



Public

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

OFFICE OF PROFESSIONAL DISCIPLINE  
(212) 921-3872/3873

1411 BROADWAY - TENTH FLOOR  
NEW YORK, NEW YORK 10018

January 8, 2015

Frederic J. Cohen, Physician

Re: Application for Restoration

Dear Dr. Cohen:

Enclosed please find the Commissioner's Order regarding Case No CP-14-16, which is in reference to the restoration of license number 108899. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

Very truly yours,

LOUIS J. CATONE, Director  
Office of Professional Discipline  
By:

ARIANA MILLER  
Supervisor

DD/AM/cm

Enclosure

**CERTIFIED MAIL - RRR**

cc: Nathan Dembin, Esq.  
1123 Broadway, Suite 1117  
New York, NY 10010

The  
University of the  
Education  State of New York  
Department

IN THE MATTER

of the

Application of FREDRIC J. COHEN  
for restoration of his license to  
practice as a physician in the State of  
New York.

Case No. CP-14-16

It appearing that the license of FREDRIC J. COHEN, to practice as a physician in the State of New York, was surrendered by Order of the State Board for Professional Medical Conduct dated July 24, 2006, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having reviewed the record, including his response to the draft report of the Committee on the Professions, and having agreed with and adopted the recommendations of the Peer Committee and the Committee on the Professions, except having accepted the terms of probation recommended by the Committee on the Professions, now, pursuant to action taken by the Board of Regents on October 21, 2014, it is hereby

ORDERED that the petition for restoration of License No. 108899, authorizing FREDRIC J. COHEN to practice as a physician in the State of New York, is denied, but that the execution of the Order of surrender of said license shall be stayed, and upon a determination by the Director of the Office of Professional Medical Conduct that he has successfully completed a remediation plan in accordance with the terms of probation, he shall be placed on probation for a period of two

years under specified terms and conditions, and upon successful completion of the probationary period, his license to practice as a physician in the State of New York shall be fully restored.



IN WITNESS WHEREOF, I, John B. King, Jr., Commissioner of Education of the State of New York for and on behalf of the State Education Department, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this day of *December* 2014.

*John B. King, Jr.*  
Commissioner of Education

Case No. CP-14-16

It appearing that the license of FREDRIC J. COHEN, to practice as a physician in the State of New York, was surrendered by Order of the State Board for Professional Medical Conduct dated July 24, 2006, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having reviewed the record, including his response to the draft report of the Committee on the Professions, and having agreed with and adopted the recommendations of the Peer Committee and the Committee on the Professions, except having accepted the terms of probation recommended by the Committee on the Professions, now, pursuant to action taken by the Board of Regents on October 21, 2014, it is hereby

VOTED that the petition for restoration of License No. 108899, authorizing FREDRIC J. COHEN to practice as a physician in the State of New York, is denied, but that the execution of the Order of surrender of said license shall be stayed, and upon a determination by the Director of the Office of Professional Medical Conduct that he has successfully completed a remediation plan in accordance with the terms of probation, he shall be placed on probation for a period of two years under specified terms and conditions, and upon successful completion of the probationary period, his license to practice as a physician in the State of New York shall be fully restored.

Case Number  
CP-14-16  
July 14, 2014

THE UNIVERSITY OF THE STATE OF NEW YORK  
The State Education Department

Report of the Committee on the Professions  
Application for Restoration of Physician License

Re: **Fredric J. Cohen**

Attorney: Nathan Dembin

Fredric J. Cohen, Jackson, New Jersey, petitioned for restoration of his physician license. The chronology of events is as follows:

- 07/01/71 Issued license no. 108899 to practice as a physician in New York State.
- 01/28/86 Found guilty by New York State Education Department of failing to maintain accurate records. He was issued a penalty of censure and reprimand, probation for one year and a \$5,000 fine.
- 02/25/88 The California Medical Board issued a public reprimand based on the action taken in New York and required him to pass a clinical exam prior to returning to practice there. His license in California is currently listed as cancelled.
- 08/13/90 Voluntarily surrendered his Florida medical license based on action taken in New York.
- 08/01/06 Surrendered his New York State medical license based on charges of negligence on more than one occasion related to three patients.
- 05/23/10 Application for restoration of New York medical license submitted.
- 01/18/12 Peer Committee restoration review.
- 07/13/12 Report of the Peer Committee.
- 03/20/13 Committee on the Professions restoration review.
- 05/27/14 Draft Report of the Committee on the Professions.
- 06/23/14 Applicant's Response to the Report of the COP.

