

**STATE OF VERMONT  
BOARD OF CHIROPRACTIC**

In re: Elmer Sweetland

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Docket No. CH 04-0105

**Appearances:**

Petitioner, State of Vermont: Edward G. Adrian

Respondent: did not appear

Presiding Officer: Larry S. Novins

**DEFAULT ORDER**

The Board held a hearing on the above matter on September 6, 2005 at the Redstone Building 26 Terrace St. in Montpelier, Vermont. The Respondent did not attend and was not represented.

**Findings of Fact**

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, Chapter 10 of Title 26, the Administrative Rules of the Board of Chiropractic and the Rules of the Office of Professional Regulation.
2. The Respondent was sent notice of the Charges against him by certified mail on July 5, 2005 to his last known address.
3. Dr. Sweetland signed the return receipt on July 11, 2005.
4. Notice of the default hearing scheduled for this date was mailed to that same address by certified mail on August 31, 2005.
5. Mr. Sweetland has not answered the charges against him within the 20 days provided by rule.
6. Upon hearing the State's presentation and taking notice of its own file, the Board found the Respondent to be in default. The allegations contained in the State's specification of charges dated June 28, 2005 (copy attached) are therefore treated as the facts on which the Board's order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

**Conclusions of Law**

The Respondent has received adequate notice of the charges against him as indicated by the Board's file and the State's presentation. Because the Respondent has failed to answer the charges against him, the State's factual allegations are treated as if proved. O.P.R. rule 3.4.

Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. § 809(d), that the Respondent has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

### Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby **Revoked**, effective as of the date of the hearing.

For the violations found above, the Board imposes a civil penalty in the amount of \$1,000.00. Payment shall be made to the State of Vermont. Payment is to be made through the Office of Professional Regulation.

The Board hopes that no further legal action will be necessary to protect the public.

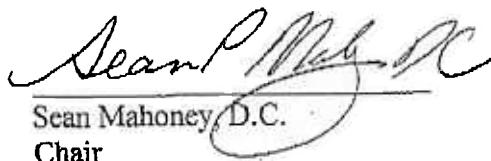
### Appeal Rights

This is a final administrative determination by the Vermont Board of Chiropractic.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Montpelier, Vermont 05609-1101 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. ' ' 129(d) and 130a.

By:

  
Sean Mahoney, D.C.  
Chair

Date: September 6, 2005

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/8/05

**STATE OF VERMONT  
SECRETARY OF STATE  
OFFICE OF PROFESSIONAL REGULATION  
BOARD OF CHIROPRACTIC**

**IN RE:** )  
**ELMER R. SWEETLAND, D.C.** ) **Docket No: CH04-0105**  
**License No. 006-0000637** )

**SPECIFICATION OF CHARGES**

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Elmer R. Sweetland, D.C.:

**Board Authority**

- 1) The Vermont Board of Chiropractic has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Chiropractic Physicians pursuant to 3 V.S.A. §§129, 129a; 26 V.S.A. §§521, 527, 529, 541; the Board of Chiropractic Laws and Rules ("BCLR"); and the Rules of the Office of Professional Regulation.
- 2) Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).
- 3) Failing to practice competently by way of failure to conform to the essential standards of acceptable and prevailing practice is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(b)(2).
- 4) Conduct which evidences unfitness to practice chiropractic is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §541(b)(10).
- 5) Notwithstanding the provisions of 3 V.S.A. §129a(a)(10), in the course of practice, failure to use and exercise that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent chiropractor engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §541(b)(14).

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Prosecuting Attorney  
Office of  
Professional Regulation  
Montpelier, VT 05602

6) Practicing as a chiropractor without a license is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §522(a); BCLR 2.1.

7) Using letters, words or insignia indicating that one is a chiropractor without holding a current license is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §522(b).

8) Failure to keep written chiropractic records justifying a course of treatment for a patient, including patient histories, examination results and test results is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §541(b)(5).

