

**IN THE MATTER OF
TIMOTHY J. GOBER, D.C.**

Respondent

License No.: S03470

*** BEFORE THE
* MARYLAND STATE
* BOARD OF CHIROPRACTIC
* EXAMINERS
* Case Nos: 18-20C and 19-13C**

* * * * *

ORDER

On November 14, 2018, the Maryland State Board of Chiropractic Examiners (the “Board”) charged Timothy J. Gober, D.C. (the “Respondent”), License Number S03470, with violating the Maryland Chiropractic Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 3-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.) and Md. Code Regs. (“COMAR”) 10.43.13.01 *et seq.* and 10.43.14.01 *et seq.*, based on: a) a complaint from a patient (“Complainant One”) who reported that the Respondent failed to provide her with treatment records despite several requests after Respondent abruptly stopped treating her, b) the Respondent’s failure to maintain and secure records, c) the Respondent’s failure to respond to the Board’s subpoena, and d) the Respondent’s failure to notify the Board of change of address.

The basis for the Board’s action was pursuant to the Maryland Administrative Procedure Act (the “APA”), Md. Code Ann., State Gov’t (“State Gov’t”) § 10-226(c)(1) (2014 Repl. Vol. & 2016 Supp.) and the Act.

The pertinent provision of State Gov’t § 10-226(c)(1) states:

Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:

- (i) written notice of the facts that warrant suspension or revocation; and,
- (ii) an opportunity to be heard.

The pertinent provisions of Health Occ. § 3-315 provide:

- (a) In general -- Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 3-313 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.
- (f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

The pertinent provisions of Health Occ. § 3-315 provide:

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

- (8) Is unethical in the conduct of the practice of chiropractic;
- (19) Violates any rule or regulation adopted by the Board;
- (20) Behaves immorally in the practice of chiropractic;
- (21) Commits an act of unprofessional conduct in the practice of chiropractic; [and/or]
- (28) Violates any provision of this title[.]

The pertinent regulations provide:

Md. Code Regs. 10.43.13 CODE OF ETHICS
...

.03 Standards of Practice.

A. A chiropractor and chiropractic assistant shall concern themselves primarily with the welfare of the patient.

C. A chiropractor and chiropractic assistant shall:

(8) Cooperate with any lawful investigation conducted by the Board, including:

(a) Furnishing information requested in a timely manner as directed by the Board;

(c) Responding to a complaint at the request of the Board; and

(d) Providing meaningful and timely access to relevant patient records[.]

.04 Relationship with Patient.

A. A chiropractor shall:

(4) Maintain a written record of treatment of the patient under the chiropractor's care for at least:

(a) 5 years after the termination of treatment[.]

(5) Make the written records of treatment available to the patient upon request, in compliance with applicable laws for disclosure of medical records;

(6) Make arrangements for another professional to provide for the needs of the patient during anticipated absences when the chiropractor is unavailable to the patient[.]

.06 Records, Confidentiality, and Informed Consent.

A chiropractor shall:

- C. Adequately safeguard confidential patient information, including storage and disposal of records;
- G. Promptly and efficiently respond to any patient or Board request for records.

Md. Code Regs. 10.43.14 RECORD KEEPING

...

.03 Record Keeping.

E. Maintenance and Release of Patient Records.

(2) The chiropractor shall release patient records

when release is:

(a) Authorized by the patient in writing; and

(b) Compelled by law.

By letter dated November 14, 2018, the Board notified the Respondent of the charges and possible sanctions. The letter indicated the date and time of his Case Resolution Conference (“CRC”). The notice specified that the Respondent must confirm his intention to attend the CRC in writing and if the matter is not able to be resolved, then a hearing will be held at the Board’s office, 4201 Patterson Avenue, Room 310, Baltimore, MD 21215. The matter was not resolved at a CRC.

On March 12, 2020, the Board held a hearing in the matter in accordance with the Maryland Administrative Procedure Act, Md. Code Ann., State Gov’t § 10-201 *et seq.*, and the Board’s regulations, COMAR 10.43.02. The Respondent was served and notified

about the matter. The Respondent did not appear and was not represented by counsel. The Board conducted the hearing in the Respondent's absence as provided for in the Act, Md. Code Ann., Health Occ., § 3-315(f). The State presented witnesses, evidence, and argument before a quorum of the Board. Following the hearing, the Board convened to deliberate and voted to revoke the Respondent's license to practice chiropractic in Maryland.

SUMMARY OF THE HEARING

The State called Marc Ware as its sole witness. Mr. Ware is an investigator for the Maryland State Board of Chiropractic Examiners. Mr. Ware was familiar with the Board's files and investigation. The Board's investigative files were maintained and updated in the ordinary course of business. The Board's investigative files and charging documents were entered into evidence. Mr. Ware indicated that Dr. Gober did not comply with the Board's subpoena. Mr. Ware stated that Dr. Gober did not inform the Board about any address change. Mr. Ware testified that Dr. Gober had been served with the charges in this matter. He also represented that the Board had not accepted a surrender of license from Dr. Gober.

EXHIBITS

The following exhibits were admitted into evidence during the hearing:

STATE'S EXHIBITS

No. Exhibit Description

1. Investigative file, Case No. 18-20C
2. Investigative file, Case No. 19-13C
3. Letter of Procedure and Charges Under the Maryland Chiropractic Act, dated November 14, 2019

FINDINGS OF FACT

After a review of the record and testimony, the Board makes the following findings:

1. The Board issued the Respondent a chiropractic license on February 9, 2006, under License Number S03470. The Respondent maintained licensure until September 1, 2013, when it became inactive. The Board reactivated the Respondent's license effective January 7, 2014. The Respondent maintained an active license until September 1, 2017, when it again became inactive. The Respondent's license remained inactive until it expired on September 1, 2019.

