

**IN THE MATTER OF
HOWARD LEWIS, D.C.**

Respondent

License Number: S01081

*** BEFORE THE MARYLAND
* STATE BOARD OF
* CHIROPRACTIC EXAMINERS
* Case Numbers: 22-13C & 22-17C**

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On May 11, 2023, the Maryland State Board of Chiropractic Examiners (the "Board") charged **HOWARD LEWIS, D.C.** (the "Respondent"), License Number **S01081**, with violating the Maryland Chiropractic Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 3-101, *et seq.* (2021 Repl. Vol. & 2022 Supp.) and Md. Code Regs. ("COMAR") 10.43.13.01, *et seq.*

Specifically, the Board charged the Respondent with violating the following provisions of the Act under Health Occ. § 3-313:

Subject to the hearing provisions of § 3-315 of this subtitle, the Board may . . . reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the . . . licensee:

(19) Violates any rule or regulation adopted by the Board; *to wit*

Code of Maryland Regulations ("COMAR") 10.43.14.03

A. The chiropractor shall maintain accurate, detailed, legible, and organized records, documenting all data collected pertaining to the patient's health status; and

B. The chiropractor may not erase, alter, or conceal patient records but shall initial and date any changes made in the corresponding margin[.]

And

(28) Violates any provision of this title; *to wit*,

§ 3-501. 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[.]

On July 13, 2023, the Board convened a Case Resolution Conference (“CRC”) in this matter. Pursuant to negotiations occurring at the CRC, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

The Board makes the following findings of fact:

Licensing History

1. At all times relevant to these charges, the Respondent was and is licensed to practice chiropractic in the State of Maryland subject to a certain period of non-licensure. *See infra.*
2. The Respondent was initially licensed to practice chiropractic in Maryland on February 27, 1972, under License Number S01081.
3. On September 1, 2021, the Respondent allowed his license to expire without filing for renewal.¹
4. On or about May 23, 2022, the Board received a Reinstatement and Reactivation Application from the Respondent.
5. On or about November 16, 2022, the Respondent’s license to practice chiropractic was reinstated.

¹ The expiration date is noted prominently on the front of the Respondent’s physical license. The physical license reminds license holders that the license “must be conspicuously displayed in the office to which it applies.”

Practicing on Non-Renewed License

6. On or about May 31, 2022, the Respondent contacted the Board to ascertain the status of his reinstatement application. The Respondent indicated to the Executive Director of the Board that his office was open for business.
7. On or about May 31, 2022, the Board's investigator contacted the Respondent's office and scheduled an appointment for chiropractic services. The Respondent's answering service indicated that the Respondent was the only chiropractor working at the office.
8. The Board initiated an investigation based upon the foregoing information in order to determine whether the Respondent was practicing on a non-renewed license.
9. On or about September 12, 2022, the Board issued a subpoena for the Respondent's appointment book for the period September 1, 2021 through August 31, 2022. The Respondent, through his attorney, requested an extension of time to provide the requested information. The Board granted an extension of time to provide the appointment book until October 13, 2022.
10. On or about October 18, 2022, the Board received the Respondent's appointment book.
11. On or about October 19, 2022, the Board subpoenaed the patient records for four of the Respondent's patients. The records were due within five days of the date of the subpoena.
12. On or about November 17, 2022, the Board notified the Respondent and his attorney of his failure to provide the records.
13. On or about November 17, 2022, the Respondent hand delivered the patient records to the Board's office.
14. The patient records revealed the following:
 - a. Patient 1 received approximately 14 treatments from the Respondent between

September 8, 2021 and October 12, 2022.

- b. Patient 2 received approximately three treatments from the Respondent between May 11, 2022 and May 31, 2022.
- c. Patient 3 received numerous treatments between December 29, 2021 and October 27, 2022.
- d. Patient 4 received a number of treatments between September 3, 2021 and October 13, 2022.

Complaint

- 15. On or about September 16, 2022, the Board received a written complaint from Patient 2 regarding the Respondent.
- 16. Patient 2 presented to the Respondent's office the second week of May 2022, and was seen on a total of approximately three (3) occasions during May 2022.
- 17. Patient 2 alleged that the Respondent had been practicing chiropractic without a license since September 2021.

Record Keeping

- 18. Patient 1's records are illegible and appear to have been altered. The alterations are not dated and are not initialed in the margin of the records.
- 19. Patient 2's records are illegible.
- 20. Patient 3's records are illegible and appear to have been altered. The alterations are not dated and are not initialed in the margin of the records.
- 21. Patient 4's records are illegible and appear to have been altered. The alterations are not dated and are not initialed in the margin of the records.

DISCUSSION

Respondent admits to working as a Chiropractor in the State of Maryland on a non-renewed license from September 1, 2022 until November 16, 2022 – a period of one year, two months and sixteen days.

The Board finds that the Respondent's actions constitute misconduct that falls within category E(2) of the Board's sanctioning guidelines. *See* COMAR 10.43.16.06E(2). The range of potential sanctions under category E(2) includes suspension for two years, and probation for two years, and conditions to revocation. *Id.*

Respondent admits that he failed to maintain legible records pertaining to his patients' health status.

