

BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS

STATE OF OREGON

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| In the Matter of the License to Practice as a Chiropractor of: JONATHAN S. PREISS, DC, Licensee. | CASE NO. 98-1002 STIPULATED FINAL ORDER IMPOSING DISCIPLINE |
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The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractors in the State of Oregon. Jonathan S. Preiss, DC (Licensee), is licensed as a chiropractor by the Board, and practices in Portland, Oregon.

I.

On November 27, 1998, the Board issued and served upon Licensee a Notice of Proposed Disciplinary Action. On January 13, 1999, Licensee filed an answer and request for hearing. On April 23, 1999, the Board issued and served upon Licensee an Amended Notice of Proposed Disciplinary Action (Amended Notice). The Board and Licensee agree that the Amended Notice may be resolved on the terms set forth in this Stipulated Final Order.

FINDINGS OF FACT

II.

The Board makes the following FINDINGS OF FACT:

- a. As a licensed chiropractor, Licensee is subject to the jurisdiction of the Board.
- b. Licensee records regarding "Patient" during the period of October 30, 1997 through November 11, 1997, were incomplete in that Licensee failed to note the patient history he obtained from "Patient," failed to fully document the examination and findings, and failed to adequately record the treatment plan.
- c. Licensee's records regarding "Patient" did not reflect the basis upon which Licensee determined that "Patient" was an appropriate candidate for the radiographic or fluoroscopic procedure(s) employed.

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- d. Licensee failed to include in "Patient's" permanent file a record of radiographic findings for every set of radiographs reviewed.
 - e. Licensee's radiographs for "Patient" did not contain a clinical justification with adequate documentation consistent with the patient's case history.
 - f. Licensee failed to keep complete records regarding patient "C.K." during the period of June 18, 1997 through July 16, 1997, in that that Licensee failed to fully document the patient examination and failed to adequately chart ongoing treatment.

CONCLUSIONS OF LAW

III.

Based upon the foregoing FINDINGS OF FACT, the Board makes the following

CONCLUSIONS OF LAW:

- a. Licensee's conduct as described in section II. above constitutes a violation of ORS 684.100(1)(g)(A), which prohibits:
"Unprofessional or dishonorable conduct, including but not limited to: Any conduct or practice contrary to recognized standard of ethics of the chiropractic profession . . ."
- b. Licensee's conduct as described in section II. above constitutes a violation of OAR 811-015-0005(1)(a) which states:
"Each patient shall have exclusive records which shall be sufficiently detailed and legible as to allow any other Chiropractic physician to understand the nature of that patient's case and to be able to follow up with the care of that patient if necessary."
- c. Licensee's conduct as described in section II. above constitutes a violation of OAR 811-030-0030 (2)(d), (k), which state:
 - (d) Every exposure, including post-treatment exposures, and scanograms, shall have clinical justification with adequate documentation consistent with the patient's case history;
 - (k) A record of radiographic findings on every set of radiographs reviewed shall be included in the patient's permanent file."

STIPULATIONS

IV.

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NOW THEREFORE, the Board and Licensee STIPULATE and AGREE that this disciplinary action may be concluded by the entry of this Stipulated Final Order upon the following terms:

a. Pursuant to ORS 183.415(5), the Board and Licensee agree to informally dispose of and settle this matter.

b. Licensee stipulates that he has been advised of his right to request a hearing in this matter pursuant to ORS 183.415(2)(a), and to be represented at a hearing pursuant to ORS 183.415(3).

c. Licensee waives his right to a hearing in this matter.

d. Licensee admits that his record-keeping for the treatment of "Patient" and "C.K." fell below minimum standards, in violation of ORS 684.100(1)(g)(A); OAR 811-015-0005(1)(a); and OAR 811-030-0030(2)(d), and (k).

e. Licensee agrees to accept a Letter of Reprimand from the Board.

f. Licensee agrees to submit to oversight by the Board for a period of 1 year from the date of entry of this Order and to cooperate with the Board or its representatives, by granting full access to Licensee's business premises to examine, review, and photocopy patient records, files, and chart notes, including but not limited to "cash," motor vehicle accident, and worker's compensation cases.

g. Licensee agrees to pay costs of this disciplinary proceeding in the amount of \$1,214.

h. Licensee agrees to pay a \$500 civil penalty, payable upon the date of execution of this Order.

i. Licensee waives the right to appeal this Stipulated Final Order.

j. This Stipulated Final Order memorializes the entire agreement between the

Licensee and the Board and supercedes all prior offers, negotiations or settlement discussion
2 regarding this matter.

3 k. The Board and Licensee stipulate to the above facts and agree that this disciplinary
4 action may be concluded by the entry of the following order:

5 **ORDER**

6 NOW THEREFORE, pursuant to the above FINDINGS OF FACT, CONCLUSIONS OF
7 LAW, and STIPULATIONS,

8 IT IS HEREBY ORDERED THAT:

- 9 1. Licensee Jonathan Preiss, D.C. (Licensee) is REPRIMANDED.
10 2. Licensee is subject to oversight by the Board, as described above, for a period
11 of ONE YEAR from the date of entry of the Order.
12 3. Licensee shall pay costs in the amount of \$1,214.
13 4. Licensee shall pay a civil penalty in the amount of FIVE HUNDRED
14 DOLLARS (\$500.)


15 THIS STIPULATED FINAL ORDER sets forth the entire agreement and stipulation of
16 the parties to resolve this matter.

17 IT IS SO STIPULATED this 30 day of November, 1999.

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19 _____
20 JONATHAN PREISS, DC

21 IT IS SO STIPULATED AND ORDERED this 15th day of December, 1999.

22
23 BOARD OF CHIROPRACTIC EXAMINERS

24 
25 _____
26 DAVE MCTEAGUE, EXECUTIVE DIRECTOR

In The Matter of
Jonathan S. Preiss, D.C.,
Licensee

Notice Of Proposed
probation, letter of reprimand
and civil penalties
98-1002

1.

The Oregon Board of Chiropractic Examiners (OBCE) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Jonathan S. Preiss, D.C. (Licensee), is a licensed chiropractic physician, subject to the jurisdiction of the OBCE.

2.

On January 16, 1998 the OBCE received a complaint (assigned case 98-1002) from a patient of Licensee (Patient) regarding Licensee's billing practices. The OBCE referred the case to the Peer Review Committee (PRC) for further investigation, and to review Licensee's records and documentation. The PRC was asked to consider the following questions:

1. Is there an adequate history, examination, and follow-up evaluation?
2. Do the findings support the diagnosis?
3. Is the treatment plan justified by the findings?
4. Is there sufficient justification for taking x-rays?
5. Are the x-rays adequate?

6. Is there an accurate interpretation of the x-rays that were taken?

7. Is medical necessity documented?

3.

Pursuant to ORS 684.100(1)(q), the Board alleges that Licensee engaged in the following unprofessional conduct described as follows:

3.1 Licensee did not keep complete and accurate records regarding "Patient", including the case histories, examinations, and treatment plans. There was no record of a follow-up evaluation.

3.2 Licensee did not ensure that "Patient" was an adequate candidate for the radiographic or fluoroscopic procedure employed, and did not ensure that clinical justification and adequate documentation was consistent with "Patient's" case history for the x-rays.

3.3 Licensee did not include "Patient's" permanent file in the x-ray report.

4.

Licensees conduct described above constitutes a violation of ORS 684.100(1)(g)(A), OAR 811-015-0005(1), OAR 811-015-

0005(1)(a), 811-030-0030 (2)(a), (2)(d) and (2k); and the Practice and Utilization Guidelines, Chapters 1, 2, and 3.

5.

The OBCE proposes to place licensee on probation for one year, during which time Licensee is subject to the following conditions:

5.1 Unannounced visits by OBCE or its representatives who shall have full access to Licensee's business premises to examine, review and photocopy Licensee's patient records and record keeping processes, and chart keeping notations.

5.2 A random review by OBCE or its representatives who shall have full access to patient files and records and chart notes, including, but not limited to cash, motor vehicle accident and workers compensation cases.

6.

The OBCE also proposes a \$2,000 civil penalty and a letter or reprimand.

7.

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

8.

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 21 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.

9.

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 the 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.

10.

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.

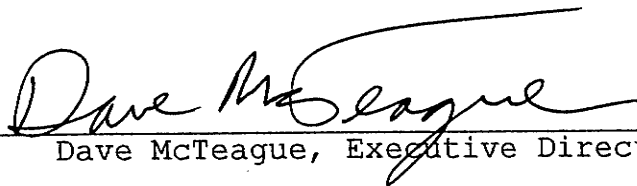
11.

If licensee fails to request a hearing within 21 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. Licensee's submissions to the OBCE to-date regarding the subject of this disciplinary case and all information in the OBCE's files relevant to the subject of this case automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a prima facie case.

Dated this 27th day of November 1998.

BOARD OF CHIROPRACTIC EXAMINERS
State Of Oregon

By: _____

A handwritten signature in cursive script that reads "Dave McTeague". The signature is written in black ink and is positioned above a horizontal line.

Dave McTeague, Executive Director