2. At all times relevant to these charges, the Respondent owned and operated the following chiropractic offices: the Baltimore Pain Relief Center, located at 312 N. Martin Luther King Jr. Boulevard, Suite 102, Baltimore, Maryland 21201 (the "Baltimore office"); and the White Marsh Health Care Physical Medicine, LLC, located at 5430 Campbell Boulevard, Suite 106, White Marsh, Maryland 21162 (the "White Marsh office").

3.

Complaint, dated November 13, 2018

4. The Board initiated an investigation of the Respondent after reviewing a complaint dated November 13, 2018, from a patient ("Complainant One")¹ who reported that the Respondent failed to provide her with her treatment records, despite her making several requests of him to provide those records. Complainant One stated that in or around 2016, she sought treatment from the Respondent at his Baltimore office after she sustained injuries in an automobile accident. Complainant One stated that the Respondent abruptly stopped treating her while she was still suffering from her injuries and without referring her to another chiropractor or doctor.

5. Complainant One further stated that after the Respondent stopped treating her, she visited his Baltimore office to request her chiropractic records but that the Respondent ignored her verbal requests for those records. Complainant One stated that on September 21, 2018, she "faxed, emailed, and mailed more than six (6) written requests for [her] records with signed releases to every address [she] could locate for [the Respondent]."

6. Complainant One also supplied the September 18, 2018, letter she mailed to the Respondent and other documents in which she requested that he provide her chiropractic records by October 19, 2018.

Board Investigation

7. The Board determined that the Respondent owned the Baltimore Pain

¹ In order to protect confidentiality, the name of the Complainants will not be disclosed in this document. The Respondent may obtain the identity of the Complainants by contacting the assigned administrative prosecutor or the Board.

Relief Center and White Marsh Healthcare Physical Medicine, LLC.

8. The Board mailed a *subpoena duces tecum* (“SDT”) to the Respondent, dated November 15, 2018, at his address of record (5430 Campbell Boulevard, Suite 106, White Marsh, Maryland 21162), which directed him to provide Complainant One’s chiropractic records within five working days of the date of the SDT. The Respondent did not comply with the SDT. The United States Postal Service returned the mailing containing the SDT on January 16, 2019. The mailing was marked, “Return to Sender,” “Not Deliverable as Addressed,” and “Unable to Forward.”

9. On March 7, 2019, a Board investigator went to the Respondent’s White Marsh office. The office was closed for business and the office space had been sold to another health care practitioner. The Respondent did not notify the Board of this change of address.

Complaint, dated March 21, 2019

10. During the Board’s investigation of the above complaint, a second individual (“Complainant Two”) filed a complaint, dated March 21, 2019, against the Respondent. Complainant Two stated that she works for a health care provider who practices in the same building that housed the Respondent’s White Marsh practice location (5430 Campbell Boulevard). Complainant Two observed that in October 2018, the Respondent’s practice was “closed down.” In November 2018, Complainant Two’s practice purchased the suites the Respondent’s practice formerly occupied. Complainant Two entered the Respondent’s unoccupied suite and observed that he left his furniture and “abandoned” his records and office charts. Complainant Two’s practice “boxed up”

the records and charts, and rented a storage facility for their storage, where they are currently housed. Complainant Two further stated that she and other personnel from her practice entered the suite that formerly housed the Respondent's practice (Suite 106) and found additional patient charts, practice-related mail and records, which her practice is storing on-site.

11. A Board investigator went to the storage facility with Complainant Two and confirmed the presence of approximately 250 banker's boxes of the Respondent's treatment records, each containing approximately 50 patient records, for an approximate total of 12,500 patient records.

12. The Board's investigation began prior to the date that Dr. Gober's license lapsed. The investigation began on November 13, 2018. Dr. Gober's license did not lapse until September 1, 2019.

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. § 3-313 (8), (9); (19); (20) and (21), pursuant in whole or in part to Md. Code Regs. 10.43.13.03, .04, and .06 and 10.43.03; (2); (21); and/or (28). The Respondent failed to complete treatment of Complainant One (or refer her to another provider). These conclusions are based on the Respondent's conduct as outlined below. The Respondent failed to provide Complainant One with her treatment records upon her request. The Respondent further failed to maintain and secure other treatment records for his patients, or adequately safeguard confidential patient information, including the storage and disposal of records. The Respondent failed to cooperate with a lawful

investigation conducted by the Board, failed to respond to a Board subpoena and otherwise failed to furnish information to the Board as directed. The Respondent failed to provide meaningful and timely access to patient records. The Respondent failed to notify the Board in a timely manner of his change of address. The exhibits and testimony were reviewed and considered in reaching these conclusions.

The Board reviewed its sanctioning guidelines and considered the aggravating and mitigating factors. Given the Respondent's conduct, the Board concluded that the violations at issue support a revocation of licensure. On the basis of the findings of fact and conclusions of law, the Board orders the permanent revocation of the Respondent's license.

ORDER


It is hereby:

ORDERED that the registration of Timothy J. Gober, D.C., is **PERMANENTLY REVOKED**; and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 et seq.

3/12/2020

Date



Gregory Lewis, D.C. President
Maryland State Board of Chiropractic Examiners

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Code Ann., Health Occ. § 3-316 and the Administrative Procedure Act, Md. Code Ann., State Gov't II § 10-201 *et seq.*, you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the aforecited authority.