

IOWA BOARD OF CHIROPRACTIC

IN THE MATTER OF:)	CASE NO. 08-014
)	DIA NO. 10DPHCB003
JEFFREY KOPP, D.C.)	
License No. 06931)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
RESPONDENT)	DECISION AND ORDER

On April 14, 2010, the Board conducted a hearing on the reinstatement request filed by Jeffrey Kopp, D.C. (Respondent) at the Lucas State Office Building, Des Moines, Iowa. The hearing was closed to the public at Respondent's request, pursuant to Iowa Code section 272C.6(1)(2009), and was recorded by a certified court reporter. The Respondent appeared and was self-represented. 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.; Vice-Chairperson Michael Powell, D.C.; Secretary John Calisesi, D.C.; Rex Jones, D.C.; Dori Rammelsberg-Dvorak, D.C.; Leslie J. Duinink and Sharon Tate, public members. Administrative Law Judge Margaret LaMarche 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 Notice of Hearing, the testimony of Respondent, and the following exhibits:

State Exhibit 1:	Board Decision issued November 5, 2009
Respondent Exhibit A:	Letter dated April 1, 2010 (DuFoe to Board)
Respondent Exhibit B:	Letter dated March 29, 2010 (Koenig to Board)
Respondent Exhibit C:	Letter dated March 12, 2010 (Boots to DuFoe)

FINDINGS OF FACT

1. On November 15, 2006, the Respondent was issued license number 06931 to practice chiropractic in the state of Iowa. Respondent had previously practiced chiropractic in the state of Washington, without any disciplinary

actions, for over twenty years. (State Exhibit 1)

2. Respondent and his family experienced financial difficulties after moving to Iowa in 2005, and Respondent turned to drug trafficking as an additional source of income. Initially, Respondent acted as a delivery person to transfer loads of 56 and 90 pounds of marijuana to another individual, and he was paid \$10-15 per pound. Respondent used marijuana and cocaine a few times during this time period to garner the trust of his drug trafficking contacts but has denied any substance abuse issues.

Respondent did not hear from his drug trafficking contact for a year. When the contact called him again in 2006, Respondent was in the midst of losing his home in Iowa due to his financial circumstances. Respondent agreed to receive two trucks with 600 pounds of marijuana packed in them. Respondent received the first truck, broke down the marijuana and put it into boxes, and then drove the marijuana to Chicago where he handed it off to another person. After this delivery, Respondent received a Fed Ex package at his Marion, Iowa chiropractic office containing \$40,000 in cash as payment for the marijuana delivery.

Respondent was arrested when he went to accept delivery of the second truck of marijuana at the Canadian border in North Dakota. Following his arrest, Respondent cooperated fully with the authorities and later received a lighter prison sentence in exchange for his cooperation. On July 23, 2008, Respondent pled guilty in federal court to two felonies: conspiracy to distribute and possess with intent to distribute 1000 kilograms or more of marijuana and conspiracy to money launder. Respondent was sentenced to 40 months incarceration. (State Exhibit 1; Testimony of Respondent)

3. On October 8, 2008, the Board filed a Statement of Charges against Respondent charging him with unethical conduct; obtaining, possessing, or attempting to obtain and possess controlled substances without lawful authority; and conviction of a felony affecting his ability to practice chiropractic. The Board held a disciplinary hearing on October 13, 2009, approximately one month after Respondent's release from federal prison. At the time of that hearing, Respondent was residing in a half-way house. Respondent expected to be released from the halfway house to home arrest in January 2010.

On November 5, 2009, the Board found violations on all three counts and indefinitely suspended Respondent's license to practice chiropractic in the state

of Iowa. The Board's Decision and Order provided that Respondent's license suspension *may* be lifted upon the following:

- Respondent shall complete his home arrest.
- 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.
- Respondent shall comply with the requirement for re-activation of his license pursuant to 645 IAC 41.14.¹

(State Exhibit 1)

4. Respondent applied for license reinstatement in March 2010. The Community Treatment Coordinator with the Sixth Judicial District Department of Correctional Services (Ann Boots) sent a letter to the Board dated March 12, 2010. Ms. Boots stated that Respondent arrived at the Hinzman Center on September 17, 2009 as a Bureau of Prisons Institutional Transfer and would be discharged to supervised release on March 15, 2010. She further stated that Respondent:

- participated in substance abuse treatment through Sedlacek and St. Luke's;
- maintained clear conduct at the Hinzman Center;
- provided urine samples which were negative for illegal drugs; and
- began working for Action Coach on January 11, 2010 and had received two paychecks as of the date of the letter.

(Respondent Exhibit C)

5. Respondent completed his house arrest on March 15, 2010 and commenced a five year Term of Supervised Release with the United States

¹ Since Respondent's license has been inactive for five years or less, 645 IAC 4.14(3) requires Respondent to submit verification of the license from every jurisdiction in which he is or has been licensed and complete 60 hours of continuing education that complies with the standards defined in 645 -44.3. The continuing education must be completed within two years of the reactivation application.

Probation Office. His parole officer provided a letter to the Board, dated March 29, 2010, stating that Respondent is in compliance with the conditions of his release, including substance abuse testing. (Respondent Exhibits A, B)

6. Respondent has not received any counseling since his release from prison. Respondent has not completed any continuing education. (Testimony of Respondent).

CONCLUSIONS OF LAW

645 IAC 11.31 provides, in relevant part:

645-11.31(272C) Reinstatement.

11.31(1) Any person whose license to practice has been suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of suspension,

11.31(2) If the order of suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

11.31(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

11.31(5) An order denying or granting reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law. The order shall be published as provided for in this chapter.

Respondent has been released from house arrest and has been compliant with the terms of his supervised release. The ultimate issues before the Board are whether the basis for the suspension of Respondent's license no longer exists and whether reinstatement is in the public interest. In order to reinstate, the Board must be satisfied that the public will be protected and that Respondent is willing and able to comply with all of the statutes and rules governing his practice as a

chiropractor, including all ethical obligations. Based on this hearing record, the Board was unable to conclude that the basis for the indefinite suspension of Respondent's license no longer exists or that it is in the public interest for his license to be reinstated at this time. As of the date of the hearing, Respondent's license had been suspended for five months, and he had been on supervised release for only one month. The Board was not convinced that five months was a sufficient length of suspension for Respondent's very serious violations. In addition, Respondent has been unable to satisfactorily explain what caused his criminal behavior, other than his financial difficulties. Respondent will surely face financial difficulties in the future, but he was unable to provide the Board with sufficient assurance that he would not violate the statutes and rules governing his professional practice if he is relicensed.

ORDER

IT IS THEREFORE ORDERED that the application for reinstatement filed by Jeffrey Kopp, D.C. is hereby DENIED. IT IS FURTHER ORDERED that the Board will not consider another reinstatement application from Respondent prior to the October 2010 Board meeting. IT IS FURTHER ORDERED that prior to filing another application for reinstatement, Respondent must:

1. Submit a recent letter from his parole officer stating that he has remained in full compliance with the terms of his parole. The letter must also document the number of random urinalysis (UAs) that Respondent has provided and the results of the UAs.
2. If Respondent's parole officer required him to provide less than 2 random UAs each month, then Respondent must make his own arrangements for additional testing with a drug testing laboratory. At the time of his next reinstatement application, Respondent must present a record to the Board of at least two (negative) random UAs and no positive UAs for each month of his license suspension. Respondent is responsible for all costs associated with this requirement.
3. Respondent shall provide verification of his completion of at least 30 of the 60 hours of continuing education required for him to reactivate his license. See 645 IAC 41.14(3)"a."
4. Respondent shall provide verification that he has been receiving

counseling from an Iowa licensed counselor, on at least a monthly basis, to address any areas of stress in his life, including but not limited to financial, familial, or occupational stress. Respondent shall begin counseling within two weeks of the issuance of this Decision and Order of the Board.

5. Respondent shall provide copies of the Board's initial Decision (State Exhibit 1) and the Board's Decision on Reinstatement to his parole officer and to his counselor within two weeks of the issuance of this Decision. Respondent shall provide signed verification from his parole officer and his counselor that they have received and reviewed the Board's decisions.

This findings of fact, conclusions of law, decision and order is approved by the board on April 28, 2010.

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.