The Board finds that the Respondent's actions constitute misconduct that falls within category G(1) of the Board's sanctioning guidelines. *See* COMAR 10.43.16.06G(1). The range of potential sanctions under category G(1) includes reprimand and conditions to suspension for one year, and probation for one year. *Id.*

Respondent has no prior complaints, investigations, or actions against his license in the State of Maryland.

Respondent has been a proponent of the chiropractic profession, having served as board member, vice president and president on the Board of the Maryland Chiropractic Association and as vice president and president of the Maryland Board of Chiropractic Examiners.

Respondent voluntarily admitted his misconduct.

CONCLUSIONS OF LAW

Based on the Foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent is in violation of Health Occ. §§ 3-313 (19) and (28).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the Board considering this case:

ORDERED that the Respondent's license the practice chiropractic in the State of Maryland is hereby **REPRIMANDED**; and it is further

ORDERED that the Respondent's license to practice chiropractic in the State of Maryland shall be **SUSPENDED** for a period of **ONE (1) YEAR** with One (1) Year Stayed; and it is further

ORDERED that the Respondent's license to practice chiropractic in the State of Maryland shall be placed on **PROBATION** for a minimum period of **TWO (2) YEARS** subject to the following terms and conditions:

- i. Within 30 days of the effective date of this Order, the Respondent shall obtain a Board-approved mentor to conduct periodic reviews, as fully described below, of the Respondent's records and to advise the Respondent about appropriate record keeping. The mentor shall be an individual licensed to practice chiropractic in the State of Maryland whose license has not been disciplined in the State of Maryland within the past five years. The Respondent shall ensure that the mentor has reviewed a copy of this Order prior to the first review period, which shall be evidenced by the mentor submitting a written affirmation to the Board, within 30 days of the Board's approval of that mentor, that he or she has reviewed the Order. During the pendency of the Respondent's probation, the Respondent shall grant the

mentor access to patient records random selected by the mentor. During the first year of the probation, the mentor shall submit reports to the Board detailing the Respondent's progress regarding recordkeeping no later than January 31, April 30, July 31, and October 31. During the second and any subsequent years of probation, the mentor shall submit progress reports on February 1 and August 1. It shall be the Respondent's responsibility to ensure that the mentor reviews at least 10 patient records per review period and that the confidentiality of all records and patient information is maintained;

- ii. Within six (6) months of the date of this Order, the Respondent shall enroll in and successfully complete a Board-approved course in professional ethics;
- iii. Within six (6) months of the date of this Order, the Respondent shall enroll in and successfully complete a Board-approved course in record keeping;
- iv. Within six (6) months of the date of this Order, the Respondent shall pay a monetary penalty of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**; and
- v. Respondent shall comply with the Maryland Chiropractic Act and all laws, statutes and regulations pertaining thereto.

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

ORDERED that after the conclusion of the **TWO (2) YEAR** probationary period, 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. The Board shall administratively grant the termination of probation if the Respondent has fully and

satisfactorily complied with all of the probationary terms and conditions and that there are no pending complaints of a similar nature; and it is further


ORDERED that if the Board determines, after notice and an opportunity for an evidentiary hearing before the Board if there is a genuine dispute as to a material fact or a show cause hearing before the Board if there is no genuine dispute as to material fact, that the Respondent has failed to comply with any terms or condition of this Consent Order, the Board may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, impose an additional monetary penalty upon the Respondent, or suspend or revoke the Respondent's license to practice chiropractic in Maryland; and it is further

ORDERED that the Respondent shall at all times cooperate with the Board and any of its agents or employees, including the Board-approved mentor, in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of this Order; and it is further

ORDERED that any time period prescribed in this Consent Order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director; and it is further;

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101, *et. seq.* (2019 Repl. Vol.).

9/30/2023
Date



Sharon J. Oliver
Executive Director
Maryland State Board of Chiropractic Examiners

CONSENT

I, Howard Lewis, D.C., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purposes of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions. I acknowledge the violations as set forth above and accept personal responsibility for my actions.

I acknowledge the validity of this Consent Order as if entered into after the conclusions 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 provided by the law. I agree to forgo my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce the Consent Order. I 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, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

Date

Howard Lewis, D.C.
Respondent

Read and approved:

 9-12-23

Marc K. Cohen, Esq.
Counsel for Dr. Lewis


CONSENT

I, Howard Lewis, D.C., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purposes of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions. I acknowledge the violations as set forth above and accept personal responsibility for my actions.

I acknowledge the validity of this Consent Order as if entered into after the conclusions 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 provided by the law. I agree to forgo my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce the Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

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9-7-23
Date


Howard Lewis, D.C.
Respondent

Read and approved:

Marc K. Cohen, Esq.
Counsel for Dr. Lewis

NOTARY

STATE OF: Maryland

CITY/COUNTY: Harford

I HEREBY CERTIFY that on this 7 day of September, 2023 before me, Notary Public of the State and City/County aforesaid, **HOWARD LEWIS, D.C.**, personally appeared, and made an oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSED by my hand and notarial seal.

SEAL



Catherine Rene Harris
Notary Public

My Commission Expires: 2-26-27