

TSBPME Case Nos.:
13-028, 13-036, 13-037, 13-041, 13-045, 13-048, 13-049, 13-051,
13-052, 13-055, 13-059, 13-073, 13-074, 13-076, 13-078, 13-081, 13-087; 14-002

IN THE MATTER OF LARRY J. COHEN, D.P.M.	§ § § § § §	BEFORE THE TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS
AGREED ORDER of		
REVOCAION (Voluntary Surrender)		SITTING IN AUSTIN,
of LICENSE No. 0475		TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below came to be considered the allegations against Larry J. Cohen, DPM. By letter dated September 12, 2013 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Cohen of its intent to investigate complaints, concerns or reports filed against him. Dr. Cohen was duly notified of the allegations against him. Dr. Cohen has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. Cohen does hereby waive his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Cohen understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the Administrative Procedure Act.

The Board and Dr. Cohen, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. Cohen agrees to this Order for the purpose of resolving this proceeding only.

The Board makes the following Findings of Fact and Conclusions of Law and enters this Order:

FINDINGS OF FACT

1. Dr. Cohen is licensed as a podiatric physician in the State of Texas (License Number 0475) to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the rules of the Board.
2. Complaints were filed against Dr. Cohen, and he was provided with notice of the complaints and with an opportunity to respond to the complaints and to show compliance with the law.
3. The complaints allege that patients paid Dr. Cohen in advance for toenail fungal laser treatment and full services were not rendered.
4. In the Fall/Winter of 2012, Dr. Cohen's podiatry practice (Innovative Foot Care & Laser Center; San Antonio, TX) was allegedly abruptly closed due to personal

medical conditions. Patients returning for follow-up toenail fungal laser treatment found Dr. Cohen's practice to be closed and were unable to receive the full services for which they paid in advance, and/or were not refunded the difference in payments paid for services not rendered.

CONCLUSIONS OF LAW

1. Dr. Cohen is required to follow the provisions of the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et seq., and the associated Rules of the Board, 22 Tex. Administrative Code § 371.1, et seq..
2. Texas Occupations Code, §202.253(a)(4) provides that, "the Board may refuse to issue a license to practice podiatry to a person, for engaging in grossly unprofessional or dishonorable conduct of a character that in the Board's opinion is likely to deceive or defraud the public."
3. Texas Occupations Code, §202.253(a)(5) provides that, "the Board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice."
4. Texas Occupations Code, §202.501(a) provides that, "the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the Board."
5. Texas Occupations Code, §202.5015 provides that, "a license holder who engages in conduct described by Section 202.253 violates this chapter."
6. 22 Texas Administrative Code, §375.3 provides that, "(a) The health and safety of patients shall be the first consideration of the podiatric physician. The principal objective to the podiatric profession is to render service to humanity. A podiatric physician shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The podiatric physician shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A podiatric physician shall be temperate in all things in recognition that his knowledge and skill are essential to public health, welfare, and human life. (b) A licensed podiatric physician shall conduct his practice on the highest plane of honesty, integrity, and fair dealing and shall not mislead his patients as to the gravity of such patient's podiatric medical needs. A podiatric physician shall not abandon a patient he has undertaken to treat. He may discontinue treatment after reasonable notice has been given to the patient by the podiatric physician of his intention to discontinue treatment and the patient has had a reasonable time to secure the services of another podiatric physician or all podiatric medical services actually begun have been completed and there is no contract or agreement to provide further treatment."
7. 22 Texas Administrative Code, §375.19(a) provides that, "the podiatric physician has special knowledge which his patient does not have; therefore, to avoid misunderstanding he should advise his patient in advance of beginning treatment of

the nature and extent of the treatment needed; the approximate time required to perform the recommended treatment and services; and any further or additional services or return by the patient for treatment, adjustments, or consultation and the time in which this shall occur. A podiatric physician should inform his patients as to the fees to be charged for services before the services are performed, regardless of whether the fees are charged on a case basis, on the basis of a separate charge for each service, or a combination of these two methods, or some other basis. If an exact fee for a particular service, as in extended care cases, cannot be quoted to a patient, a fair and reasonable estimate of what the fee will be and the basis on which it will be determined should be given the patient.”

8. 22 Texas Administrative Code, §376.3(a) provides that, “a podiatric physician who violates a Board rule, order, or any provision of the Act shall be subject to the following disciplinary action: (1) suspension or revocation of the license to practice podiatric medicine.”
9. The Findings Of Fact numbers 1 through 4 establish that Dr. Cohen violated: Texas Occupations Code, §202.253(a)(4) and 22 Texas Administrative Code, §375.3(a)(b); §375.19(a) in that he failed to render full toenail fungal laser treatments for services paid in advance and/or failed to refund the difference in payments paid for services not rendered.

