

II.

FINDINGS OF FACT

Alfred Cichon, 59 years old, served 21 years in the U.S. Air Force and was a practicing physician assistant (P.A.-C.) during the last five. He was first licensed by the Maine Board as a physician assistant on April 8, 1987. His most recent license was issued on April 1, 2005 which expired on March 31, 2007. Mr. Cichon reapplied for renewal of this license on April 3, 2007. Mr. Cichon had also been licensed as a P.A.-C. by the Maine Board of Osteopathic Licensure (Osteopathic Board) for approximately 10 years more or less before the hearing in this matter but had not renewed his license with that Board as of November 1, 2006.¹

The disciplinary issues regarding Mr. Cichon's license arose primarily from his unlicensed practice as a physician assistant and his lack of credibility with the Board. Maine Board of Licensure in Medicine Rules require that a P.A.-C. be licensed by the Board and supervised by a physician who has been approved in that capacity by the Board. Physician assistants and their primary supervising physician must prepare and have on file in the practice setting a written, dated plan of supervision that is signed by both the primary supervising physician and the physician assistant, and that contains specified practice descriptions of the elements of supervision.

On November 1, 2006, Alfred Cichon's supervising physician, Robert Abrahamson, M.D., resigned and was replaced on November 2, 2006 by Alex Brazalovich, D.O.² Mr. Cichon's practice in regards to being properly licensed and supervised had apparently complied with Board statutes and rules until November 2. From that date forward, Dr. Brazalovich testified that Mr. Cichon led him to understand that Cichon was authorized to practice pursuant to the Rules of the Osteopathic Board. The respondent voiced the same understanding to Medical Board Consumer Assistant Tim Terranova on March 13, 2007.

Although Mr. Cichon held a valid Medical Board license as of November 2, 2006, he practiced his profession but was not supervised by a Medical Board licensed physician from that date forward which is a violation of Medical Board licensing laws. Additionally, the respondent was not licensed by the Board of Osteopathic Licensure and neither was he supervised according to

¹ Osteopathic licenses are valid for 2 years and expire on March 1 of each even numbered year.

² Alfred Cichon failed to notify the Board of this fact within the required 14 days. (Board rules Ch.2, Sec. 9 (A) and (D)).

an Osteopathic Board approved plan of supervision. Therefore, the respondent was practicing in contravention of at least the Medical Board's statutes and Rules.

In his defense, the respondent testified that he had submitted his application in a timely manner to the Osteopathic Board sometime during October 5-11, 2006. He stated that he believed that he was authorized to practice until his application was ruled on by that Board. Alfred Cichon's testimony was refuted by the executive secretary of the Osteopathic Board when she testified that she never received any such application or communication from Alfred Cichon until March 15, 2007, which was around the time that she received the plan of supervision which is also required by the Osteopathic Board.

In further support of his assertions, Mr. Cichon testified that he had withdrawn \$100 in cash from an ATM from which he paid the \$50 application fee required by the Osteopathic Board. He stated that he exchanged \$50 of the cash for another form of payment such as a money order or cashier's check but couldn't recall what form of payment was actually used although he did not pay with a personal check, or a business check³, or treasurer's, cashier's or other form of bank check and did not have a receipt. This testimony was not found credible by the Board.

The respondent also testified that he believed that he was authorized to practice as a P.A.-C. since his application was in a "renewal" status.⁴ He was aware from past dealings with the Medical Board that a licensee is permitted to practice upon timely submission of a renewal application until such time as that application is ruled on by the Board. In fact, Cichon's fellow P.A.-C., Julie Zale, whose osteopathic license expired on March 1, 2006, had submitted her application for renewal on October 11, 2006 and had been informed by the Osteopathic Board that she could continue to practice until further notice. Ms. Zale periodically called that Board to track the status of her application, which Mr. Cichon did not choose to do since he "did not want to pester" the Board. The respondent stated that he was of the opinion that Ms. Zale would keep him abreast of the situation, and his application would follow on the same track as hers. However, Ms. Zale never inquired about Alfred Cichon's application with the Board. Additionally, she was advised by the

³ Alfred Cichon was and is the President of Allied Resources for Correctional Health (ARCH). ARCH employs Ms. Julie Zale, Alfred Cichon, and Dr. Brazalovich. As the president of a company, the respondent was assumed by the Board to be knowledgeable regarding the need to pay obligations in a manner that would result in a receipt of payment.

