

COPY

BEFORE THE WEST VIRGINIA BOARD OF CHIROPRACTIC

WV BOARD OF CHIROPRACTIC

MAY 27 2016

RECEIVED

WEST VIRGINIA BOARD OF CHIROPRACTIC,
Complainant,

V.

Complaint No. 2013-146

JOSEPH J. YURIGAN, D.C.,
Respondent.

CONSENT AGREEMENT AND ORDER

After due investigation of a written complaint by the West Virginia Board of Chiropractic (Board), the Board determined that there was probable cause to believe that Joseph J. Yurigan, (Respondent) has exhibited unprofessional conduct in the practice of chiropractic, in violation of the provisions of W. Va. Code § 30-16-1 *et seq.* and the Rules of the Board, W. Va. Code R. § 4-1-1 *et seq.* The Respondent was provided with written notice of the allegations against him pursuant to the rules of the Board and the laws of this State.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of the above styled matter and the parties agree to entry of the following Order in disposition of this matter.

FINDINGS OF FACT

The Board adopts the following findings in this matter:

1. The Board is a state agency created by West Virginia Code § 30-16-1 *et seq.*, and is empowered to regulate the practice of chiropractic in the State of West Virginia.

2. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke or to otherwise discipline an individual's chiropractic license because of authority granted to by W. Va. Code § 30-16-11.

3. Joseph J. Yurigan, at all times relevant to the charges, was a licensee of the Board practicing chiropractic in and around Weirton, West Virginia, and as such, is subject to the jurisdiction and authority of the Board for any acts committed by him as a licensee during these times. Respondent's license expired on June 30, 2013, for failing to renew his license; however, the Respondent was an active licensee up until this time beginning on May 1, 1980.

4. Moreover, that at all times relevant the Respondent owned and operated his own chiropractic business in Weirton, West Virginia, known as the Weirton Chiropractic Clinic.

5. That the Board initiated a complaint against the Respondent in February 2013 upon learning of the Respondent's October 2012 guilty plea to one count of health care fraud and one count of tax evasion in the United States Northern District Court before the Honorable Judge Frederick P. Stamp.

6. That the Respondent did not communicate with the Board Office regarding his guilty plea in October 2012.

7. That a copy of the Board initiated Complaint was sent to the Respondent for a response and Respondent failed to respond to the Board's initiated complaint.

8. The Board initiated an investigation and during the Board's investigation, the Investigator or designated individuals, reviewed the relevant documents.

9. That the Board's Investigator recommended a finding of probable cause for violations of W. Va. Code § 30-16-11(a)(3) and (22) and W. Va. Code R. § 4-1-5.1.

10. That the Board at its September 4, 2013, Board meeting, did by unanimous vote, find probable cause in violation of W. Va. Code § 30-16-11(a)(3) and (22) and W. Va. Code R. § 4-1-5.1.

11. However, due to the incarceration of the Respondent, the Board was unable to pursue administrative action against the Respondent at the time until his release which has now occurred.

CONCLUSIONS OF LAW

1. That the Board has jurisdiction to take disciplinary action against Respondent.
2. That based upon the allegations of unprofessional conduct set out above in the *Findings of Fact* section, the Board is authorized to suspend, revoke or otherwise restrict the license of the Respondent to practice as chiropractic, pursuant to W. Va. Code § 30-16-11.
3. That the Respondent may still reinstate his license to practice chiropractic medicine pursuant to W. Va. Code § 30-16-15.
4. That the Respondent's actions constituted violations of W. Va. Code § 30-16-11(a)(3) and (22) and W. Va. Code R. § 4-1-5.1 and that these violations are grounds for disciplinary action by the Board.

CONSENT OF LICENSEE

I, Joseph J. Yurigan, by affixing my signature hereto, acknowledge the following:

1. That I have had the opportunity to consult with counsel and execute this Consent Agreement voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

2. That no person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.

3. That I acknowledge that I am aware that I may pursue this matter through appropriate administrative and/or court proceedings, and I am aware of my legal rights regarding this matter, but intelligently, knowingly and voluntarily waive such rights.

4. That I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. That I admit that my actions were a violation of the statute and rules of the Board.

The Respondent, Joseph J. Yurigan, by affixing his signature hereon, agrees to the following:

ORDER

On the basis of the foregoing, the Board does hereby ORDER and DECREE that:

1. Respondent, Joseph J. Yurigan, HEREBY agrees not to seek reinstatement pursuant to W. Va. Code § 30-16-15 to practice chiropractic medicine in the state of West Virginia for a period of five (5) years beginning on June 30, 2013, in lieu of a hearing.

2. The Respondent's action of not seeking reinstatement pursuant to W. Va. Code § 30-16-15 for a period of five (5) years is considered to be an admission of the statutory and rule violations as outlined within this *Consent Agreement and Order* and shall be reportable to the Chiropractic Information Network/Board Action Databank (CIN-BAD).

3. Within one year of any application for reinstatement, the Respondent shall complete and pass the SPEC (Special Purposes Exam for Chiropractic) examination, and the Respondent shall complete and pass all five topic areas of the EBAS examination (Ethics and Boundaries Assessment Services). All costs associated with the taking of these examinations shall be borne by the Respondent.
4. Respondent shall reimburse the Board for the cost of these proceedings, including but not limited to, legal expenses and administrative costs incurred by the Board. Full payment shall be received in the Board office no later than twelve (12) months from entry of this *Consent Agreement and Order*.
5. That this document is a public record as defined in W. Va. Code § 29-1-2(4).
6. This *Consent Agreement and Order* constitutes the entire agreement between the parties.
7. This *Consent Decree and Order* shall be interpreted in accordance with the laws of the State of West Virginia, and venue of any lawsuit filed by any party arising in whole or in part out of this *Consent Decree and Order* shall be in the Circuit Court of Kanawha County, West Virginia, and further that in the event any part of this *Consent Decree and Order* is invalidated by order of a court of competent jurisdiction or by legislative action, the remainder of this *Consent Decree and Order* shall remain in binding effect. In recognition of this Agreement and these terms, we hereby affix our signatures.
8. The Respondent, Joseph J. Yurigan, shall return any and all licenses to the Board

Office within ten days of entry of this *Consent Agreement and Order*.

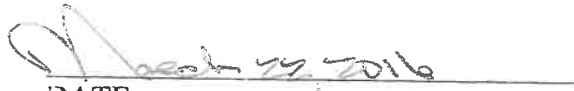
WEST VIRGINIA BOARD OF
CHIROPRACTIC

By:



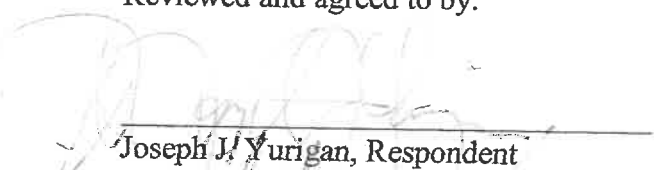
Roger A. Kritzer, D.C.
Board Chairman

Entered:

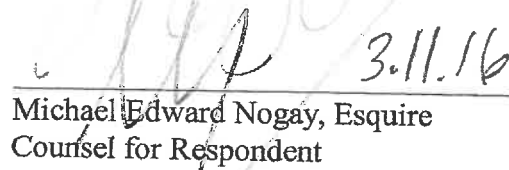


DATE

Reviewed and agreed to by:



Joseph J. Yurigan, Respondent



3.11.16

Michael Edward Nogay, Esquire
Counsel for Respondent