9) Chiropractic records shall be legibly maintained and shall contain sufficient information to identify the patient; support the diagnosis/assessment; substantiate the treatment; and document the course and results of treatment accurately by including, at a minimum, patient histories, examination results, test results, records of substances dispensed, administered, or recommended, reports of consultations and hospitalizations, and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient. Initial and follow-up services (daily records) shall consist of documentation of current status and treatment rendered. All patient records shall include patient history; condition presented or wellness care, or both; and examination findings, including x-rays when clinically indicated. . . A licensed chiropractic physician must provide copies of a patient's records within 30 days, when the chiropractic physician receives a written request for the records from the patient, the patient's representative, or succeeding health care professionals or institutions. BCLR 6.1.

### Facts

10) Respondent, Elmer R. Sweetland, is a Chiropractic Physician holding license number 006-0000637 issued by the State of Vermont. Respondent's license expired on September 30, 2004.

11) On or about December 30, 2004, a complaint was filed against the Respondent after the complainant learned that the Respondent did not keep medical records on patients seen in his chiropractic office. In a letter dated December 21, 2004, Respondent writes, "I do not write anything down so as not to pervert my powers of observation."

12) On or about February 28, 2005, State Investigator Amy Carlson interviewed Respondent by telephone. When the Respondent was asked

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about his record keeping, he stated that he does not keep any records, and that in his 28 years of practice he has never made a second appointment. The Respondent also informed Investigator Carlson that he does not do any insurance billing. He advised that he has a cash only business.

13) On or about September 30, 2004, the Respondent's license lapsed. He has continued to treat patients since that date.

14) On or about February 9, 2005, Investigator Carlson drove to the office/residence of the Respondent. Photographs were taken showing signage stating "Chiropractor, E.R. Sweetland, D.C."

15) The Respondent is currently listed in the telephone book as "Monk Sweetland" under the listing for chiropractors. The Respondent advised Investigator Carlson that "Monk" was his nickname.

16) During his telephone interview with Investigator Carlson, the Respondent advised Carlson that there had been no changes in his daily practice since his State license lapsed and that he has continued to see patients. He also advised that his work was "a gift and is not the product of a license;" therefore, renewing his license was not necessary.

17) During the telephone interview with the Respondent, Investigator Carlson learned that Respondent adjusts animals in his practice. He acknowledged that "several years ago" the State informed him that he must obtain a veterinary referral prior to treating any animal. On information and belief, he has never received such a referral.

### Charges

18) The above acts and/or circumstances constitute unprofessional conduct because the Respondent violated:

- a. 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession); and
- b. 3 V.S.A. §129a(b)(2) (Failure to conform to the essential standards of acceptable and prevailing conduct); and
- c. 26 V.S.A. §541(b)(10) (Conduct which evidences unfitness to practice chiropractic); and
- d. 26 V.S.A. §541(b)(14) (Notwithstanding the provisions of 3 V.S.A. §129a(a)(10), in the course of practice, failure to use and exercise that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent chiropractor engaged in similar

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practice under the same or similar conditions, whether or not actual injury to a patient has occurred.); and

e. 26 V.S.A. §522(a) (A person shall not practice chiropractic or hold himself or herself out as being able to do so in this state unless he or she is licensed under this chapter); and

f. BCLR 2.1 (No person may practice chiropractic in Vermont without being currently licensed by the Board); and

g. 26 V.S.A. §522(b) (A person shall not use in connection with the person's name any letters, words or insignia indicating that the person is a chiropractor, chiropractic physician or doctor of chiropractic unless the person is licensed under this chapter); and

h. 26 V.S.A. §541(b)(5) (Failure to keep written chiropractic records justifying a course of treatment for a patient, including patient histories, examination results and test results); and

i. BCLR 6.1 (Minimum Record Keeping Standards).

#### Relief Requested

WHEREFORE, the license of Elmer R. Sweetland, D.C. should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 28 day of June 2005.

STATE OF VERMONT  
SECRETARY OF STATE

By:

Edward G. Adrian  
State Prosecuting Attorney

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