## BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS STATE OF OREGON

FINAL STIPULATEI
ORDER

## Case # 2014-1028

14 The Oregon Board of Chiropractic Examiners (hereafter "Board" or "OBCE") is the state 15 agency responsible for licensing, regulating and disciplining chiropractic physicians and certified 16 chiropractic assistants in the State of Oregon. Timothy Driscoll, D.C. (hereafter "Licensee"), is a 17 licensed chiropractic physician in Oregon.

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In the Matter of

Timothy Driscoll, D.C.

License No; 3144

Licensee.

## Findings of Fact

20 In 2007, Licensee met Patient 1 when she was a student at a local college. Licensee was 21 the program director and teacher of some courses at the school. Licensee maintained contact 22 with Patient 1 after she left that school and was on social media with her. Patient 1 became a 23 patient of Licensee's in November 2011, when she was treated by him with chiropractic care. 24 While he was treating her, Licensee and Patient 1 began flirtatious text messaging and social 25 media exchanges. In September 2013, Licensee and Patient 1 began to exchange services; 26 Licensee would provide chiropractic service and Patient 1 would provide massage therapy. The 27 first exchange between them was professional. However, the subsequent exchange of services was accompanied by increasingly sexualized behavior. 28 29 On one appointment, Patient 1 masturbated for Licensee. They exchanged services in

30 Licensee's office where they received massage/chiropractic and also had sexual relations.

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1 Eventually, the relationship turned to strictly a sexual one. Patient 1 would come to Licensee's 2 office early in the morning where they would engage in sexual relations, and then each would go 3 on with their workday. 4 In the investigation, Licensee admitted that he engaged in a sexual relationship with 5 Patient 1 from January 2014 to September 2014. Licensee admitted that Patient 1 was a patient 6 and that he did not discharge her as a patient prior to entering into a sexual relationship with her. 7 Patient records show Licensee recording chiropractic care from November 2011 to 8 August 2013. 9 Conclusions of Law 10 2. 11 If the matter were to proceed to hearing, the Board would prevail in proving that 12 Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's conduct, 13 as described above, in regards to Patient 1 constitutes violations of ORS 684.100 (1)(f)(A); and 14 OAR 811-035-0015(1)(a)-(e). The Board believes that there was a doctor/patient relationship with Patient 1 prior to sexual contact and that the doctor/patient relationship had not been 15 16 appropriately terminated prior to sexual contact pursuant to OAR 811-010-0005(4). 17 Order 18 3. 19 The Board finds Licensee in violation of ORS 684.100(1)(g)(A) and OAR 811-035-20 0015(1)(b)-(e) and orders Licensee to complete the following: 21 22 23 . 1. The parties have agreed to enter this stipulated final order. Licensee was 24 cooperative during the investigation with the Board. Licensee agrees that he is 25 aware of his right to a hearing with his attorney present to contest the charges 26 and hereby waives that right and agrees to entry of this order. The signature of

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this order also waives any right to appeal. The parties wish to settle and resolve the above matter without further proceedings.

Licensee's license to practice Chiropractic is hereby suspended for 90 days to begin on the date of the last signature, with 60 days of the suspension stayed providing that Licensee complies with the remainder of this agreement. Licensee may not participate in any type of practice of chiropractic during that suspension time period.

Licensee is placed on Probation for a period of five years from the date of completion of the suspension.

Licensee will have a restriction on his license to have a board approved chaperone for all female patients for five years. The patients shall sign a statement that they understand that Dr. Driscoll is required to have a chaperone and that requirement cannot be waived by any patient. The chaperone shall not be related to the License or involved in the past or current personal relationship with Licensee. The chaperone shall meet with representatives of the Board to be interviewed and approved. The Licensee shall provide the chaperone with a copy of the Final Order and obtain the chaperone's agreement to inform the Board if the chaperone has any concerns that Licensee has violated the conditions of this order or is . engaging in behavior which may place a patient at risk. An agreement with Licensee stipulating no harm or retribution to the chaperone may be incurred for reporting to the Board will also be signed. A copy of this agreement with each chaperone using the Board's template will be provided to the Board. The chaperone shall initial the patient's chart at the time of each visit to confirm presence during the visit. The chaperone must be provided for all female patients regardless of age and they may be a Certified Chiropractic Assistant that is employed by Licensee.

To be relieved of the chaperone requirement, Licensee must obtain an opinion from a Board approved practitioner (psychologist or psychiatrist) and someone independent of his current counseling, that he is safe to return to practice without chaperones in writing and present that to the Board prior to release. Licensee agrees to fully cooperate with that practitioner,

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Licensee must attend and successfully complete the PBI program within six months at his own expense and provide proof of completion of the program and a final report of completion to the Board within thirty days of completion. As of the date of signing this document, Licensee has completed this.

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1 2 3 4 5 6 7 8 9	6.	Licensee is assessed a civil penalty in the sum of \$2,000 payable to the Board in monthly installments of \$500 until paid off. Pursuant to Oregon Revised Statute ORS 293.231, the OBCE will refer the amounts owed to collection if it has received no payment on the account for more than 90 days. Thereafter, the Board will consider assignment to the Oregon Department of Revenue or a private collection agency for collection. Final fees may include additional percentages for any increase in the amount Licensee owes due to the accrual of interest on the unpaid principal amount.
10 11 12 13 14 15 16	7.	Prior to return to practice, Licensee has completed a psycho-sexual evaluation by a board approved psychiatrist or psychologist and had provided the outcome of that report to the Board. Licensee agrees to complete the recommendations of that evaluation and that he complete an annual polygraph at his own cost to test focusing on sexual history disclosure with particular focus on the question of sexual contact with female patients.
17 18 19 20 21 22 23 24 25 26	<b>8.</b>	Licensee agrees to continue in private counseling with a Board approved psychiatrist/psychologist and someone experienced in working with professionals who have crossed sexual boundaries with patients, for a minimum of two years after signing this agreement and will cooperate with providing proof of this to the Board, if requested. Licensee agrees to provide the evaluation of Dr. Steven Mussack to this practitioner. If the psychiatrist/psychologist requires that Licensee fulfill other treatment recommendations in order to resume practice, Licensee will submit to and agree to complete those recommendations as well.
27 28 29 30	9.	Licensee agrees to take and pass the EBAS ethics and boundaries exam after his successful completion of the PBI ethics program and within one year of this order being final.
31 32	10.	Before removal from probation, Licensee will be interviewed by the Board.
32 33 34 35 36 37	11.	Further violations of this final order may result in further discipline up to and including revocation of the license. If Licensee moves from the State of Oregon, the requirements in this order shall be tolled. Dated: <u>2/15/16</u> .
38 39		BOARD OF CHIROPRACTIC EXAMINERS State of Oregon
40		Original signatures are on file in the OBCE
41 42		office.
43.		BY
44		Cassandra C. Skinner, J.D. Executive Director

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Dated: <u>02/02/2016</u> OBCE on BY:\_\_\_\_\_\_ BY:\_\_\_\_\_\_ Timothy Driscoll DC, Licensee 1 Original signatures are on file in OBCE office 2 3 4

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