

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
) Case # 2012-~~3014~~, 2012-1051, 2013-1004
Kevin Plummer, D.C.,) 2013-1010, 2013-1011, 2013-1012,
) 2013-1013
)
) STIPULATED FINAL
Licensee.) ORDER
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)
_____)

The Oregon Board of Chiropractic Examiners (hereafter “Board”) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Kevin Plummer, D.C. (hereafter “Licensee”), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

Findings of Fact

1.

Patient 1 was treating with Licensee in September 2012 and paid for services in advance for a December 2012 appointment. When she went to her scheduled appointment the clinic office was closed and the clinic appeared empty. Patient 1 attempted to make phone contact in order to get a refund of her payment and her medical records and never received a return call. She tried again in January 2013 and the phone number was no longer receiving messages. Patient 1 got no notice the clinic was closing.

2.

Patient 2 was a long time patient of Licensee and pre-paid for six month’s worth of treatment. When she showed up at his clinic in mid-December 2012 for her scheduled appointment, she found the clinic was closed, blinds were shut and it was empty. She left a phone message at the clinic and Licensee’s home. Patient 2 had credit for treatment she had not yet received. Patient 2 never received a return call from Licensee. Patient 2 got no notice that the clinic was closing.

3.

During her patient visits, Patient 2 witnessed Licensee's mother performing chiropractic assistant massage and knew that she was not a licensed chiropractic assistant. Patient 2 had received a massage from Licensee's mother two years prior to the clinic closing.

4.

Patients 3 and 4, a married couple were also Licensee's patients. They saw him intermittently and paid cash for care. They attempted to call in December 2012 for a new appointment and left a voice mail. They did not get a return call. They did not receive notice that the clinic was closing.

5.

Patient 5 showed up for her scheduled appointment in December 2012 and found the clinic closed and no information on the door. She called and left a message on the phone but did not have a return call. She has not received any notice that the clinic was closing.

6.

Patient 6 showed up for her scheduled appointment in December 2012 and found the clinic closed and no information on the door. She called and left a message on the phone but did not have a return call. She has not received any notice that the clinic was closing.

7.

In the investigation of this matter, Licensee admitted that in December 2012 he moved his business from Salem to Creswell, Oregon. Licensee indicated another chiropractor had purchased his business and was to notify the patients of the move. Licensee also admitted that he intended to train two staff to be chiropractic assistants but had failed to do so.

8.

The Board reviewed Licensees chart notes during the investigation and found that he had noted billing in Patient 1's file that was not supported by clinical justification in the chart notes and

had billed for e stimulus and massage without noting the time performed as required for these timed coded procedures.

Conclusions of Law

9.

The Board finds that the acts and conduct of Licensee described above as patient abandonment are in violation of:

a) OAR 811-015-0006 (1) A Chiropractic physician shall make available within a reasonable time to a patient or a third party upon the patient's written request, copies or summaries of medical records and originals or copies of the patient's X-rays.

b) ORS 684.100 (1)(s) ...failing to give reasonable access to the records and files of the physician's patients at any time.

c) ORS 684.100(1)(f)(A) any conduct or practice contrary to recognized standards of ethics of the chiropractic profession or any conduct that might constitute a danger to the health of safety of a patient or the public.

d) ORS 684.100(1)(s) failing to give prior notice to patients of the permanent or temporary closure of the physicians practice or failing to give reasonable access to the records and files of the patients in the time requested.

e) ORS 684.100(1)(m) aiding or abetting the practice of any of the healing arts by an unlicensed person.

f) OAR 811-015-0010(1) clinical rationale must be shown for all opinions, diagnostic and therapeutic procedures. (2) Accepted standards means skills and treatment which are recognized as being reasonable, prudent and acceptable under the same or similar conditions or circumstances.

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Stipulations

10.

Therefore, pursuant to ORS 183.417(3) and ORS 684.100(9)(g) the OBCE orders:

1. The parties wish to settle and resolve this matter without further proceedings and have agreed to enter this stipulated final order in regards to the allegations in the notice issued on November 30, 2012. Licensee is aware of his right to a hearing with his attorney present to contest the charges and hereby waives that right and agrees to entry of this final order. The signature of this order also waives any right to appeal.
2. Licensee agrees to a suspension of 90 days, but the suspension will be stayed if Licensee abides by the terms of this agreement and completes the requirements herein.
3. Licensee agrees to take and complete 8 hours of board approved continuing education on charting and documentation.
4. Licensee agrees to complete 20 hours of community service by providing pro bono chiropractic care in the community that is board approved. Licensee agrees to provide proof of providing the care via written verification.
5. Licensee agrees to allow the Board or their representative to obtain random files through file pulls in his office and agrees to cooperate in the random file pulls.
6. Licensee agrees to find a chiropractic mentor, approved by the Board, to assist him in his current practice and report to the Board his progress, subject to the following provisions;

Mentor Provisions:

- A) Licensee will be in a Board-Approved plan of supervision with a licensed Chiropractor for a period of one year from the date of their first in person meeting. This meeting must occur within 120 days of the effective date of the Final Order.
- B) Licensee must participate in and successfully complete a mentoring plan of as part of the Plan of Supervision with a board-approved Mentor for a period of at least one year. The mentor will sign a personal services contract with the OBCE for the provision of this service. The mentoring plan will have a focus on development of acceptable examination, clinical justification, informed consent, billing practices and procedures, charting and risk management practices to ensure compliance with statutes and rules and, in particular, addressing all issues identified in this order. The Mentor will be responsible to review charts and report any findings to the Board that are appropriate.
- C) At any time that the Licensee ceases active practice, his license lapses or he changes to inactive status, this will not count towards completing of the mentoring period. The Mentor will perform file reviews of records and billings of Licensee's case work and report to the board on his progress at meeting

minimum standards of chiropractic health care. Licensee must allow the Mentoring Doctor to enter Licensee's business premises to examine, and review Licensee's patient or other records to determine compliance with the terms of this order, for the duration of this Mentoring plan. If the Mentor requests and with the patient's agreement, Licensee will allow the Mentor to observe a patient encounter.

- D) Licensee agrees that at any time the Mentor or Board representative may pull, retrieve patient files & billing records for the Board's review for up to two years. Licensee is required to allow the OBCE or its representative to periodically review Licensee's patient records and chart notes. This includes review and photocopy of licensee's patient records to ensure licensee complies with the requirements of ORS 684 and OAR 811.
- E) The Mentor will make quarterly reports to the OBCE regarding Licensee's progress.
- F) The financial compensation for the mentoring doctor will be at Licensee's expense which will be due and payable to the OBCE. The Mentor will provide OBCE with periodic billings for services and in turn the OBCE will bill the Licensee. The hourly rate will be determined by the Mentoring Doctor in agreement with the OBCE plus mileage at the state rate. Successful completion of the mentoring plan also requires that this financial obligation be met; however the OBCE will be reasonable in setting up a payment plan if Licensee makes a request.
- G) Failure of Licensee to fully cooperate with the Mentor and the mentoring plan will be grounds for future disciplinary action.

7. The Board waives all costs and fees incurred.

8. Failure to complete this final stipulated order with the terms so stated, may result in further discipline, up to and including, revocation.

IT IS SO STIPULATED AND AGREED TO:

DATED this 31st day of July 2013. Original Signatures are available in OBCE Admin Office

By: Kevin Plummer, DC

DATED this 28th August day of July 2013.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon
Original Signatures are available in OBCE Admin Office

By: Dave McTeague, Executive Director