07/14/14 Report of the Committee on the Professions.

**Disciplinary History.** (See attached disciplinary documents.) In January 1986, Dr. Cohen was found guilty of falsification of the entry on a patient's operative report which reflected that Dr. Cohen was present during the surgery when he was not. Respondent received a censure and reprimand, was placed on probation for a period of one year, and was fined \$5,000.

In July 2006, Dr. Cohen was charged with practicing the profession with negligence on more than one occasion for failing to provide appropriate care to two patients in 2002 and one patient in 2005. Dr. Cohen's medical license was surrendered, effective August 1, 2006.

On May 23, 2010, Dr. Cohen submitted an application for restoration of his New York medical license.

**Recommendation of the Peer Committee.** (See attached Report of the Peer Committee.) The Peer Committee (Frontera, Lowinson, Diamond), in its report dated July 13, 2012, unanimously recommended that the surrender of Dr. Cohen's license be stayed; that, prior to Dr. Cohen being allowed to resume the practice of medicine, he be required to undergo a retraining program; and that he be placed on probation for a period of three years under specified terms and conditions.

**Recommendation of the Committee on the Professions.** On March 20, 2013, the Committee on the Professions (COP) (Mokhiber, Lopez, Naccarato) met with Dr. Cohen to consider his application for restoration. He was represented by attorney Nathan Dembin.

**Applicant's Statements to the COP**

The Committee asked Dr. Cohen to explain the events that brought him to his present situation of having to seek restoration of his license. Dr. Cohen started by describing his background of having grown up in difficult circumstances, including his experiences living in a low-income housing project, orphanages, and foster care. He then discussed the three surgeries that led to the surrender of his license. He stated that, while treating a neighbor, a piece of equipment broke inside his friend's nose and that he was able to retrieve all but one of the broken pieces. Dr. Cohen told the Committee that he knew that the patient needed an MRI, but the patient refused to have it done. Dr. Cohen stated that his judgment was clouded by his close relationship with his neighbor, but that he now knows better and would call an ambulance to take the patient to get the MRI. He indicated that his action violated professional boundaries and thereafter he decided to close his office.

Dr. Cohen told the Committee that the second of the three cases that ultimately led to the surrender of his license involved a breast augmentation procedure from which the patient developed a hematoma. He took out the implant and replaced it with a new one, but the second implant failed, as well. Telling the Committee that, at the time, he did not know his limitations, he then reconstructed the patient's breast. The patient subsequently complained that the reconstruction did not match her other breast. Dr. Cohen indicated that the third case also involved a patient who was unhappy with a breast procedure he performed. In describing

his practice at the time of his misconduct, he discussed the large number of surgeries that he had performed and the very large and stressful workload that he had taken upon himself.

Currently, Dr. Cohen indicated that he is writing papers and teaching. He stated that since 2006 he has taught undergraduate students as an adjunct professor at a college in New Jersey and two other colleges. He also reported that he has observed over 100 surgical procedures and has operated on nonliving primates and other laboratory specimens, including primates, and has taught others while doing so. He told the Committee that he has kept up-to-date in his area of practice and took a 2013 in-service exam. He further reported that he had scheduled a clinical competency assessment, as recommended by the Peer Committee.

The committee asked what new skills and/or tools he had acquired to deal with stress. Dr. Cohen noted that his ability to cope with stress has increased so that he can handle stress better and that he also addressed it via prayer. He stated that his plan is to minimize stress by no longer putting himself into the stressful, overworked situations of his past and that he has a strong level of commitment.

When asked what he would do if his license were to be restored in accordance with the Peer Committee recommendation, Dr. Cohen indicated that he felt fortunate that the committee had given an honest opinion. He stated that he would no longer be an independent physician but would work in conjunction with others, ideally to help people in need. One example he gave would be working in Veteran's Administration hospitals to reconstruct soldier's injuries. He continued to state that, although he would have preferred no probation, he was prepared to meet the Peer Committee's recommendations, including completion of a clinical competency assessment and the services of a preceptor.

