



TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS

Physical Address: 333 Guadalupe; Suite 2-320; Austin, Texas 78701
National Toll Free Complaint Hotline: 1-800-821-3205

Mailing Address: P.O. Box 12216; Austin, Texas 78711-2216
Voice: 512-305-7005 Fax: 512-305-7165

<http://www.foot.state.tx.us>

"Assuring Quality Podiatric Medicine For The Citizens Of Texas"

INVESTIGATIONS DIVISION

February 24, 2004

John G. Welchon, DPM
3205 Red Bluff Rd. West
San Angelo, TX 76904

ENTERED FEB 24 2004

**RE: IMMEDIATE/EFFECTIVE SUSPENSION OF LICENSE NO. 1247
T.S.B.P.M.E. Case No. 04-065 (Prior Referral Case No. 03-046)
Child Support Notification To Licensing Authority – Order Suspending License
Office of the Attorney General - Office of Administrative Law Judges
Docket #03-108-0010074728**

Dear Dr. Welchon,

The Texas State Board of Podiatric Medical Examiners is in receipt of the February 20, 2004 "Notification To Licensing Authority – Order Suspending License" from the Child Support Division-Office of Administrative Law Judges of the Office of the Attorney General.

In accordance with the provisions of the Texas Family Code and the Notification from the Office of the Attorney General, your license (No. 1247) to practice Podiatric Medicine in the State of Texas is hereby effectively "SUSPENDED" from the date of the Attorney General's Order. Your license will remain "SUSPENDED" until notification of a stay is received from the Office of the Attorney General – Child Support Division. There is no appeal for the Board's requisite statutory "SUSPENSION" through the Board's due process provisions.

§§§§§§ TERMS OF LICENSE SUSPENSION §§§§§§

- I. **Board Rule §376.7 "Conditions of Suspension of License" requires:**
 - a) Suspension of a license means that the office of the licensee is to be closed for the purposes of receiving, diagnosing, treating, or consulting with patients, and the licensee may not participate for income in any professional activity that is directly related to diagnosis or treatment of a patient. The licensee may refer patients to another practitioner for treatment or consultation during the period of the suspension, but the licensee shall not derive any income from such referrals. The licensee may allow another practitioner to see the licensee's patients during the period of the suspension in the licensee's office or other practitioner's office, but the licensee shall derive no income from the other practitioner by way of referral fees, or the like.

The Texas State Board Of Podiatric Medical Examiners Is An Equal Employment Opportunity Employer And Does Not Discriminate On The Basis Of Race, Color, National Origin, Sex, Religion, Age or Disability In Employment Or The Provision Of Services

(b) The licensee's office may remain open for the purposes of administrative work, including making future appointments, arranging referrals, handling mail, processing accounts, billing, and insurance matters, and other similar matters not directly related to the diagnosis and treatment of patients.

(c) If the suspended licensee shares offices with another practitioner, the other practitioner shall be allowed to continue to practice, but the suspended licensee shall not share income with the other practitioner, including any income derived in any way from the diagnosis or treatment of patients.

(d) If a license suspension is probated, the Board may require the licensee to:

- (1) report regularly to the Board on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the Board; or
- (3) continue or review continuing professional education until the licensee attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

II. Texas Occupations Code § 202.605. "General Criminal Penalty: Practicing Without License" states:

A person commits an offense if the person professes to be a podiatrist or practices or assumes the duties incident to the practice of podiatry without holding a license to practice podiatry.

An offense under this section is punishable by:

- (1) a fine of not less than \$50 or more than \$500;
- (2) confinement in the county jail for not less than 30 days or more than six months; or
- (3) both the fine and confinement.

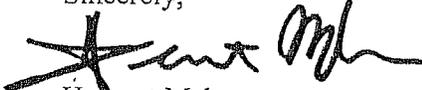
Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

You are hereby prohibited from practicing Podiatric Medicine in the State of Texas in accordance with the provisions of the Texas Occupations Code, the Texas Family Code and the Attorney General's Order.

Any evidence of "Practicing Without License" will require the Board to report the activity to the Tom Green County District Attorney's Office for Criminal Prosecution.

A copy of the Attorney General's Order has been attached with this correspondence.

Sincerely,



Hemant Makan

Investigator

(512)-305-7005

Hemant.Makan@foot.state.tx.us

CC: Texas State Board of Podiatric Medical Examiners

VIA: Certified Return/Receipt: 7002 2030 0003 5475 5221



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT
CHILD SUPPORT DIVISION

RECEIVED

FEB 23 2004

TEXAS PODIATRIC
MEDICAL EXAMINERS

*OFFICE OF ADMINISTRATIVE LAW JUDGES
CHILD SUPPORT DIVISION*

P.O. Box 12017, Mail Code 039-3, Austin, Texas 78711-2017
tel:(512) 460-6046 fax:(512) 460-6024

NOTIFICATION TO LICENSING AUTHORITY
ORDER SUSPENDING LICENSE

ALLEN HYMANS, EXECUTIVE DIRECTOR
TEXAS STATE BOARD OF
PODIATRIC MEDICAL EXAMINERS
P O BOX 12216
AUSTIN, TX 78711

RE: JOHN GRADY WELCHON; DOCKET # 03-108-0010074728; LICENSE NO.1247

You are hereby notified that the Attorney General of Texas has issued an Order Suspending License which is attached to this Notification. Please take the actions necessary to immediately implement the suspension of the license specified. Thank you for your prompt attention to this matter.



C. J. Kofman
Coordinator for the
Office of the Administrative Law Judge

Issue Date:

February 20, 2004

FILED

OFFICE OF ADMINISTRATIVE LAW JUDGES
CHILD SUPPORT DIVISION

2004 JAN 15 AM 7:41

OFFICE OF THE
ADMINISTRATIVE LAW
JUDGE
STATE OF TEXAS

IN THE MATTER OF JOHN GRADY WELCHON

Respondent

Before the

TITLE IV-D AGENCY

For the State of Texas

Petitioner

Docket No. 03-108-0010074728

ORDER SUSPENDING LICENSE

On November 7, 2003, a telephonic hearing was conducted in Austin, Texas, before Samuel T. Jackson, an Administrative Law Judge of the Title IV-D Agency for the State of Texas, on the petition of the Office of the Attorney General to suspend one or more licenses issued to John Grady Welchon for failure to pay child support as required by a court order.

The hearing in this matter was conducted pursuant to 42 U.S.C. § 666(a)(16); TEX.FAM.CODE ANN. §§ 231 and 232; the regulations as set out in 1 TEX.ADMIN.CODE §§55.201-55.214, and pursuant to TEX.GOV'T CODE ANN. Chap. 2001.

APPEARANCES

The Petitioner, the Office of the Attorney General of Texas, appeared by and through Assistant Attorney General, Janis Vaughn.

The Respondent, John Grady Welchon, appeared by and through the attorney of record, Kirk Hawkins.

A record of the proceedings was made by electronic audio recording by the Administrative Law Judge.

CONTENTIONS OF THE PARTIES

PETITIONER

As set out in the petition, and pursuant to the Petitioner's motion, the State contended that:

- John Grady Welchon owed a child support arrearage greater than or equal to the total child support due for three months under the support order.

- John Grady Welchon was provided an opportunity to make payments toward the child support arrearage under a court-ordered or agreed repayment schedule.
- John Grady Welchon failed to comply with the repayment schedule.
- John Grady Welchon's driver's license should be suspended pursuant to TEX.FAM.CODE ANN. §§ 231 and 232.
- John Grady Welchon's Doctor of Podiatric Medicine's license should be suspended pursuant to TEX.FAM.CODE ANN. §§ 231 and 232.

RESPONDENT

As set forth in the Request for Hearing, and in accordance with the Respondent's testimony, John Grady Welchon made the following admissions and/or contentions:

- That he is ill and unable to meet his child support obligations.
- That applied for SSI in March 2003.
- That his health got worse after the April 2003 hearing and he has not been able to pay, all the income he had went back into his business.
- That he works twice a month at the State School but canceled his foot clinic.
- That he needs his license to work.

EXHIBITS

The State introduced the following Exhibits:

- Exhibit A Order For Arrearage Judgment, Foreclosure And Modification Of Support
- Exhibit B-1 Attorney General] Financial Activity Report (Supplemental)
- Exhibit D October 27, 2003 Letter from TrailBlazer Health Enterprises, LLC regarding payments made to John Grady Welchon, DPM

After considering the evidence, the following findings of fact and conclusions of law have been made.

FINDINGS OF FACT

FINDING #1: The State's Petition to Suspend License was filed with the coordinator for the Office of the Administrative Law Judge on June 23, 2003, and notice of the petition was issued on June 23, 2003.

FINDING #2: The Respondent, John Grady Welchon, Social Security Number [REDACTED], was duly served with the petition and notice of the petition by personal service on August 9, 2003.

FINDING #3: Proof of Service was returned to the coordinator on August 19, 2003.

FINDING #4: John Grady Welchon responded to the notice pursuant to TEX.FAM.CODE ANN. §§ 231 and 232, and requested a telephonic hearing.

FINDING #5: The Office of the Attorney General is enforcing the child support obligation owed by John Grady Welchon pursuant to its authority as the Texas Title IV-D Agency, as set out in TEX.FAM.CODE ANN. §§ 231 and 232; and jurisdiction over this petition resides with the Agency in this administrative proceeding.

FINDING #6: On April 11, 2003, the 119th Judicial District Court of Tom Green County, Texas, entered an Order For Arrearage Judgment, Foreclosure And Modification Of Support in Cause No. B-99-0952-F in which the court found that John Grady Welchon had been previously ordered to pay regular child support in the amount of \$1,857.00 per month beginning January 1, 2000. The court ruled that John Grady Welchon was delinquent in the payment of his child support in the total amount of \$8,701.80 as of January 21, 2003, and granted judgment against John Grady Welchon in that amount. In the same order, the court modified John Grady Welchon's child support obligation and ordered that he pay \$800.00 per month beginning February 1, 2003, increasing to \$850.00 per month August 1, 2003, and an additional payment of \$100.00 per month against this arrearage balance beginning February 1, 2003, increasing to \$150.00 per month August 1, 2003. The court's judgment in this matter was not appealed and is final. (Exhibit A)

FINDING #7: John Grady Welchon was obligated to pay child support in the amount of \$800.00 per month beginning February 1, 2003, increasing to \$850.00 per month August 1, 2003, and continuing through November 7, 2003, the date of the hearing. John Grady Welchon's accrued child support obligation from January 21, 2003, through November 7, 2003, was \$8,200.00, which, when added to the April 11, 2003 judgment of \$8,701.80, results in a total child support obligation of \$16,901.80, excluding interest. From January 21, 2003, until November 7, 2003, John Grady Welchon made payments of \$520.00, leaving a balance of \$16,876.79, including interest, in past-due child support as of November 7, 2003. (Exhibit A, Exhibit B-1, Testimony of Assistant Attorney General Janis Vaughn)

FINDING #8: John Grady Welchon's support obligation is \$2,550.00 per month (Exhibit A). The amount of support due for three months would be \$2,550.00.

FINDING #9: As of November 7, 2003, the date of the hearing, John Grady Welchon owed child support in the amount of \$16,876.79, including interest, an amount greater than or equal to the support due for a three-month period.

FINDING #10: John Grady Welchon is the holder of the following license(s) issued by the indicated authorities:

<u>Type of License</u>	<u>License#</u>	<u>Licensing Authority</u>
Driver's License	[REDACTED]	Texas Department of Public Safety
Doctor of Podiatric Medicine	1247	Texas State Board of Podiatry

FINDING #11: A driver's license issued by the Texas Department of Public Safety is a license subject to suspension under TEX.FAM.CODE ANN. §232.002.

FINDING #12: A Doctor of Podiatric Medicine's license issued by the Texas State Board of Podiatry is a license subject to suspension under TEX.FAM.CODE ANN. §232.002.

