

This is a board action and therefore,
a public document. However, it is
NOT a disciplinary action.

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
) Case # 2006-1058; 2005-4001
Dorian Quinn, D.C.)
)
)
Licensee.) AGREEMENT OF VOLUNTARY
) COMPLIANCE
)
)
)

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. Dorian Quinn, D.C. (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

Findings of Fact

1.

On November 9, 2006, Patient 1 received a mailing from licensee. This included an eight page report titled, "Auto Accident Victims Special Report, What You Need To Know If You Have Been Involved In A Car Accident." On page 8, it is signed "Dorian Quinn, Portland Injury & Rehabilitation Center." There is no reference to "chiropractor," "chiropractic physician" or chiropractic clinic by licensee, and is misleading as to licensee's profession.

In this same mailer on page 9 entitled "About Dr. Dorian Quinn," it is explained that Licensee received his Doctorate in Chiropractic and on a subsequent page advertising his SEMG examination he identifies himself as a "chiropractic physician." Nonetheless, the Board determined that the advertising is misleading in that the potential patient has to search this information out through pages of this "Free Report." This also fits with a continuing pattern of Licensee not clearly identifying his profession as required. This was a violation of ORS 676.100, Oregon Doctor's Title Act, and OAR 811-015-0045.

2.

During the Spring of 2007 Licensee had a web page at www.portlandbackpain.com, which had an opening page with the headline banner, "Portland Injury & Rehab Center, Dr. Dorian Quinn." The "About Us" also does not provide any further information that would indicate compliance with the Oregon Doctor's Title Act. A potential patient would have to search this web site to finally find the link to "Services" that provides a few hints, as in "Dr. Dorian Quinn D.C." which describes one of the services as "chiropractic." The Board's determination is these "hints" do not compensate for Licensee's failure to clearly identify his profession as described above. This was also a violation of ORS 676.100, Oregon Doctor's Title Act, and OAR 811-015-0045 in that it fails to inform potential

patients as to Licensee's profession. This also fits with a continuing pattern of Licensee not clearly identifying his profession as required.

3.

During Spring 2007, Licensee's web page also contained the prominent claim of, "The Only Proven Non-Surgical Treatment for Serious Back Pain" apparently in reference to Licensee's use of a DRX 9000 spinal traction device, although this is inferred due to the graphic of this device just above this statement. The OBCE found this statement misleading and in violation of OAR 811-015-0045 as there are many proven chiropractic treatments for serious back pain.

4.

During Spring 2007 Licensee had another web page through Back In Action, another entity that advertises the DRX 9000 spinal decompression/traction across the country. His web site can be found at <http://www.biasdc.com/PortlandOR/> Licensee during that time was identified in that website as, "Back in Action of Portland, OR., Dr. Dorian Quinn 6230 NE Halsey, Portland, OR 97213." This was also a violation of ORS 676.100, Oregon Doctor's Title Act and OAR 811-015-0045 in that it fails to inform potential patients as to Licensee's profession. This also fits with a continuing pattern of Licensee not clearly identifying his profession as required by the Oregon Doctor's Title Act, and OAR 811-015-0045.

Moreover, Licensee's Back In Action website has a link to a "Free Report" which makes numerous mentions of NASA, as follows,

Spinal Decompression Is... Technology Developed With NASA Engineers
NASA has inspired the research which lead to the spinal decompression technology as astronauts returning from space missions were reporting that their backs were feeling better.

The researchers associated this with the effects of zero gravity may have on the body and that this phenomenon may have taken pressure off the disc. They thought zero gravity was actually eliminating the pressure on the discs from disc compression by possibly misaligned vertebra. This allowed the nutrients to be reestablished into the disc from this a negative pressure and naturally helped the disc to restore itself. This is where the concept of how creating a negative gravitational effect by decompression of the spine could restore herniated and degenerating discs... This is good news for you!

NASA's secret to eliminating back pain without using drugs, weird remedies, quick fixes or back surgery! To tell you the truth not all doctors even know about our service and the space age cutting edge technology we use that was developed by NASA engineers.

In November 2006, Licensee was made aware of the OBCE's determination that claims of a "NASA Medical Breakthrough" are deceptive and misleading. The above mentioned "NASA" claims are a variation on the now discredited "NASA Medical Breakthrough" claim which has been widely disseminated in connection with DRX 9000 advertising. Licensee also widely advertised his DRX 9000 as a "NASA Medical Breakthrough" prior to the OBCE's determination. Licensee's continued advertising as regards NASA claims as excerpted above is deceptive and misleading and is a violation of OAR 811-015-0045 as well as ORS 684.100 (1)(g)(A).

5.

On October 18, 2005, the OBCE wrote to Licensee pointing out one of his mailer enclosures failed to identify his profession and another of his enclosures prominently mentioned "How an accidental discovery by NASA in outer space easily solves 86% of back pain."

Making statistical claims of success is also a violation of OAR 811-015-0045. On January 3, 2006, Licensee wrote back saying, "Until I receive further notice and clarification I have stopped using statistical information in my advertising." On January 26, 2006, Complaint # 2005-4001 against Licensee was closed with a finding of Insufficient Evidence (I.E.) based on Licensee's stated intention to come into compliance.

On November 22, 2006 and again on January 5, 2007 Licensee's web page and his advertising continued to state, "...it significantly reduces back pain in 86% of patients; and enables the majority of them to return to more active lifestyles." Licensee's Web site also contained links to the Axiom (DRX 9000 manufacturer) video which also made this claim in their promotional videos. This is a violation of OAR 811-015-0045.

Licensee responded on January 2, 2007 and argued that the personalized "National" out of state advertising on his behalf is not within the OBCE's jurisdiction. Subsequently after further exchanges with the OBCE, Licensee had all statistical claims of success removed from his www.portlandbackpain.com website and after more exchanges with OBCE had the links the Axiom videos disabled.