⁴ The Osteopathic Board's executive secretary testified that she believed Cichon had not been licensed for 10-12 years and had requested licensing records from the Maine state archives which had not been delivered by the time of the hearing. The respondent testified that he thought that he was licensed until 9 years prior to this hearing. The Board's policy, however, would only authorize a P.A.-C. to be licensed pending a renewal application if that individual was currently licensed at the time of the renewal application.

Board in November 2006 that her application had been granted. However, Ms. Zale did not receive her license until January 24, 2007 after notifying the Board of Osteopathic medicine that she had not received her license. Ms. Zale informed the respondent of these events but the respondent did not contact the Board regarding the status of his application.

Not only did the Board not believe Alfred Cichon's testimony that he submitted an application before March 15, 2007, but his testimony that he relied on Ms. Zale for information concerning his licensure status was also found suspect. If Cichon had indeed submitted his application, he most certainly would have contacted the Osteopathic Board for information regarding the status of his application after receiving word from Ms. Zale that her license had been approved and would have again inquired when her license was finally received in January 2007 but his was not forthcoming.

III.

CONCLUSIONS OF LAW

The Board, exercising its knowledge, experience, and training, and having considered all of the evidence, and particularly having had the opportunity to observe Alfred Cichon's demeanor, concluded by a vote of 8-0 that Alfred Cichon violated the provisions of:

1. 32 M.R.S.A. § 3282-A(2)(A) – The practice of fraud or deceit in connection with services rendered within the scope of the license issued by providing medical services as a physician assistant without having a supervisory physician and/or by misrepresenting to Medical Board staff the status of his license and supervisory relationship through the Board of Osteopathic Licensure;
2. 32 M.R.S.A. § 3282-A(2)(F) - engaging in conduct that violates a standard of professional behavior that has been established in the practice for which the licensee is licensed by providing medical services as a physician assistant without having a supervisory physician and/or by failing to notify the Medical Board that he no longer had a supervisory physician licensed by the Board and/or by misrepresenting to Medical Board staff the status of his license and supervisory relationship through the Board of Osteopathic Licensure;

3. 32 M.R.S.A. § 3282-A(2)(H) – A violation of this chapter or a rule adopted by the Medical Board by providing medical services as a physician assistant without having a supervisory physician and/or by failing to notify the Medical Board that he no longer had a supervisory physician licensed by the Medical Board and/or by misrepresenting to Medical Board staff the status of his license and supervisory relationship through the Board of Osteopathic Licensure;

4. Medical Board Rule, Chapter 2: By failing to comply with the following requirements:

Section 6, Scope of Practice:

A. Delegated Authority – Physician assistants may perform only those medical activities that have been delegated to the physician assistant by a supervising physician. There was no supervising physician approved by the Board.

B. Practice Setting – A physician assistant may perform medical activities only in a practice setting in which the supervising physician agrees to provide supervision. The supervising physician had not submitted a Board approved plan of supervision and therefore was not qualified to supervise.

Section 7, Supervision Criteria of Physician Assistants:

A. Supervisors - Physician assistants may practice medicine and perform medical activities only when provided supervision by a primary supervising physician or secondary supervising physician; a physician in an organized health care delivery system in which there is a primary supervising physician; or a physician licensed by the Board of Osteopathic Licensure who is permitted under rules promulgated by that Board to be a secondary supervisor of physician assistants. Mr. Cichon was not licensed by the Osteopathic Board to be a physician assistant and there was no approved supervising physician.

B. Qualification For Approval as Primary Supervising Physician – Any physician must be approved by the Board, before the physician may become a primary supervising physician, for each individual wishing to be supervised. The physician was not approved by the Medical Board or the Osteopathic Board since there was no approved plan of supervision.

C. Elements and Technical Requirements of Supervision – As part of the supervising physician/physician assistant team, a physician assistant is responsible for ensuring that the physician assistant's basic scope of practice and practice setting is identified; the delegation of medical tasks is appropriate to the physician assistant's level of competence; the relationship of, and access to, a supervising physician is defined; and a process for evaluation of the physician assistant's performance is established. There was no licensure by the Osteopathic Board and no approved supervising physician's plan.

D. Written Plan of Supervision – Physician assistants and their primary supervising physician must prepare and have on file in the practice setting as written a dated plan of supervision that is signed by both the primary supervising physician and the physician assistant, and that contains specified practice descriptions of the elements of supervision. This plan of supervision must be reviewed and updated as necessary. There was no signed plan after November 1, 2006.

Section 9, Notification of Change in or Addition of Supervising Physician:

A. A physician assistant licensed by this Board, upon changing primary supervising physician or adding an additional primary supervising physician or multiple work sites, must notify the Board. This was not done in a timely manner.