FINDING #13: John Grady Welchon contended that he has been unable to make his child support payments due to being unemployed and underemployed as a result of illness. [REDACTED]

FINDING #14: John Grady Welchon has been unemployed for substantial periods of time since the entry of the most recent court order and has not complied with the court's order. Mr. Welchon, however, has failed to present sufficient evidence to support the conclusion that he is involuntarily unemployed or underemployed. The evidence and other testimony indicate that Respondent is under no disability which prevents him from obtaining gainful employment, and that he has not exhausted his employment alternatives. Accordingly, John Grady Welchon is not in compliance with the most recent court order, and has not established that he involuntarily lacks the ability to meet these obligations.

FINDING #15: John Grady Welchon was ordered to make current child support payments in the amount of \$850.00 per month in addition to \$150.00 per month against the arrearage balance. Accordingly, he should have paid \$8,200.00 in current support and an additional \$1,200.00 against the arrearage, for a total of \$9,400.00 in accordance with the April 11, 2003 Order For Arrearage Judgment, Foreclosure And Modification Of Support. John Grady Welchon has only paid \$520.00, resulting in an underpayment of \$7,680.00.

FINDING #16: John Grady Welchon has failed to comply with the court-ordered repayment schedule.

CONCLUSIONS OF LAW

CONCLUSION #1: The Office of the Attorney General for the State of Texas brought this action to suspend license pursuant to TEX.FAM.CODE ANN. §231.001 and TEX.FAM.CODE ANN. §231.002. Because this is a Title IV-D case, jurisdiction to hear the petition in this matter resides with the Title IV-D Agency for the State of Texas.

CONCLUSION #2: John Grady Welchon's inability to pay his child support obligation due to his illness or unemployment alone, does not constitute an inability to pay defense to license suspension, although it may provide a basis for modification of the child support order. Pursuant to TEX.FAM.CODE ANN. §231.101, the Office of the Attorney General is authorized to review child support orders to determine whether adjustment of the support order is appropriate under state guidelines, and to institute proceedings necessary to effect the appropriate modification. John Grady Welchon may be eligible for this service and may apply for an adjustment and modification at the local Attorney General field office.

CONCLUSION #3: In addition to establishing an inability to pay the child support obligation, an obligor seeking to establish an affirmative defense pursuant to TEX.FAM.CODE §232.008(a)(3) must provide sufficient proof that the obligor was involuntarily unable to meet those obligations. John Grady Welchon failed to provide sufficient proof of these elements and has therefore failed to satisfy the requirements of the statute.

CONCLUSION #4: The amount of child support arrearage owed by John Grady Welchon is greater than or equal to the amount of total child support obligation due for three months. John Grady Welchon's failure to pay the support obligation together with failure to comply with the court-ordered repayment schedule, pursuant to TEX.FAM.CODE ANN. §232.003, leaves no recourse except to suspend the license(s) issued to the Respondent. The Petitioner, the Office of the Attorney General, has proven all of the elements necessary for entry of an order suspending the license(s) issued to John Grady Welchon.

DECISION

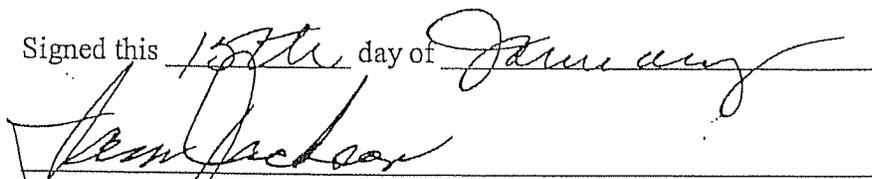
Based on the foregoing findings of fact and conclusions of law, and pursuant to TEX.FAM.CODE ANN. §§232.008-232.009, it is ordered that driver's license number [REDACTED] issued by the Texas Department of Public Safety to John Grady Welchon be suspended and notice of said suspension shall be given to the issuer of the license.

Based on the foregoing findings of fact and conclusions of law, and pursuant to TEX.FAM.CODE ANN. §§232.008-232.009, it is ordered that the Doctor of Podiatric Medicine's license number 1247, issued by the Texas State Board of Podiatry to John Grady Welchon be suspended and notice of said suspension shall be given to the issuer of the license.

