

BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS
FOR THE STATE OF OREGON

In the Matter of)	Case Nos. 98-1010; 2000-1002
)	
CHRISTIAN K. SCHUSTER, D.C.,)	STIPULATED ORDER
)	
Licensee.)	

The Oregon Board of Chiropractic Examiners (hereinafter "Board") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Christian K. Schuster, D.C. (hereinafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

1.

On July 29, 1999, the OBCE issued a Notice of Proposed Revocation of License against Licensee that alleged Licensee engaged in conduct which was in violation of ORS 684.100(1)(g), (q), and/or (r), OAR 811-015-0005, OAR 811-030-0030(2) and/or OAR 811-035-0005(2). The matter was assigned case number 98-1010.

2.

On January 24, 2000, the OBCE issued a Notice of Proposed Revocation of License against Licensee that alleged Licensee failed to achieve a passing grade on the National Board of Chiropractic Examiners Part IV examination which was in violation of ORS 684.100(1)(g), (q) and/or OAR 811-035-0015, and/or OAR 811-010-0089(3). That matter was assigned case number 2000-1002.

3.

On February 24 and 25, and March 9, 2000, a contested case hearing was held between the OBCE and Licensee. Both cases were consolidated for one hearing.

4.

On April 5, 2000, the Hearings Officer submitted a Proposed Order that Licensee should not have his license revoked in the Notice of Disciplinary Action, case no. 98-1010. The Hearings Officer also indicated that Licensee should not have his license revoked in the Notice of Disciplinary Action, case No. 2000-1002. In both cases, the Hearings Officer found that the OBCE had failed to prove the allegations in the notice by a preponderance of the evidence.

5.

The OBCE does not agree with the proposed order and finds that the order is in error. The OBCE finds that there are violations in case no. 2000-1002. However, the OBCE wishes to informally dispose of this matter rather than proceed to Final Order.

6.

In order to informally dispose and settle this matter, Licensee and the OBCE, by and through Dave McTeague, Executive Director of the OBCE, agree to settle this matter through a stipulation and agreed that this stipulation sets forth the facts upon which the parties have agreed, the sanctions to be imposed, and the basis for the OBCE Final Order in this matter under ORS 183.415.

FINDINGS OF FACT

7.

Licensee and the OBCE agree to the following:

1. The OBCE initiated an investigation involving Licensee and referred the matter to the Peer Review Committee to consider.
2. The Peer Review Committee reviewed patient files and found by unanimous vote that the diagnosis Licensee made of Patient 1 was not

consistent with the history and examination he made on Patient 1. The Peer Review Committee voted three to one that Licensee's note on the DTG graph paper were not legible, and did not document adequately the patient's examination or their subjective complaints, diagnoses or treatment plan.

3. The Peer Review Committee unanimously concluded that they could not take over management of any of the patients' cases from Licensee and found it difficult to interpret Licensee's notes on graph paper.
4. The Peer Review Committee recommended that Licensee take the NBCE Special Purposes Examination for Competency.
5. Based on the Peer Review Committee Recommendations, the Board issued an Order for Competency Examination was issued on January 27, 1999, however, the Executive Director determined that the Part IV test was more readily available, although no other practicing licensee in Oregon has previously ever been ordered to take this examination.
6. Licensee took the Part IV test in May 1999 and received a score of 155. The NBCE recommended that 375 was a passing score (representing 75 percent).

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

- a. The OBCE concludes that Licensee's conduct described above was in violation of ORS 684.100(1)(g), (q) and/or OAR 811-035-0015, and/or

OAR 811-010-0089(3) and/or (r), OAR 811-015-0005, OAR 811-030-0030(2) and/or OAR 811-035-0005(2).

The Licensee will neither admit nor deny the Findings of Fact and Conclusions of Law as recited above, but agrees that the Board may enter an Order as follows:

THEREFORE, pursuant to ORS 183.415(5) and ORS 684.100(9)(b) and (g), the OBCE orders:

1. Pursuant to ORS 183.415(5), the Board and Licensee agree to informally dispose of and settle this matter.
2. Licensee shall be on a one year plan of supervision with Dr. Rodney Cross for one year at the expense of Licensee, per the attached description of the Plan of Supervision attached herein as Exhibit A.
3. The OBCE will dismiss the matters herein, specifically case number 98-1010 and 2000-1002 with prejudice.
4. This Stipulated Final Order memorializes the entire stipulation and agreement between the parties and supercedes any prior offers, settlements or settlement discussions.
5. Licensee waives the right to appeal this Stipulated Final Order.

Based upon the foregoing Findings of Fact, Conclusions of Law and Stipulations,
IT IS HEREBY ORDERED that:

1. Licensee is subject to oversight by the Board as described above, for a period of one year from the date of entry of the Order.

