et seq.*
4. This Decision is a public document and shall be reported to national data banks and to the chiropractic licentiate body in North Carolina by summary in the Board's next newsletter.

THIS is the 12<sup>th</sup> day of July, 2007.

NORTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS

By: John A. Webster, DC  
John A. Webster, DC, President