VOLUNTARY ORDER

1. Dr. Cohen has Voluntarily Surrendered his license no. 0475, and his license to practice Podiatric Medicine is hereby Revoked.
2. Dr. Cohen shall return to the Board any certificate or other document evidencing licensure, expired or current. Failure to return such documentation may result in the Board seeking injunctive relief against Dr. Cohen to prevent him from practicing podiatric medicine as it is defined in Tex. Occup. Code Ann., §202.001 et seq.
3. Dr. Cohen’s podiatric practice is to remain closed for the purposes of receiving, diagnosing, treating, or consulting with patients, and Dr. Cohen may not participate for income in any professional activity that is related to the diagnosis or treatment of a patient. Dr. Cohen may refer his patients to another practitioner for treatment or consultation during the time that Dr. Cohen is not licensed, but Dr. Cohen shall not derive any income from such referrals.
4. Dr. Cohen may keep his office open for the purposes of arranging referrals, handling mail, processing accounts, billing, and insurance matters, and other similar matters if not directly related to the diagnosis and treatment of patients. Dr. Cohen shall not represent himself to be a licensed podiatrist and shall not offer and shall not accept to consult with, diagnose or treat a patient.
5. Dr. Cohen shall permit a Board representative or staff member to periodically enter his place of business and/ or the facility at which she previously maintained an office, announced or unannounced, during the hours of 8:00 a.m. to 5:00 p.m. on any weekday that is not a federal holiday to ensure compliance with this Order, and to ensure proper medical records are maintained, including applicable billing records.
6. The terms of this **Agreed Order**, if accepted by the Board, become effective upon approval of the Board.

7. If Dr. Cohen fully complies with the terms of the **Agreed Order**, the Board agrees not to bring any further disciplinary action regarding the facts that are the subject of this Order.

GENERAL PROVISIONS

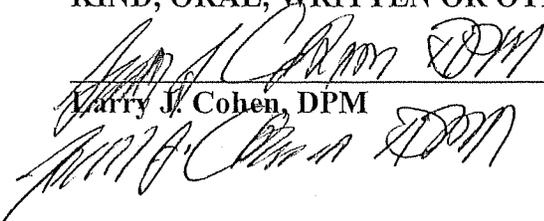
1. Effective Date. This **Agreed Order** shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this **Agreed Order** shall be valid unless in writing. No waiver of default of any terms of the **Agreed Order** shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. Governing Law. This **Agreed Order** is entered into pursuant to and shall be construed in accordance with the laws of the State of Texas including Tex. Occup. Code Ann., §202.001 et seq., the Podiatric Medical Practice Act; and Tex. Gov't Code Ann., §2001:001 et seq., the Administrative Procedure Act.
4. Acknowledgment of Entire Agreement. Dr. Cohen acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the parties concerning the subjects it purports to cover, and Dr. Cohen has executed this instrument freely and of his own accord.
5. Notice. Any notice to be given under the terms of this **Agreed Order** by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

Larry J. Cohen, DPM
2003 Sawgrass Ridge
San Antonio, TX 78260

Texas State Board of Podiatric Medical Examiners
P.O. Box 12216
Austin, TX 78711-2216

6. Upon approval of this **Agreed Order** by the Board, the Presiding Officer and the Executive Director are authorized to sign the Order on the Board's behalf.

I, LARRY J. COHEN, DPM, HAVE READ AND UNDERSTAND THE FOREGOING ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW OF THE AGREED ORDER. I SIGN IT VOLUNTARILY. I UNDERSTAND THE AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, ORAL, WRITTEN OR OTHERWISE.


Larry J. Cohen, DPM

9/25/13
Date

IN THE STATE OF TEXAS §

§

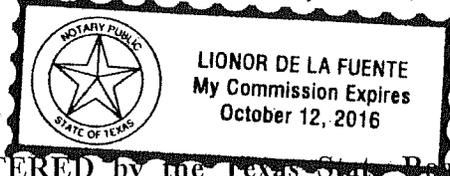
COUNTY OF Bexar §

BEFORE ME, on this day personally appeared Larry J. Cohen known to me, who first, being duly sworn, signed the foregoing **Agreed Order** in my presence.

SIGNED on this the 25th day of September, 2013.

Lionor De La Fuente
(Printed Name of Notary Public)

Lionor De La Fuente
Notary Public, in and for the State of Texas



APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 11th day of October, 2013, after a Board vote.

[Signature]
~~Travis A. Motley, DPM~~
~~Board President~~

[Signature]
Mr. Hemant Makan
Executive Director

James Michael Lunsford, DPM
Board Vice-President

RECEIVED

SEP 30 2013

**TEXAS PODIATRIC
MEDICAL EXAMINERS**