

IOWA BOARD OF CHIROPRACTIC

IN THE MATTER OF:) CASE NO. 08-014
) DIA NO. 08DPHCB003
JEFFREY KOPP,) FINDINGS OF FACT, CONCLUSIONS OF
License No. 06931) LAW, DECISION AND ORDER
RESPONDENT)

TO: JEFFREY KOPP, D.C.

On October 8, 2008, the Iowa Board of Chiropractic (Board) filed a Statement of Charges against Jeffrey Kopp, D.C., (Respondent) alleging that:

Count I: The Respondent engaged in unethical conduct or a practice that is harmful or detrimental to the public, in violation of Iowa Code sections 151.9(3), 147.55(3); and 272C.10(3) and the Board's administrative rules at 645 IAC 45.2(3).

Count II: The Respondent obtained, possessed, or attempted to obtain or possess, or administered controlled substances without lawful authority, in violation of 645 IAC 45.2(7).

Count III: The Respondent was convicted of a felony that would affect the licensee's ability to practice within the profession, in violation of Iowa Code sections 151.9(5), 147.55(5) and 272C.10(5) and 645 IAC 45.2(11) and 45.2(12).

The matter came on for hearing before the Board on October 13, 2009 at the Lucas State Office Building, Des Moines, Iowa. The hearing was closed to the public. The Respondent appeared and was represented by Attorney Landon R. Dufoe. The state of Iowa was represented by Julie Bussanmas, Assistant Attorney General.

The following Board members were present for the hearing, Chairperson Rod Rebarcak, D.C.; Michael Powell, Secretary, D.C.; John Calisesi, D.C.; Rex Jones, D.C.; Dori Rammelsberg-Dvorak, D.C.; and Sharon Tate, public member. The hearing was closed to the public. The hearing was recorded by a certified court reporter. John M. Priester, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board in conducting the hearing, and was instructed to prepare the Board's Decision in conformance with their deliberations.

THE RECORD

The record includes the Statement of Charges, Notice of Hearing, Orders Continuing Hearing, the testimony of the witnesses, and the following exhibits:

- Exhibit 1: Notice of Hearing and Statement of Charges, 12/8/08;
- Exhibit 2: Proof of Service, 12/10/08;
- Exhibit 3: Appearance and Answer, 3/23/09;
- Exhibit 4: Complaint, 4/11/08;
- Exhibit 5: Indictment, 6/19/07 and Superseding Indictment, 8/8/07;
- Exhibit 6: Judgment in a Criminal Case, 7/23/08;
- Respondent Exhibit A: Gazetteonline.com article, 3/10/08;
- Respondent Exhibit B: Letter from Senior Pastor John M. Seitz.

STATEMENT OF CHARGES

1. The Respondent was originally issued license number 06931 to practice chiropractic in the state of Iowa on November 15, 2006. His license has lapsed and is currently inactive.
2. The Respondent practiced chiropractic for over twenty years in the state of Washington. His license has never been disciplined by this board or by the board in Washington.
3. On June 19, 2007, the Respondent was indicted in Federal Court and charged with one count of possession with intent to distribute 100 kilograms or more marijuana, a Schedule I controlled substance, and one count of conspiring to distribute and possess with intent to distribute 1000 kilograms or more of marijuana.
4. A Superseding Indictment was filed on August 8, 2009 that contained the same first two counts against the Respondent and added a third count of conspiring to money launder.
5. The Respondent pled guilty to two felonies on July 23, 2008: one count of conspiracy to distribute and possess with intent to distribute 1000 kilograms or more of marijuana and one count of conspiracy to money launder. He was sentenced to 40 months incarceration. He was released from the federal prison in Duluth, Minnesota, in September of 2009 and is currently residing in a half-way house. In January, 2010, he will be released to home

confinement until March of 2010.

6. The Respondent moved from the state of Washington to Iowa in 2005. He planned to reopen a chiropractic office in Iowa once he became licensed. However, the licensing process took much longer than the Respondent anticipated. As the time passed, the Respondent and his family used up their savings and found themselves in a financial hole. They had purchased a house in Marion, Iowa, that they could not afford, and bills were piling up.

7. The Respondent would fly out to the state of Washington to spend extended periods of time working as a relief chiropractor for Washington chiropractors who were on vacation. With travel and lodging costs, this was not as lucrative as the Respondent anticipated so he began to look for other sources of income.

The Respondent met an individual who was involved in drug trafficking. The Respondent acted as a delivery person to transfer loads of 56 and 90 pounds of marijuana for this individual. The Respondent was paid \$10 to \$15 per pound for that transaction. To garner the trust of the drug trafficking contacts he used marijuana and cocaine a few times during this period.

8. For a year the Respondent did not hear from his drug trafficking contact. Then he received a call in 2006 from the contact. The Respondent was in the midst of losing his home due to his financial circumstances, so he agreed to participate in more drug trafficking.

The Respondent participated in receiving two trucks with 600 pounds of marijuana packed in them. The first transaction went off without a hitch. The Respondent received the truck, broke down the marijuana and put it into boxes and then drove the marijuana to Chicago, Illinois where he handed it off to another person. After this delivery the Respondent received a Fed Ex package at his chiropractic office that contained \$40,000 in cash. This was for payment for the delivery.

On the second load the marijuana was discovered at the Canadian border in North Dakota. The authorities delivered the drugs to the Respondent and busted him. The Respondent cooperated fully from that point on. He explained his participation fully and his information brought many others to justice. Based upon this cooperation the Respondent received a lighter prison sentence.

The Respondent completed his prison sentence in September. He is currently in a half-way house until January 2010. At that point he will be released to home arrest until March of 2010. From that point on he will be on supervised release for five years. He will have to report to a probation officer during that period.

CONCLUSIONS OF LAW

A. Statutory Provisions Cited in the Statement of Charges.

Iowa Code section 151.9(2009) provide, in relevant part:

151.9 Revocation or suspension of license.

A entry to practice as a chiropractor may be revoked or suspended when the licensee is guilty of the following acts or offenses:

...

3. ...engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

...

5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as a professional chiropractor.

Iowa Code section 147.55(3) and (5) are similar to the provisions cited above, and provide:

147.55 Grounds.

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts:

...

3. ...engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

...

5. Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession.

Iowa Code section 272C.10(3) provides, in relevant part:

272C.10 Rules for revocation or suspension of license.

A licensing board established after January 1, 1978 and pursuant to the provisions of this chapter shall by rule include provisions for the revocation or suspension of a license which shall include but shall not be limited to:

3. ...engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

5. Conviction of a felony related to the profession or occupation of the licensee.

B. Administrative Rules Cited in the Statement of Charges.

Pursuant to its authority under Iowa Code chapter 272C, the Board has promulgated the following relevant rules:

645-45.2 Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 645—45.3 (272C) when the board determines that the licensee is guilty of the following acts or offenses:

45.2(3) . . . engaging in unethical conduct or practice harmful or detrimental to the public.

45.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

45.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

45.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

C. Count I

The first count charged the Respondent with engaging in unethical conduct or in a practice that is harmful or detrimental to the public, in violation of Iowa Code sections 151.9(3), 147.55(3), and 272C.10(3) and 645 IAC 45.2(3), by his actions as a member of a drug trafficking operation.

The preponderance of the evidence established that the Respondent engaged in unethical conduct that is harmful or detrimental to the public. Assisting in the illegal importation of 1200 pounds of marijuana constitutes unethical conduct that is harmful to the public.

D. Count II

The second count charged the Respondent with obtaining, possessing, attempting to obtain or possess controlled substances without lawful authority, in violation of 645 IAC 45.2(7).

The preponderance of the evidence established that the Respondent obtained and possessed 1200 pounds of a controlled substance, marijuana, without lawful authority.

E. Count III

The third count charged the Respondent with having a conviction of a felony that would affect the licensee's ability to practice within the profession, in violation of Iowa Code sections 151.9(5), 147.55(5) and 272C.10(5) and 645 IAC 45.2(11) and (12).

The preponderance of the evidence established that the Respondent pled guilty to two felonies in federal court.

E. Sanction

The Board is authorized to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.

5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645 IAC 13.1.

The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating facts or other countervailing considerations.
4. The number of prior violations or complaints.
5. The seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645 IAC 13.2.

In determining what sanctions are appropriate for the Respondent's violations, the Board considers the fact that the Respondent assisted in the importation of 1200 pounds of high quality marijuana. The Board's first and foremost concern must be the protection of the public. The Board also finds that the Respondent used his chiropractic office as a delivery location for the money proceeds from his drug trafficking.

The Board does recognize that the Respondent provided substantial cooperation with the government after he was arrested. His cooperation brought down this extensive drug trafficking operation.

However, the Board determines that any action taken after his arrest to cooperate does not negate the illegal activity that brought him into the criminal justice system. Many people

face financially difficult times and do not turn to illegal activities. The Respondent's choices were illegal, unethical, and bring the profession of chiropractic a bad name.

ORDER

IT IS THEREFORE ORDERED, that license no.06931, issued to Jeffrey Kopp, D.C., to practice chiropractic in the state of Iowa, is hereby suspended indefinitely.

IT IS FURTHER ORDERED, that the Respondent's license suspension may be lifted by the Board upon the following:

- 1) The Respondent shall complete his home arrest.
- 2) The Respondent shall have his federal probation officer provide a report to the Board that verifies that the Respondent continues to be in compliance with his probationary terms, including not using any illegal controlled substances.
- 3) The Respondent shall comply with the requirement for re-instatement of his license pursuant to 645 IAC 41.15.
- 4) If the Board lifts the Respondent's indefinite suspension and the re-instatement is approved, the Respondent shall be placed on probation for five years (to run concurrently with his federal supervised release). The Respondent shall be responsible for having his probation officer provide quarterly reports by the 20th day of the months of January, April, July and October to the Board verifying the Respondent's compliance with the terms of his probation.

Any violation of the terms of probation is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a)(2009).

Upon full compliance with the terms of probation and expiration of the term of his federal probation, the Respondent's license shall be restored to its full privileges free and clear of the terms of probation.

IT IS FURTHER ORDERED pursuant to Iowa Code section 272C.6, that Respondent Jeffrey Kopp shall pay a \$75.00 hearing fee and \$123.75 in costs for the court reporter. The \$198.75 in hearing fees and costs shall be paid within thirty (30) days of receipt of this decision. The cost of a transcript will be charged to the party requesting it. 645 IAC 11.23.

This findings of fact, conclusions of law, decision and order is approved by the board on November 5, 2009.

Judicial review of the Board's action may be sought in accordance with the terms of the Iowa Administrative Procedure Act. 645 IAC 11.29.