

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
NATHANIEL M. COHEN, M.D., : 96 MED 051
RESPONDENT :

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Nathaniel M. Cohen
5655 East River Road #107-207
Tucson, AZ 85750

Medical Examining Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Nathaniel M. Cohen, M.D. (DOB 08/24/22) is duly licensed to practice medicine and surgery in the state of Wisconsin (license #32717). This license was first granted on October 24, 1991.
2. Dr. Cohen's most recent address on file with the Wisconsin Medical Examining Board is 5655 East River Road #107-207, Tucson, AZ 85750.

3. On July 25, 1995, the Massachusetts Board of Registration and Medicine imposed discipline upon the Massachusetts license of Dr. Cohen to practice medicine. A true and correct copy of the 07/25/95 Massachusetts Statement of Allegations and Consent Order is attached to this document as Exhibit A. Exhibit A is incorporated into this document by reference.

4. In resolution of this matter, Dr. Cohen consents to the entry of the following Conclusions of Law and Order as a reasonable accommodation to allow him an opportunity to continue his medical career, in light of the facts and circumstances of this case.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to sec. 448.02(3), Wis. Stats., and is authorized to enter into the attached Stipulation and Order, pursuant to sec. 227.44(5), Wis. Stats.
2. The conduct described in paragraph 3, above, constitutes a violation of Wis. Adm. Code sec. Med 10.02(q).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Stipulation is accepted.

IT IS FURTHER ORDERED that the Wisconsin license of Nathaniel M. Cohen is LIMITED as follows:

1. Until otherwise ordered by the Board, Dr. Cohen shall refrain from practicing obstetrics, emergency medicine, neonatal medicine, surgery, pediatric intensive care or in any other critical care setting.
2. Until otherwise ordered by the Board, Dr. Cohen shall refrain from the practice of all medicine in Wisconsin [or the practice of medicine elsewhere under the use of his Wisconsin license], except: 1) in a group practice or institutional setting; and 2) under supervision by other licensed physicians in good standing with the Board. Prior to engaging in the practice of medicine in Wisconsin, Dr. Cohen shall submit and obtain approval by the Board of a plan of supervision for his practice.
3. Any plan of supervision submitted under this order shall be submitted to the Department Monitor, c/o Wisconsin Department of Regulation and Licensing, Division of Enforcement, PO Box 8935, Madison, WI 53708-8935 [FAX (608) 266-2264; TEL. (608) 267-7139].
 - a. In the exercise of its discretion, the Board may require a personal appearance by Dr. Cohen to answer questions related to his intended practice in Wisconsin.

Medical

line

b. The Board may in addition require submission of a current assessment from a health care provider acceptable to the Board attesting to Dr. Cohen's ability to safely and competently practice medicine and surgery To be considered current, the assessment shall have occurred within thirty (30) days from the date of its submission.

Failure to approve a plan of supervision under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of. secs. 227.01(3) and 227.42, Wis. Stats.

IT IS FURTHER ORDERED that

4. Dr. Cohen shall immediately surrender all indicia of Wisconsin registration to the Department Monitor. The Department shall reissue registration credentials to Dr. Cohen marked "limited."

5. Violation of any of the terms of this Order or the conditions imposed as a result of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Dr. Cohen's license; the Board in its discretion may in the alternative deny an extension of the stay of suspension or impose additional conditions and limitations other additional discipline for a violation of any of the terms of this Order.

6. This Order shall become effective on the date of its signing.

MEDICAL EXAMINING BOARD

By: [Signature]
A Member of the Board

8/22/96
Date

2. Doctor Cohen has worked as a *locum tenens* physician in various states in recent years. In addition to Massachusetts, he has also held medical licenses in California, Hawaii, Kentucky, Michigan, New Mexico, Texas and Wisconsin.

3. From November 18, 1992 to December 18, 1992, Dr. Cohen worked on a temporary basis as a pediatrician at Mary Lane Hospital in Ware, Massachusetts.

Following two incidents in which his response to two Caesarean sections involving problem newborns was deemed to be insufficiently aggressive, his newborn nursery privileges were withdrawn. He was also removed from the hospital's emergency room call list. He was permitted to complete the remainder of his temporary assignment at the hospital in an office practice.

4. Doctor Cohen failed to report the restriction of his Mary Lane Hospital privileges to the Board within 30 days.

5. Doctor Cohen suffers from benign essential tremor of his hands. This condition affects his ability to perform invasive procedures.

Legal Basis for Proposed Relief

Pursuant to 243 CMR 1.03(5)(a)2, the Board may discipline a physician for commitment of an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder.

Pursuant to 243 CMR 1.03(5)(a)3, the Board may discipline a physician for conduct which places into question the physician's competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.

Pursuant to 243 CMR 1.03(5)(a)11, the Board may discipline a physician for violating any rule or regulation of the Board.

Pursuant to 243 CMR 1.03(5)(a)18, the Board may discipline a physician for misconduct in the practice of medicine.

Pursuant to 243 CMR 2.07(6), a physician is required to notify the Board of any restriction or termination of his hospital privileges, other than restriction or termination for minor administrative reasons, within 30 days of its occurrence.

The Board has jurisdiction of this matter pursuant to G.L. c. 112, secs. 5, 61 and 62.

This proceeding will be conducted in accordance with 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary measures which may include revocation or suspension of the Respondent's license.

The Board may, in addition to or instead of, revocation or suspension, order one or more of the following: admonishment, reprimand, censure, fine, the performance of uncompensated public service, a course of education or training, or other limitation on the Respondent's practice of medicine.

ORDER

Wherefore, it is hereby Ordered that the Respondent show cause why he should not be disciplined for the conduct described herein.

By the Board of Registration
in Medicine

A handwritten signature in black ink, appearing to read "Rafik R. Attia", written over a horizontal line.

Rafik R. Attia, M.D.
Chairman

Dated: July 26, 1995

Notified by
Certified Mail
8/22/95 (ZMF)

RECEIVED
Suffolk ss. 9 10 95
REGISTRAR

COMMONWEALTH OF MASSACHUSETTS

Board of Registration
in Medicine

Adjudicatory Case
No. 96-05-XX

_____)
In the Matter of)
)
Nathaniel M. Cohen, M.D.)
)
_____)

CONSENT ORDER

Nathaniel M. Cohen, M.D. and complaint counsel for the Board of Registration in Medicine agree that the Board may enter this Consent Order and make the following findings of fact and conclusion of law in lieu of convening an adjudicatory hearing with respect to the matters described herein.

Facts of the Case

1. Nathaniel M. Cohen, M.D. is a 1946 graduate of Harvard Medical School. A board certified pediatrician, he was licensed to practice medicine in Massachusetts on June 18, 1947 and received certificate number 21299. He was born August 24, 1922. His license in Massachusetts is current.

2. Doctor Cohen has worked as a *locum tenens* physician in various states in recent years. In addition to Massachusetts, he also holds medical licenses in California, Hawaii, Kentucky, Michigan, New Mexico, Texas and Wisconsin.
3. From November 18, 1992 to December 18, 1992, Dr. Cohen worked on a temporary basis as a pediatrician at Mary Lane Hospital in Ware, Massachusetts.
4. Following two incidents in which his response to two Caesarean sections involving problem newborns was deemed to be insufficiently aggressive, his newborn nursery privileges at Mary Lane Hospital were withdrawn. He was also removed from the hospital's emergency room call list. He was permitted to complete the remainder of his temporary assignment at the hospital in an office practice.
5. Doctor Cohen failed to report the restriction of his Mary Lane Hospital privileges to the Board within 30 days.
6. Doctor Cohen suffers from benign essential tremor of his hands. This condition affects his ability to perform invasive procedures.

Conclusions of Law

A. Dr. Cohen has violated 243 CMR 1.03(5)(a)2 by commitment of an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder.

B. Dr. Cohen has violated 243 CMR 1.03(5)(a)11 by violating a rule or regulation of the Board.

C. Dr. Cohen has violated 243 CMR 1.03(5)(a)18 by his misconduct in the practice of medicine.

D. Dr. Cohen has violated 243 CMR 2.07(6) by his failure to notify the Board of the restriction or termination of his Mary Lane Hospital privileges within 30 days of its occurrence.

Sanction

Doctor Cohen's practice of medicine is hereby restricted as follows. Until the Board otherwise orders, Dr. Cohen is prohibited from attending deliveries, practicing in an emergency room, neonatal or pediatric intensive care unit or any critical care setting. He is further prohibited from practicing medicine except in a group practice or institutional setting where supervision and back-up are readily available.

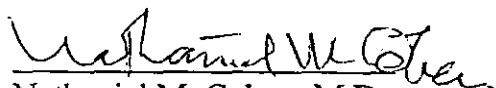
Execution of this Consent Order

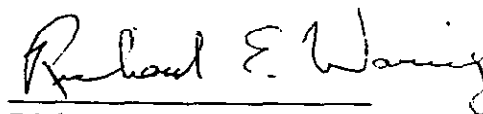
The parties agree that the approval of this consent order is left to the discretion of the Board. The signatures of Dr. Cohen and Complaint Counsel are expressly conditioned on the Board accepting this consent order. If the Board rejects this consent order in whole or in part, then the entire document shall be null and void;

thereafter, neither the parties nor anyone else may rely on the consent order. As to any matter this consent order leaves to the discretion of the Board, neither Dr. Cohen nor anyone else acting on his behalf has received any promises or representations regarding same.

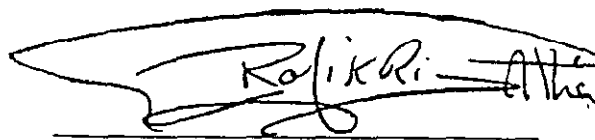
Doctor Cohen waives any right of appeal he may have resulting from the Board's acceptance of this consent order.

Within ten (10) days of acceptance of this consent order by the Board, Dr. Cohen shall provide a copy of this consent order to any employer or health care facility with which he has any appointment, privileges or other association, by certified mail, return receipt requested, or by hand delivery, and Dr. Cohen is further directed to certify to the Board within that same time period that he has complied with this directive.


Nathaniel M. Cohen, M.D.


Richard E. Waring
Complaint Counsel

Approved by the Board of Registration in Medicine this 26 day of July, 1995.


Rafik R. Attia, M.D.
Chairman

Notified by
Certified Mail
8/22/95 tzmj

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
NATHANIEL M. COHEN, M.D.,	:	96 MED 051
RESPONDENT	:	

It is hereby stipulated between Nathaniel M. Cohen, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Dr. Cohen's licensure by the Division of Enforcement (96 MED 051). Dr. Cohen consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Dr. Cohen understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Americans with Disabilities Act of 1990, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Dr. Cohen is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

4. Dr. Cohen agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

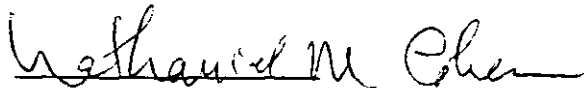
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.


6. Attached to this Stipulation is the current licensure card of Nathaniel M. Cohen. If the Board accepts the Stipulation, Dr. Cohen's license shall be reissued only in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the

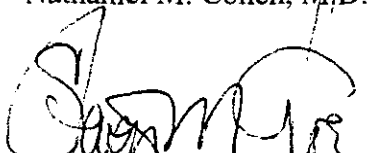
license of Dr. Cohen shall be returned to him with a notice of the Board's decision not to accept the Stipulation.


7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Medical Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. The Division of Enforcement joins Dr. Cohen in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.


Nathaniel M. Cohen, M.D.


Date


Steven M. Gloe, Attorney
Division of Enforcement


Date

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

August 26, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

BEFORE THE STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

NATHANIEL M. COHEN, M.D., :
RESPONDENT. :

AFFIDAVIT OF SERVICE

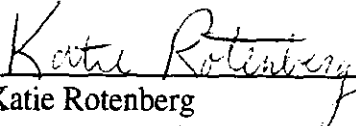
Katie Rotenberg, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on August 26, 1996, she served the following upon the respondent:

Final Decision and Order dated August 22, 1996

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail with a return receipt requested in an envelope properly addressed to the above-named respondent at:

5655 East River Road #107-207
Tucson, AZ 85750
Certified P 213 148 404

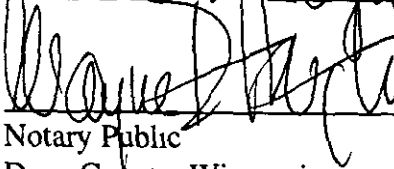
an address which appears in the files and records of the Medical Examining Board as the respondent's last known address.



Katie Rotenberg
Department of Regulation and Licensing

Subscribed and sworn to before me

this 26th day of August, 1996.



Notary Public
Dane County, Wisconsin
My Commission is Permanent