This Stipulated Final Order sets forth the entire agreement and stipulation of the parties to resolve this matter. I have read and I understand all of the above Stipulated Final Order and fully agree to all of its terms.

IT IS SO STIPULATED this 11th day of ~~July~~ ^{September}, 2000.

Original signatures on file
at the OBCE office.

By:

Christian Schuster, D.C., Licensee

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures on file at
the OBCE office.

By:

Dave McTeague, Executive Director

Purpose: To achieve a more consistent intervention with a doctor subject to a stipulated agreement or to a disciplinary order imposing a period of probation. It is intended the supervised doctor will see the period of supervision as a constructive period and an opportunity to receive mentoring that could positively affect his/her practice of chiropractic. This plan has the potential to meet a real need a disciplined doctor has: *to have a better understanding of why the Board has imposed a disciplinary action, and to receive professional feedback on a consistent basis.*

The plan of supervision may be one of several features of a doctor's probationary period. The Board could still require a periodic chart review by Peer Review, however, it may wish to rely upon the reports of the supervising doctor in the first part of the probation.

Supervising Doctor: The Board, or the Executive Director in consultation with Board members, will locate and choose a currently licensed doctor to work with the supervised doctor. Criteria for selection include previous experience on board committees such Peer Review, other kinds of peer review, and professional qualifications. The supervising doctor should be a colleague within a reasonable distance. The supervising doctor must be recognized to have a thorough understanding of the requirements of the OAR and OCPUG. Any arrangement for financial compensation will have to be worked out between the supervising and the supervised doctor, although it is expected to be reasonable. The supervising doctor serves at the pleasure of the OBCE.

Supervision – How it works: The supervising doctor is given a copy of the Board's order, Peer Review report, and any other relevant information. The supervising doctor consults with the Board and Peer Review members to have a clear understanding of the situation and the Board's expectations. The Board may also give the supervising doctor specific instructions depending upon the case. The supervising doctor is appointed by and recognized as an agent of the OBCE and is covered by State of Oregon for liability for this purpose. The supervising doctor must consult with the Board concerning any questions concerning his/her role as they arise. The supervising doctor must fully understand and accept all the confidentiality requirements as they pertain to the OBCE. The supervising doctor must agree in writing to this arrangement with the OBCE.

The supervising doctor then meets with the supervised doctor to review the issues and establish a working relationship. Our expectation is that the supervising doctor would then meet with the supervised doctor an average of once a month, or more often if that is by mutual agreement. The meeting could last one to two hours, but no longer than three hours a month; unless the supervised and supervising doctor jointly agree that more time is needed. That meeting should include a review of selected patient cases as determined by the supervising doctor. That review should include an explanation to the supervised doctor of why any patient care or record keeping does or does not meet the requirements of the OAR and OCPUG. The supervising doctor should make a record of the supervised doctor's responses and progress towards addressing the issues identified in the Board's Final Order, or other related issues they arise.

The supervising doctor shall report to the Board at least once every three months with a report of findings regarding the doctor's progress towards addressing issues. If the supervising doctor finds continued and repeated violations of OAR and OCPUG, he/she should report that as well.

The Plan of Supervision shall last for the duration of the probationary period, unless the licensee and the OBCE have agreed to a different arrangement. Upon conclusion of the Plan of Supervision, the supervising doctor will be requested to provide a written evaluation of the supervised doctor, and of the benefits or problems with any Plan of Supervision.

Adopted by the Oregon Board of Chiropractic Examiners
May 20, 1999

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BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
CHRISTIAN K. SCHUSTER, D.C.,) Case # 98-1010
Licensee.) **NOTICE OF PROPOSED**
DISCIPLINARY ACTION

13 The Oregon Board of Chiropractic Examiners (hereafter "Board") is the state agency
14 responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon.
15 Christian K. Schuster, D.C. (hereafter "Licensee"), is currently licensed by the Board to practice as
16 a chiropractic physician in Oregon. The Board proposes to revoke the chiropractic license of
17 Licensee based on the following:

18 1.

19 The OBCE received a complaint concerning chiropractic care provided by Licensee to
20 patient PS on June 16, 1998. The OBCE thereafter conducted an investigation of this complaint.
21 The investigation included a review by the Board's Peer Review Committee of four randomly
22 chosen patient files of Licensee, including the file for patient DL.

23 2.

24 The investigation into the conduct and activities of Licensee revealed the following:

- 25 a) The patient files of Licensee reviewed by the Board contain no record of any history of
26 the presenting illness, past medical/chiropractic treatments, family history, or referral to
27 a medical provider;
- 28 b) Licensee's patient file for patient DL did not contain any clinical justification for taking
29 the single thoracic x-ray in the file. The other patient files reviewed by the Board also
30 did not contain any clinical justification for taking the single cervical x-ray in each file;

- 1 c) The patient files of Licensee reviewed by the Board contained no record that Licensee
2 informed patients of the diagnosis, plan of management, and prognosis in order to
3 obtain the fully informed consent of the patients;
- 4 d) Licensee's patient file for DL did not reflect that Licensee conducted an adequate
5 examination or clinical impression and diagnosis of DL, as required under the medically
6 accepted standards for a chiropractic physician, and as a result Licensee failed to
7 recognize DL's problems as being non-musculoskeletal in nature; and
- 8 e) The patient files of Licensee reviewed by the PRC indicate that Licensee did not
9 conduct an adequate and thorough examination of those patients in accordance with
10 medically accepted standards for a chiropractic physician because Licensee only
11 conducted a neuromusculoskeletal analysis.

12 3.

3 The Board, pursuant to ORS 684.100 and as part of its investigation, ordered Licensee to
14 take the National Board of Chiropractic Examiner's (NBCE) Part IV competency exam on
15 May 14, 15, & 16th, 1999, for the purpose of determining Licensee's fitness to practice
16 chiropractic in Oregon. Licensee did not pass the exam.

17 4.

18 The Board finds that the acts and conduct of Licensee described above violated
19 ORS 684.100(1)(g), (q), and/or (r), OAR 811-015-0005, OAR 811-030-0030(2), and/or
20 OAR 811-035-0005(2).

21 5.

22 The Board proposes to disciplinary action against Licensee's chiropractic license due to the
23 aforementioned violations.

24 6.

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

7.

NOTICE OF RIGHT TO A HEARING

Licensee has the right, if Licensee requests, to a hearing as provided by the Administrative procedures Act (ORS Chapter 183) before the Board or its hearing officer to contest the matter set out above. At the hearing, Licensee may be represented by an attorney, and may subpoena and cross-examine witnesses. A request for hearing must be made in writing to the Board, and must be received by the Board within 21 days from the date of 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. Upon receipt of a request for hearing, the Board will notify licensee of the time and place of the hearing. If Licensee requests a hearing, Licensee will be given, prior to the commencement of the hearing, information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing as required by ORS 183.413(2).

8.

Licensee's answer shall be made in writing to the Board 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 shall be presumed admitted; failure to raise a particular defense in the answer will be considered a waiver of such defense; and 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.

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9.

If Licensee fails to request a hearing within 21 days, or fails to appear as scheduled at the hearing, the Board 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 case automatically becomes part of the evidentiary record of this disciplinary action for the purpose of proving a prima facie case. ORS 183.415(6).

DATED this 29th day of July, 1999.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures on file
at the OBCE office.

By:

Dave McTeague, Executive Director

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CERTIFICATE OF SERVICE

4 I, Michael L. Summers, certify that on July 29th, 1999, I served the foregoing Notice of
5 Proposed Revocation of License upon CHRISTIAN K. SCHUSTER, DC, the party hereto, by
6 mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

7
8 Christian K. Schuster, DC
9 932 NE 9th St.
10 Bend, Oregon 97701

11
12 Original signatures on file at
13 the OBCE office.

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15 Michael L. Summers
16 Investigator
17 Oregon Board of Chiropractic Examiners
18

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)

CHRISTIAN K. SCHUSTER, DC)
Case # 98-1010)

ORDER FOR COMPETENCY
EXAMINATION

1.

The State of Oregon Board of Chiropractic Examiners (OBCE) is the state agency responsible for licensing and disciplining chiropractic physicians in Oregon. Christian Schuster, DC, is a licensee of the OBCE, who practices in Bend, Oregon.

2.

The OBCE received a complaint concerning chiropractic care provided to patient P.S.. on June 16, 1998 expressing concerns regarding the diagnosis and treatment of her condition.

3.

At the request of the OBCE, the OBCE investigator visited Dr. Schuster's office on October 19, 1998 for the purpose of obtaining three more representative patient files.

4.

On December 17th, the OBCE's Peer Review Committee interviewed Dr. Schuster, and reviewed the four patient files.

5.

On January 21, 1999, the OBCE reviewed the Peer Review Committee's report and accepted the committee's recommendation that licensee be tested by the National Board of Chiropractic Examiners as part of the continuing investigation.

6.

Pursuant to the authority granted in ORS 684.100 (7), the OBCE orders Christian Schuster, DC to take the National Board of Chiropractic Examiner's Part IV test on May 14, 15, & 16th, for the purpose of determining Dr. Schuster's competency to practice chiropractic with reasonable skill and safety to patients. The examination will be at Dr. Schuster's expense.

7.

The OBCE orders Dr. Schuster to cause to make available to the OBCE unofficial and official results of the examination at the earliest opportunity.

IT IS SO ORDERED this 27th day of January, 1999.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: Original signatures on file at
the OBCE office.


Dave McTeague
Executive Director