John Grady Welchon is ordered not to engage in any activity covered by the license or licenses which have been suspended pursuant to these proceedings. The license or licenses may not be reissued, reinstated, or otherwise renewed authorizing the same or similar activity until an appropriate order vacating or staying the suspension is issued to the licensing authority.

AN INDIVIDUAL WHO CONTINUES TO ENGAGE IN THE BUSINESS, OCCUPATION, PROFESSION, OR OTHER LICENSED ACTIVITY AFTER THE IMPLEMENTATION OF THIS ORDER BY THE LICENSING AUTHORITY, IS LIABLE FOR THE SAME CIVIL AND CRIMINAL PENALTIES PROVIDED FOR ENGAGING IN THE LICENSED ACTIVITY WITHOUT A LICENSE, OR WHILE A LICENSE IS SUSPENDED, THAT APPLY TO ANY OTHER LICENSE HOLDER OF THAT LICENSING AUTHORITY.

Signed this 15th day of January, 2007.


Samuel T. Jackson
Administrative Law Judge

NOTICE TO THE PARTIES

Pursuant to TEX. GOV'T CODE ANN. §2001.144, YOU ARE GIVEN NOTICE THAT THIS DECISION WILL BECOME A FINAL ORDER DISPOSING OF THE PETITION TO SUSPEND LICENSE UNLESS A REQUEST FOR REHEARING IS TIMELY FILED. A motion for rehearing must be filed by a party not later than the 20th day after the date on which the party is notified by first class mail of this decision. A party is presumed to have been notified on the third day after the date on which this decision was mailed.

If you file a Request for Rehearing and it is denied by the Administrative Law Judge in a written order, you may file an appeal in a Travis County District Court within thirty (30) days of the date the order denying the rehearing is signed. **IF YOU DO NOT FILE A REQUEST FOR REHEARING WITHIN TWENTY (20) DAYS OF THE DATE OF THE MAILING OF THIS NOTICE, THIS DECISION WILL BECOME FINAL AND YOU WILL LOSE YOUR RIGHT TO APPEAL TO DISTRICT COURT.**

IN THE EVENT THAT THE PARTIES MUTUALLY AGREE TO THE ENTRY OF A CONSENT ORDER BEFORE THE PERIOD FOR FILING A MOTION FOR REHEARING EXPIRES, THE ADMINISTRATIVE LAW JUDGE MAY SUBSTITUTE THE CONSENT ORDER FOR THIS DECISION.

If your license has been suspended as a result of these proceedings, and no motion for rehearing has been filed, this decision will be mailed to the appropriate licensing agency requesting the suspension of your license(s). **YOU MAY HAVE YOUR LICENSE(S) REINSTATED BY PAYING THE FULL AMOUNT OF THE ARREARAGE OR ESTABLISHING A SATISFACTORY PAYMENT RECORD AND ENTERING INTO A REPAYMENT AGREEMENT THROUGH YOUR LOCAL CHILD SUPPORT OFFICE.** A satisfactory payment record may be established by making consistent payments in accordance with your most recent court order, including payments against the arrearage, or by making a substantial lump-sum payment satisfactory to the Office of the Attorney General.

IT IS YOUR RESPONSIBILITY TO NOTIFY THE OFFICE OF THE ATTORNEY GENERAL OR THE LOCAL CHILD SUPPORT OFFICE IF YOU HAVE PAID THE FULL AMOUNT OF THE ARREARAGE OR FEEL THAT YOU HAVE ESTABLISHED A SATISFACTORY PAYMENT RECORD. Once these conditions have been met, either you or the Office of the Attorney General may petition the Office of the Administrative Law Judge to vacate or stay the suspension of your license.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT
CHILD SUPPORT DIVISION

FAX TRANSMITTAL

TO: JANIE ALONZO, CHIEF OF STAFF, LICENSING & EDUCATION
FAX NO. (512) 305-7003
SUBJECT: JOHN GRADY WELCHON CS DOCKET #03-108-0010074728;
LICENSE # 1247
DATE February 21, 2008
PAGES: 3, including this cover sheet.
MESSAGE: NOTICE AND ORDER GRANTING MOTION TO STAY OR VACATE
SUSPENSION OF LICENSE