D. A physician assistant will notify the Board of any changes, additions, or deletions in supervising physicians no later than 14 days after the effective date of the change or addition. This was not done in a timely manner.

IV.

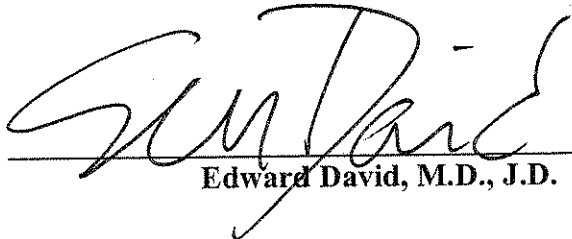
SANCTIONS

The Board, exercising its knowledge, experience, and training, and having considered all of the evidence, and particularly having had the opportunity to observe Alfred Cichon's demeanor, ordered that:⁵

1. Alfred Cichon shall receive a **REPRIMAND** for the above violations. (8-0)
2. Alfred Cichon shall pay a fine of \$1500 for the above violations. Payment shall be by certified check or money order **made payable to: "Maine Board of Licensure in Medicine"** and remitted to Randal C. Manning, Executive Director, 137 State House Station, Augusta, Maine 04333-0137 by November 8, 2007. (7-1) (The dissent would have fined the respondent the maximum \$1,500 per 4 violations for a total of \$6,000)
3. Alfred Cichon shall **pay the Board's costs of this hearing not to exceed \$3,000.** (see attached for itemized costs) Mr. Cichon shall also pay the Hearing record and transcription costs in the event of an appeal by him. Payment shall be by certified check or money order **made payable to: "Maine Board of Licensure in Medicine"** and remitted to Randal C. Manning, Executive Director, 137 State House Station, Augusta, Maine. 04333-0137 by November 8, 2007. (8-0)
This sanction is ordered based on the premise that those who violate Board Rules and statutes should be responsible for the costs of the hearing as opposed to those licensees who obey such laws.
4. Alfred Cichon's application for the renewal of his license to practice medicine as a P.A.-C. is granted as of May 8, 2007. The license hereby is suspended for a period of 90 days until August 8, 2007. (5-3) (The dissent would have denied the application).

SO ORDERED.

Date: 6/12/07



Edward David, M.D., J.D.

V.

APPEAL RIGHTS

⁵ The Board took into consideration that there were no complaints regarding patient care and that Mr. Cichon's license had already been suspended for a period of 60 days by the time of this hearing.

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3 and 10 M.R.S.A. Sec. 8003, any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine State Board of Licensure in Medicine, all parties to the agency proceedings and the Attorney General.



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0137

EDWARD DAVID, M.D.J.D.
CHAIRMAN

RANDAL C. MANNING
EXECUTIVE DIRECTOR

March 14, 2007

Hand Delivered - Corrected Copy

Alfred B. Cichon, P.A.-C
748 Lower St
Turner, ME 04282

Re: Summary suspension of Maine physician assistant license

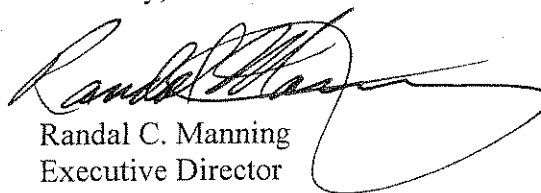
Dear Mr. Cichon:

This letter is to inform you that at the March 13, 2007, meeting of the Board of Licensure in Medicine, the Board received information indicating that you have been rendering medical services under your physician assistant's license for months without the supervision and control of a physician as required by 32 M.R.S.A. § 3270-A and Board Rule, Chapter 2, sections 6-10.

Pursuant to Title 5 M.R.S.A. 10004(3), the Board voted to summarily suspend your physician assistant license based upon the immediate jeopardy that your continued practice as a physician assistant poses to the safety of the public. Your license is summarily suspended effective March 13, 2007, for a period of thirty (30) days. An Adjudicatory Hearing concerning these matters is scheduled to take place on April 10, 2007 at 2:00 p.m. The Notice of Hearing, which specifies the alleged violations, will be sent to you forthwith.

Because your license is under suspension, immediately return the license to this office at the address above.

Sincerely,


Randal C. Manning
Executive Director

RCM/msl

cc: Dennis E. Smith, AAG

MAINE STATE BOARD OF LICENSURE IN MEDICINE

IN RE: Licensure Disciplinary Action)
Alfred B. Cichon, P.A.-C.) DECISION
Complaint No. CR 07-059)

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S.A. Sec. 3263, *et seq.*, 5 M.R.S.A. Sec. 9051, *et seq.* and 10 M.R.S.A. Sec. 8001, *et seq.*, the Board of Licensure in Medicine (Medical Board) met at the Board's offices located in Augusta, Maine on May 8, 2007. The purpose of the meeting was to conduct an adjudicatory hearing to decide whether Alfred B. Cichon, P.A.-C. violated Board statutes and Rules as alleged in the Notice of Hearing and to decide whether to grant Mr. Cichon's application for renewal of his license. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Edward David, M.D., J.D., Sheridan R. Oldham, M.D., Kimberly K. Gooch, M.D., Gary Hatfield, M.D., Bettsanne Holmes (public member), George K. Dreher, M.D., Cheryl Clukey (public member), and Daniel K. Onion, M.D. Dennis Smith, Ass't. Attorney General, presented the State's case. Mr. Cichon was present and represented by Steven Mogul, Esq. James E. Smith, Esq. served as Presiding Officer.

The Board convened the hearing and first determined that there were no conflicts of interest or bias on behalf of any Board member and took administrative notice of its statutes and rules. The hearing then proceeded forward and State's Exhibits 1-18 and Respondent's Exhibit 1 were admitted into the Record. Subsequent to the opening statements by the parties, the taking of testimony, exhibits, and closing arguments, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence.

II.

FINDINGS OF FACT

Alfred Cichon, 59 years old, served 21 years in the U.S. Air Force and was a practicing physician assistant (P.A.-C.) during the last five. He was first licensed by the Maine Board as a physician assistant on April 8, 1987. His most recent license was issued on April 1, 2005 which expired on March 31, 2007. Mr. Cichon reapplied for renewal of this license on April 3, 2007. Mr. Cichon had also been licensed as a P.A.-C. by the Maine Board of Osteopathic Licensure (Osteopathic Board) for approximately 10 years more or less before the hearing in this matter but had not renewed his license with that Board as of November 1, 2006.¹

The disciplinary issues regarding Mr. Cichon's license arose primarily from his unlicensed practice as a physician assistant and his lack of credibility with the Board. Maine Board of Licensure in Medicine Rules require that a P.A.-C. be licensed by the Board and supervised by a physician who has been approved in that capacity by the Board. Physician assistants and their primary supervising physician must prepare and have on file in the practice setting a written, dated plan of supervision that is signed by both the primary supervising physician and the physician assistant, and that contains specified practice descriptions of the elements of supervision.

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In his defense, the respondent testified that he had submitted his application in a timely manner to the Osteopathic Board sometime during October 5-11, 2006. He stated that he believed that he was authorized to practice until his application was ruled on by that Board. Alfred Cichon's testimony was refuted by the executive secretary of the Osteopathic Board when she testified that she never received any such application or communication from Alfred Cichon until March 15, 2007, which was around the time that she received the plan of supervision which is also required by the Osteopathic Board.

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CONCLUSIONS OF LAW

The Board, exercising its knowledge, experience, and training, and having considered all of the evidence, and particularly having had the opportunity to observe Alfred Cichon's demeanor, concluded by a vote of 8-0 that Alfred Cichon violated the provisions of:

1. 32 M.R.S.A. § 3282-A(2)(A) – The practice of fraud or deceit in connection with services rendered within the scope of the license issued by providing medical services as a physician assistant without having a supervisory physician and/or by misrepresenting to Medical Board staff the status of his license and supervisory relationship through the Board of Osteopathic Licensure;
2. 32 M.R.S.A. § 3282-A(2)(F) - engaging in conduct that violates a standard of professional behavior that has been established in the practice for which the licensee is licensed by providing medical services as a physician assistant without having a supervisory physician and/or by failing to notify the Medical Board that he no longer had a supervisory physician licensed by the Board and/or by misrepresenting to Medical Board staff the status of his license and supervisory relationship through the Board of Osteopathic Licensure;

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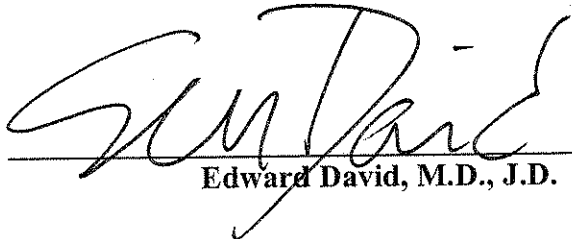
SANCTIONS

The Board, exercising its knowledge, experience, and training, and having considered all of the evidence, and particularly having had the opportunity to observe Alfred Cichon's demeanor, ordered that:⁵

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APPEAL RIGHTS

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