#### COP Recommendation

The overarching concern in all restoration cases is the protection of the public. New York Education Law §6511 gives the Board of Regents discretionary authority to make the final decision regarding applications for the restoration of a professional license. Section 24.7 of the Rules of the Board of Regents charges the COP with submitting a recommendation to the Board of Regents on restoration applications. Although not mandated by law or regulation, the Board of Regents has instituted a process whereby a Peer Committee first meets with an applicant for restoration and provides a recommendation to the COP. A former licensee petitioning for restoration has a significant burden of satisfying the Board of Regents that there is a compelling reason that licensure should be granted in the face of misconduct that resulted in the loss of licensure. There must be clear and convincing evidence that the petitioner is fit to practice safely, that the misconduct will not recur, and that the root causes of the misconduct have been addressed and satisfactorily dealt with by the petitioner. It is not the role of the COP to merely accept, without question, the arguments presented by the petitioner, but to weigh and evaluate all of the evidence submitted and to render a determination based upon the entire record.

As did the Peer Committee, the COP noted that Dr. Cohen presented a compelling case for restoration. The COP indicated that, in two of the three surgeries that led to the loss of his license, product defects appeared to play a role in the negative outcomes. Dr. Cohen accepted full responsibility and expressed complete remorse for the outcome of the surgeries.

The COP also noted the extensive number of continuing education courses that Dr. Cohen completed and agreed that the Peer Committee's retraining recommendations for ensuring competency were appropriate.

Subsequent to Dr. Cohen's meeting with the COP and in accordance with the recommendation of the Peer Committee, Dr. Cohen underwent a clinical competency assessment at the Upstate NY Comprehensive Clinical Competency Center. The COP received and reviewed a copy of the report of that assessment. The Recommendations section of the report indicated that "it is reasonable and appropriate to reinstate his medical license at this time." The report went on to recommend retraining programs, the details of which are dependent on whether he wishes to return to the practice of surgery or prefers to enter the practice of general medicine (not surgery). The report also recommended "formal psychotherapeutic support on a weekly basis with a psychologist." Having reviewed the clinical competency assessment, the COP agrees with the recommendations, and those recommendations have been incorporated into the terms of probation attached hereto as Exhibit A.

Therefore, based on the foregoing, a complete review of the record, and its meeting with him, the COP voted to recommend that the surrender of Dr. Cohen's physician license be stayed; that he be placed on probation, under the terms and conditions specified in the Terms of Probation annexed hereto as Exhibit A, for a period ending two years following a determination by the Director of the Office of Professional Medical Conduct that he has successfully completed a remediation plan in accordance with the Terms of Probation; and that, upon successful completion of probation, his license be fully restored.

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Upon receipt and review of the applicant's response to the May 27, 2014 draft report, the COP unanimously adheres to its original recommendation, except to the extent that it recommends that the terms of probation be modified in accordance with Exhibit A to provide sufficient flexibility to the applicant in a manner consistent with the way in which the Office of Professional Medical Conduct (OPMC) supervises the probation of physicians.

Lawrence H. Mokhiber, Chair  
Robert Lopez  
Susan Naccarato

## EXHIBIT "A"

TERMS OF PROBATION  
Of THE COMMITTEE ON THE PROFESSIONS**Fredric J. Cohen**

1. That applicant, during the period of probation, shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of these Terms of Probation and in its investigation of all matters concerning applicant. Applicant shall respond in a timely manner to all OPMC requests for written periodic verification of applicant's compliance with these Terms of Probation. Applicant shall meet with a person designated by the Director of OPMC, as directed. Applicant shall respond promptly and provide all documents and information within applicant's control, as directed. These conditions shall take effect upon the Board of Regents' issuance of the Order in this matter;
2. That, if the applicant desires to return to the practice of plastic surgery, he must complete at least six months of formal retraining or mini-residency or an equivalent structured retraining program that has been proposed in writing and approved by the Director of OPMC, to bring him up to a current level of medical knowledge and to meet current practice expectations. Applicant shall identify a Preceptor physician who is board certified in the same specialty, to be approved in writing by the Director of OPMC. The applicant shall cause the Preceptor to:
  - a. Develop and submit to the Director of OPMC for written approval, a remediation plan, which addresses the deficiencies/retraining recommendations identified in the September 24, 2013, Clinical Competency Assessment (CCA) conducted by Upstate N.Y. Comprehensive Clinical Competency Center of Albany Medical College. This proposal shall establish a timeframe for completion of the remediation program.
  - b. Submit progress reports on a monthly basis certifying whether the applicant is fully participating in the personalized continuing medical education program and is making satisfactory progress toward the completion of the approved remediation plan.
  - c. Report immediately to the Director of OPMC if the applicant withdraws from the program and report promptly to OPMC any significant pattern of noncompliance by the applicant.
  - d. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by the applicant toward remediation of all identified deficiencies.

3. After completion of the retraining period in plastic surgery, the applicant must maintain a surgical practice monitor, identified by him and approved by the Director of OPMC. Such monitor shall review at least 20 of applicant's charts per month and report to the Director of OPMC on a quarterly basis for the duration of the probation period.
4. That, if the applicant wishes to practice in any area of medicine other than plastic surgery, he must take a dedicated 1 year residency program in such area of medicine, or an equivalent structured retraining program that has been proposed in writing and approved by the Director of OPMC, under the supervision of a well-trained physician who provides care to the appropriate area of medicine. A clear written proposal for this course of formal training must be submitted to the Director of OPMC with bi-monthly reports from the applicant's supervisor. If, at the end of such period of formal training, the applicant demonstrates the knowledge and skills to practice in this area of specialty, applicant shall identify a practice monitor who reviews at least 20 of his charts on a monthly basis for at least one year. That monitor must be an expert in the relevant area of practice and must make monthly reports to the Director of OPMC as to the quality of his practice, recordkeeping, and CME activities.
5. Upon completion of either of the retraining programs chosen and for the duration of the probation period, applicant shall practice medicine only in an Article 28 facility or under supervision in a group practice proposed by applicant and approved in writing by the Director of OPMC
6. That applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing applicant's profession;
7. That applicant shall submit written notification to the Director of OPMC, 433 River Street – Suite 303, Troy, NY 12180-2299, within 15 days of receipt of the Order in this matter, of any employment and/or practice, applicant's residence, telephone number, and mailing address and of any change in applicant's employment, practice, residence, telephone number, and mailing address within or without the State of New York;
8. That applicant shall engage in formal psychotherapeutic treatment with a qualified health care professional (Therapist), proposed by applicant and approved, in writing, by the Director of OPMC. The Therapist is to be familiar with the applicant's mental illness, and with these Terms of Probation. Applicant will continue in treatment at a frequency determined by the Therapist, under a treatment plan approved by the Director of OPMC, for the duration of probation. OPMC, at its discretion, may provide information or documentation from its investigative files concerning applicant to applicant's Therapist. Applicant shall submit the name of a proposed successor within seven (7) days of becoming aware that the applicant's approved Therapist is no longer willing or able to serve in his/her capacity.
  - a. The Therapist shall submit reports to OPMC every three (3) months certifying compliance with treatment by applicant and describing in detail any failure to comply.
  - b. The Therapist shall report immediately to OPMC any significant pattern of absences, suspected or actual impairment, or failure to comply with recommended

treatment, or discontinuation of recommended treatment, including any prescribed medications, by applicant.

9. That applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department Education Department (NYSED), that applicant has paid all registration fees due and owing to the NYSED and applicant shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by applicant to the Department of Health (DOH), addressed to the Director, OPMC, as aforesaid, no later than the first three months of the period of probation;
10. That applicant shall submit written proof to the DOH, addressed to the Director, OPMC, as aforesaid, that 1) applicant is currently registered with the NYSED, unless applicant submits written proof that applicant has advised DPLS, NYSED, that applicant is not engaging in the practice of applicant's profession in the State of New York and does not desire to register, and that 2) applicant has paid any fines which may have previously been imposed upon applicant by the Board of Regents or pursuant to section 230-a of the Public Health Law, said proof of the above to be submitted no later than the first two months of the period of probation;
11. That the period of probation shall be tolled during periods in which the applicant is not engaged in the active practice of medicine in New York State. The applicant shall notify the Director of OPMC, in writing, if the applicant is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. The applicant shall notify the Director again at least 14 days before returning to active practice in New York State. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon the applicant's return to practice in New York State;
12. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the OPMC may initiate a violation of probation proceeding.