RECEIVED

FEB 21 2008

TEXAS PODIATRIC
MEDICAL EXAMINERS

From the desk of

C. J. Kofman
Coordinator
Child Support Division
Attorney General of Texas
5500 East Oltorf
P. O. Box 12017 MC 039-3
Austin, TX 78711-2017
Voice: 512/460-6046
Fax: 512/460-6611



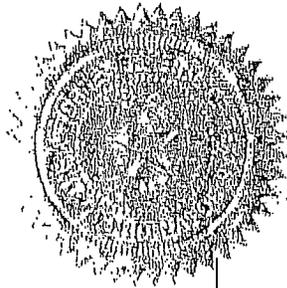
OFFICE of the ATTORNEY GENERAL

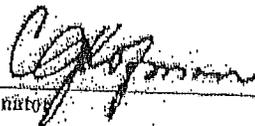
NOTIFICATION TO LICENSING AUTHORITY
ORDER VACATING OR STAYING SUSPENSION OF LICENSE

JANIE ALONZO
CHIEF OF STAFF, LICENSING & EDUCATION
TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS
PO BOX 12216
AUSTIN, TX 78711-2216

RE: JOHN GRADY WELCHON; CS DOCKET # 03-108-0010074728;
LICENSE NO. 1247

You are hereby notified that the Attorney General of Texas has issued an Order Vacating or Staying a prior Order which suspended the license of the above-referenced licensee. Pursuant to the attached Order, the referenced individual is now eligible to receive any license issued by your agency for which they may otherwise be qualified. Please take the actions necessary to immediately implement the return of the license specified. Thank you for your prompt attention to this matter.




Coordinator

Issue Date: February 21, 2008

RECEIVED
FEB 21 2008
TEXAS PODIATRIC
MEDICAL EXAMINERS

P.O. Box 12017, Mail Code 039-3, Austin, Texas 78711-2017
tel:(612) 460-6048 fax:(612) 460-6611

02/21/2008 09:10 FAX 512 938 0770

SOAH

FILED

02/21/2008

CONFIDENTIAL
Pursuant to Texas Family Code
§ 231.108 and 42 USCA § 654(26)

2008 FEB-21-AM 8:00

OFFICE OF THE
ATTORNEY GENERAL-CSD
ADMIN COORDINATOR

SOAH DOCKET NO. 302-08-1894.CS
OAG DOCKET NO. 03-108-0010074728

ATTORNEY GENERAL OF TEXAS,
Petitioner

§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

v.

OF

JOHN GRADY WELCHON,
Respondent

ADMINISTRATIVE HEARINGS

ORDER GRANTING MOTION
TO STAY SUSPENSION OF LICENSE

The Office of the Attorney General of Texas, Petitioner, filed a Motion to Stay Order Suspending License on in the above styled case. Respondent, JOHN GRADY WELCHON, has paid all delinquent child support, has established a satisfactory payment record, or good cause otherwise exists to stay the Decision and Order issued January 15, 2004 suspending Respondent's Driver's license, number [REDACTED] issued by the Texas Department of Public Safety and Doctor of Podiatric Medicine license, number 1247, issued by the Texas State Board of Podiatry. The Administrative Law Judge concludes the motion should be granted.

It is, therefore, ORDERED that the Motion to Stay Order Suspending License is GRANTED, and the order suspending Respondent's licenses is hereby STAYED. This stay shall remain subject to a motion to revoke for noncompliance in accordance with TEX. FAM. CODE ANN. § 232.012. This order shall be promptly delivered to the licensing agencies for observance. Upon payment of any fee required by the licensing agencies under TEX. FAM. CODE ANN. § 232.014, the agencies will issue the affected licenses to JOHN GRADY WELCHON if he is otherwise qualified for the licenses.

SIGNED February 21, 2008.

RECEIVED

FEB 21 2008

TEXAS PODIATRIC
MEDICAL EXAMINERS

GARY W. ELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS