

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	
Carl Bonofiglio, D.C.)	FINAL ORDER
License No; 2491)	
)	
Licensee.)	Case # 2004-1038
<hr/>		

The Oregon Board of Chiropractic Examiners (hereafter "Board" or "OBCE") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Carl Bonofiglio, D.C. (hereafter "Licensee"), is a licensed chiropractic physician in Oregon. The Board issued a Notice of Proposed Discipline on October 6, 2004 for the following reasons:

1.

Patient, 1 had not been seen by Licensee for a two year period. Patient 1 had an outstanding balance owed to Licensee for treatment services. On January 8, 2004, Licensee caused \$100.00 to be charged on 1's credit card without her authorization. Again on July 1, 2004, Licensee caused to be deducted from patient 1's credit card, five separate charges; \$300.00, \$500.00, \$500.00, \$500.00 and \$150.00; for a total of \$1950.00 in charges. These deductions were not with patient 1's authorization. The unauthorized deductions by Licensee to the account made the past due amount paid off.

2.

On July 18, 2004, Patient 1 filed a complaint as to Licensees recovering the amounts owed without her authorization. The amounts were deducted out of Patient 1's account which

caused her other payments to be non-sufficient funds. This caused Patient 1 to almost become evicted from her apartment and required her to borrow additional funds from family to cover her living expenses. On August 9, 2004, the monies were refunded to Patient 1 by Licensee.

3.

The Board finds that Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's practice, as described above, constitutes violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015 (7) and OAR 811-015-0000 (2) and (5). Licensee has failed to comply with Oregon State Law in that he violated ORS 165.055 (Fraudulent use of a credit card) and ORS 165.074 (Unlawful factoring of payment card transaction). After service of the Proposed Notice of Discipline occurred, Licensee contacted the Board and provided additional information regarding this matter and indicated he would not be requesting a hearing.

4.

The Licensee, not requesting a hearing, agreed to accept the attached Letter of Concern and is aware that the Board orders that this disciplinary action may be concluded by entry of this Final Order. Licensee has waived his right to a hearing and any appeal of this matter. It is so ordered that the attached letter of concern will be attached to Licensee's licensing record as discipline and if so requested will be provided pursuant to law.

IT IS SO ORDERED this 9th day of November, 2004.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: Original signature on file
at the OBCE office.
Dave McTeague, Executive Director



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

3218 Pringle Road SE, Suite 150

Salem, OR 97302-6311

(503) 378-5816

FAX (503) 362-1260

E-mail: oregon.obce@state.or.us

www.obce.state.or.us

November 9, 2004

Carl Bonofiglio, DC
8835 SW Canyon Ln. Ste 115
Portland, OR 97225-3451

Re: Case # 2004-1038, Letter of Concern

Dear Dr. Bonofiglio,

The Oregon Board of Chiropractic Examiners is concerned with your conduct towards the patient in this situation.

Your action in charging your patient's credit card account electronically \$1,950 for billings owed you without your patient's authorization is in violation of state law and the Board's administrative rules. You did not inform your financially distressed patient of your actions. This caused her other payments to be non-sufficient funds and to almost become evicted from her apartment. Your action required her to borrow additional funds from family to cover her living expenses.

The Board finds that your conduct as described above constitutes unprofessional conduct and constitutes violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015 (7) and OAR 811-015-0000 (2) and (5); ORS 165.055 (Fraudulent use of a credit card) and ORS 165.074 (Unlawful factoring of payment card transaction).

We duly note that you refunded these charges to your patient's account some five weeks later, however, that was after you received notice of a complaint to the Board.

This Letter of Concern will be noted on your license as a public record.

Sincerely,

Original signature on file
at the OBCE office.

Dave McTeague
Executive Director



State of Oregon) Case # 2004-1038
County of Marion) Carl Bonofiglio DC

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Oregon Board of Chiropractic Examiners, and as such, am authorized to verify pleadings in this case: and that the foregoing Final Order is true to the best of my knowledge as I verily believe.

Original signature on file
at the OBCE office.
By: _____
Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me
this 9 day of Nov, 2004

Original signature on file
at the OBCE office.
NOTARY PUBLIC FOR OREGON _____
My Commission Expires: 11-5-04



CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on November 9, 2004, I served the foregoing Final Order upon Carl Bonofiglio DC, the party hereto, by mailing,, a true, exact and full copy thereof to:

Carl Bonofiglio, DC
8835 SW Canyon Ln. Ste 115
Portland, OR 97225-3451

Timothy L. Murphy AAL
714 SW 20th Place
Portland, Oregon 97205

Original signature on file
at the OBCE office.

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	NOTICE OF PROPOSED
Carl Bonfiglio, D.C.)	
License No; 2491)	LETTER OF CONCERN
)	
Licensee.)	Case # 2004-1038
_____)	

The Oregon Board of Chiropractic Examiners (hereafter “Board” or “OBCE”) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Carl Bonfiglio, D.C. (hereafter “Licensee”), is a licensed chiropractic physician in Oregon. The Board proposes to discipline Licensee or the for the following reasons:

1.

Patient 11 had not been seen by Licensee for a two year period. Patient 1 had an outstanding balance owed to Licensee for treatment services. Again on July 1, 2004, Licensee caused to be deducted from patient 1’s credit card, five separate charges; \$300.00, \$500.00, \$500.00, \$500.00 and \$150.00; for a total of \$1950.00 in charges. These deductions were not with patient 1’s authorization.

2.

On July 18, 2004, Patient 1 filed a complaint as to Licensees recovering the amounts owed without her authorization. The amounts were deducted out of Patient 1’s account which caused

her other payments to be non-sufficient funds. This caused Patient 1 to almost become evicted from her apartment and required her to borrow additional funds from family to cover her living expenses. On August 9, 2004, the monies were refunded to Patient 1 by Licensee.

3.

The Board finds that Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's practice, as described above, constitutes violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015 (7) and OAR 811-015-0000 (2) and (5). Licensee has failed to comply with Oregon State Law in that he violated ORS 165.055 (Fraudulent use of a credit card) and ORS 165.074 (Unlawful factoring of payment card transaction).

4.

Due to the aforementioned violations, the OBCE proposes to discipline Licensee by the attached Letter of Concern due to the aforementioned violations. This is a disciplinary action.

5.

Licensee shall pay costs of this disciplinary proceeding, including investigative costs and attorney fees pursuant to ORS 684.100(9)(g).

6.

Licensee has the right, if Licensee requests, to have a formal contested case hearing before the OBCE or its hearings officer to contest the matter set out above. At the hearing, Licensee may be represented by an attorney and subpoena and cross-examine witnesses. That request for hearing must be made in writing to the OBCE, must be received by the OBCE within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and must be accompanied by a written answer to the charges contained in this notice.

7.

The answer shall be made in writing to the OBCE and shall include an admission or denial of each factual matter alleged in this notice, and a short plain statement of each relevant affirmative defense Licensee may have. Except for good cause, factual matters alleged in this notice and not denied in the answer will be considered a waiver of such defense; new matters alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on any issue not raised in the notice and answer.

8.

If Licensee requests a hearing, before commencement of that hearing, Licensee will be given information on the procedures, rights of representation and other rights of the parties relating to the conduct of the hearing as required under ORS 183.413-415.

9.

If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the hearing, the OBCE may issue a final order by default and impose the above sanctions against Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file regarding the subject of this automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a prima facie case.

IT IS SO ORDERED this 6th of October 2004.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file
at the OBCE office.

Dave McTeague
Executive Director

State of Oregon) Case # 2004-1038
County of Marion) Carl Bonofiglio DC

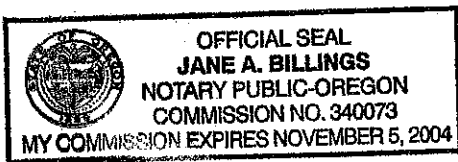
I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Oregon Board of Chiropractic Examiners, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice of Proposed Letter of Concern is true to the best of my knowledge as I verily believe.

Original signature on file
at the OBCE office.

Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me

this 6 day of October, 2004



Original signature on file
at the OBCE office.

NOTARY PUBLIC FOR OREGON
My Commission Expires: 11-5-04

CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on October 6, 2004, I served the foregoing Notice upon Carl Bonofiglio DC, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Carl Bonofiglio, DC
8835 SW Canyon Ln. Ste 115
Portland, OR 97225-3451

Original signature on file
at the OBCE office.

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

3218 Pringle Road SE, Suite 150

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(503) 378-5816

FAX (503) 362-1260

E-mail: oregon.obce@state.or.us

www.obce.state.or.us

October 6, 2004

Carl Bonofiglio DC
8835 SW Canyon Lane
Portland, Oregon 97225

Re: Case # 2004-1038, Proposed Letter of Concern

Dear Dr. Bonofiglio,

The Oregon Board of Chiropractic Examiners is concerned with your conduct towards the patient in this situation.

Your action in charging your patient's credit card account electronically \$1,950 for billings owed you without your patient's authorization is in violation of state law and the Board's administrative rules. You did not inform your financially distressed patient of your actions. This caused her other payments to be non-sufficient funds and to almost become evicted from her apartment. Your action required her to borrow additional funds from family to cover her living expenses.

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Sincerely,

Dave McTeague
Executive Director