6.

The OBCE acknowledges the following:

1. As of the date of this agreement, Licensee is now clearly identifying his profession on his Web home page and subsequent pages.
2. Licensee has changed his previous unsupportable Web page banner claim to the acceptable, "Highly effective non-surgical treatment for serious back pain." However, the OBCE does not endorse this statement.
3. Licensee has stated the Back In Action web page was produced without his knowledge and has since had it removed at his request.
4. Licensee agrees to the following Stipulations which address the OBCE's concerns with Licensee's advertising.

WEBSITE STILL OPERATIONAL, ALL STATISTICS, STUDIES, UNCLEAR LANGUAGE HAS BEEN REMOVED.
Stipulations

7.

Rather than proceed to hearing on the above issues, the board and Licensee enter into this Agreement of Voluntary Compliance wherein Licensee agrees to the following:

1. Licensee agrees to review his advertising on a regular basis, whether generated by him or by contract with a third party to ensure compliance with OAR 811-015-0045 and the Oregon Doctor's Title Act.

2. Licensee agrees to cease and desist from use of NASA type advertising claims which remind potential patients of earlier now discredited "NASA Medical Breakthrough" claims. Licensee will assure that advertisements issued are within compliance of this requirement.
3. Licensee agrees to cease use of unsupportable advertising claims such as are the issue in this matter.
4. Licensee agrees to clearly identify himself as a chiropractic physician on all advertisement, including his web page, as opposed to oblique references on an interior page.
5. Licensee agrees to clearly identify himself as a chiropractic physician on page one or two of all printed or advertising materials.
6. Licensee agrees to monitor all advertising and not violate OAR 811-015-0045 in the future.
7. Licensee and the OBCE agree that signature on this agreement will result in a finding of dismissal of this case.
8. Licensee and OBCE agree this Agreement of Voluntary Compliance is not and will not be reported as a disciplinary matter. This is a public document.
9. Licensee and OBCE agree that if Licensee continues to violate the law as identified herein, the OBCE may proceed to issue a Notice of Proposed Disciplinary Action which could result in discipline.

I have read the above and fully understand it and am willing to abide by the terms herein mentioned.

DATED this 6th day of July, 2007

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By:

Dave McTeague, Executive Director

**Original signatures on file
at the OBCE office.**

By:

Dr. Dorian Quinn

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DATED this 6th day of July, 2007

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file
at the OBCE office.

By: Dave McTeague, Executive Director
August 1, 2007

Original signature on file
at the OBCE office.

By: Dr. Dorian Quinn

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
) Case # 2006-1058; 2005-4001
Dorian Quinn, D.C.)
)
) **NOTICE OF PROPOSED**
Licensee.) **CIVIL PENALTY**
)
)
)

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5.

Licensee's reluctance to become fully compliant with statutes and administrative rules is illustrated in previous exchanges between Licensee and the OBCE. On July 12, 2005, Licensee faxed

a letter to the OBCE stating his intent to come into compliance with the Oregon Doctor's Title Act, ORS 676.110. On the basis of this pledge, Complaint # 2005-4001 against Licensee was closed with a finding of Insufficient Evidence (I.E.).

6.

Subsequently on October 18, 2005, the OBCE again wrote to Licensee pointing out one of his mailer enclosures failed to identify his profession and another of his enclosures prominently mentioned "How an accidental discovery by NASA in outer space easily solves 86% of back pain."

Making statistical claims of success is also a violation of OAR 811-015-0045. On January 3, 2006, Licensee wrote back saying, "Until I receive further notice and clarification I have stopped using statistical information in my advertising." On January 26, 2006, Complaint # 2005-4001 against Licensee was closed with a finding of Insufficient Evidence (I.E.) based on Licensee's stated intention to come into compliance.

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7.

Previously, OBCE complaints # 2005-1055 and 1058 involved alleged violations of ORS 676.100, Oregon Doctor's Title Act, and OAR 811-015-0045. These complaints were closed Insufficient Evidence (I.E.) on September 28, 2005 based on Licensee's pledge to come into compliance with the Oregon Doctor's Title Act.

8.

The Board proposes a \$1000 Civil Penalty due to the previously mentioned violations.

9.

Licensee shall pay costs of this disciplinary proceeding, which may include investigative costs and attorney fees pursuant to ORS 684.100(9)(g). This cost recovery may also include collection of non-sufficient funds fees, interest, hearing panel and contested case related expenses. The statutory rate of interest applies to an amount not paid when due. This amount is immediately due and payable unless the OBCE agrees to a payment plan.

NOTICE OF HEARING RIGHTS

10.

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.

11.

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.

12.

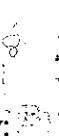
If Licensee requests a hearing, before commencement of that hearing, Licensee will be given information on the procedures, rights of representation and other rights of the parties relating to the conduct of the hearing as required under ORS 183.413-415.

13.

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.

DATED this 6th day of April, 2007

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: 

Original signature on file
at the OBCE office.

Dave McTeague, Executive Director

VERIFICATION

State of Oregon)
County of Marion) Case # 2006-1058; 2005-4001

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Board of Chiropractic Examiners of the State of Oregon, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice 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 April, 2007.

**Original signature on file
at the OBCE office.**

NOTARY PUBLIC FOR OREGON
My Commission Expires: 11-5-08



CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on April 6, 2007, I served the foregoing Notice upon Dorian Quinn DC, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Dorian Quinn, DC
Portland Accident & Injury Center
6230 NE Halsey Street, #2002
Portland, Oregon 97213

Original signatures on file
at the OBCE office.

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners