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**BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON**

6 In the Matter of)
7) FINAL ORDER BY DEFAULT
8 Andrew Cha, D.C.)
9)
10)
11 Licensee.) Case # 2008-3015

14 The Board of Chiropractic Examiners (Board) is the state agency responsible for
15 licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Andrew
16 Cha, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in the State
17 of Oregon. The Board proposes to discipline Licensee for the following reasons.

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20 Findings of Fact

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22 1.

23 The Board received a complaint that Licensee's clinical documentation was inadequate
24 and did not support the services performed or the charges made. In response to a complaint, the
25 Oregon Board of Chiropractic Examiners directed the Peer Review Committee (PRC) to review
26 the complaint with Licensee.

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28 2.

29 Licensee was interviewed by the Peer Review Committee on March 12, 2009 regarding
30 his treatment of Patient 1 who was involved in a motor vehicle accident (MVA).

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32 3.

33 The Peer Review Committee determined the following:

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35 1. Licensee uses a Chiropractic Assistant to perform the history taking for his patients in
36 order to save time. This violates ORS 684.100(1)(g)(A), OAR 811-010-0110(7), OAR 811-035-
37 0005 and OAR 811-035-0015.

38 2. Licensee was unable to explain how the initial intake form filled out by a patient
39 changed between the date the patient filled it out and the day Licensee sent the response to the
40 complaint. The intake form indicated no neck pain by the Patient, but when Licensee replied, the
41 form had been changed to include neck pain. This violates ORS 684.100(1)(g)(A), OAR 811-
42 015-0005, OAR 811-035-0005 and OAR 811-035-0015.

1 3. Licensee could not explain how the Range of Motion studies on the progress exam
2 were missing on the original paper work supplied by the insurance company, but filled in for the
3 board's copy of the same record. Both sets of notes were submitted months after the patient
4 stopped care. This violates ORS 684.100(1)(g)(A), OAR 811-015-0005(1), OAR 811-035-0005
5 and OAR 811-035-0015.

6 4. No patient history was found in the record provided. Licensee stated that this
7 information was on a piece of paper at the office and was surprised it was not in the file at
8 interview. Licensee signed a board statement attesting that he had submitted the complete file,
9 thus, the PRC took the position that the history was not part of this chart. Without the history in
10 the chart, Licensee is not able to fully assess a patient's condition to base the treatment plan
11 upon. Licensee would not be able to charge the evaluation and management code 99203, as this
12 level of exam requires detailed history to be taken. This violates ORS 684.100(1)(g)(A), OAR
13 811-015-0005(1)(a), OAR 811-15-0010(1), OAR 811-035-0005 and 811-035-0015(19) and (2).

14 5. The charge for an E/M 99214 was not supported for exam taken on May 16, 2008.
15 Licensee said the exam lasted 30 minutes. However, at least 20 of those minutes were used
16 performing the exam. Using the time factor alone, Licensee only spent 10 minutes with face to
17 face consultation discussion. This does not meet the criteria for a detailed exam, history or
18 significant consultation. This violates ORS 684.100(1)(g)(A), OAR 811-035-0005(1), 811-035-
19 0015(2), (5), (7) and (12).

20 6. Licensee acknowledged that the chart notes had been changed from their original
21 format submitted to the insurance company to an "updated version" when some billing was
22 deficient. The word ultrasound was added to the computer notes by the office manager and new
23 billings were sent out. There was no indication in the notes themselves of this occurring.
24 Licensee stated that the changes were made in the computer and were not notated as they should
25 have been. This violates ORS 684.100(1)(g)(A), OAR 811-015-0005, OAR 811-035-0005 and
26 OAR 811-035-0015.

27 7. Licensee referred Patient 1 for a MRI three plus months after care started. There is no
28 justification or notation in the notes why this referral was made. Originally, Licensee said the
29 referral was made because the patient was not progressing as expected. That was not accurate
30 when Licensee was confronted by the chart notes regarding his objective evaluations of the
31 patient. Licensee then changed his testimony and admitted the main reason he sent him to a MRI
32 was to keep the insurance adjuster from bothering him. Licensee was worried the insurance
33 company would cut off care to the patient. This violates ORS 684.100(1)(g)(B), OAR 811-015-
34 0010(1)-(4), OAR 811-035-0005, OAR 811-035-0015(2), (5), (7), and (12) and 811-030-
35 0030(d).

36 8. There were three radiological reports on Patient 1 in the file, each different. Each had
37 different radiological findings. Licensee blamed his staff for the errors and said the handwritten
38 version was the correct one. A doctor taking care over for this patient would not have enough
39 information about why all three X ray reports were different to adequately provide care. This
40 violates ORS 684.100(1)(g)(A), OAR 811-015-0005 and 811-030-0030(2)(m).

41 9. The full spine x rays of Patient 1 were not considered diagnostically good quality by
42 the PRC. Licensee admitted the lateral was under exposed but attributed it to the patient being a
43 large person. There was no collimation on either film. This violates ORS 684.100(1)(g)(A), OAR

1 811-030-0020 (2) and 811-030-0030 (2)(b), (d) and (i), OAR 811-035-0005 and OAR 811-035-
2 0015(2), (7) and (12).

3 10. Licensee's patient intake form and the history taken by the independent medical
4 (M.D.) examiner did not show a neck or upper back complaint. The only complaints were low
5 back pain and leg pain. Based on these two items and the appearance of altered chart notes,
6 taking a full spine film series on a low back complaint patient was not warranted or clinically
7 justified by the notes. This violates ORS 684.100(1)(g)(A), OAR 811-035-0005 and OAR 811-
8 035-0015.

9 11. Licensee's exam notes were confusing and of minimal value. Licensee testified he
10 did not use any standardized methods for monitoring treatment efficacy. Many dates of service
11 had reports where the subjective reports said the same exact thing, on each visit. This violates
12 ORS 684.100(1)(g)(A) and OAR 811-015-0010 (4).

13 12. The chart notes prepared by Licensee did not have proper identifying information on
14 them; the clinic name, address, doctor's name and author of the record were not indicated. This
15 violates ORS 684.100(1)(g) and OAR 811-015-0005(1)(b).

16 13. Licensee was not found to be credible. He changed his testimony when
17 contradictions were pointed out or he was unable to provide answers to specific things found.

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19 4.

20 On May 21, 2009, the Board considered and adopted the report of the Peer Review
21 Committee and issued a Notice of Proposed Disciplinary Action. A response or request for
22 hearing was due within 30 days. Licensee did not request a hearing and is now in default. In the
23 original Proposed Notice, the Board indicated that the record herein would be used for purposes
24 of default.

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26 Conclusions of Law.

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28 The Board finds Licensee in violation of ORS 684.100(1)(g)(A) and (B) and OAR 811-
29 010-0110(7), OAR 811-015-0005(1), 811-015-0010(1) and (4), 811-030-0020(2), 811-030-
30 0030(2) 811-035-0005(1) and 811-035-0015(2), (5), (7), (12) and (19), and violating Oregon
31 Chiropractic Practice and Utilization Guidelines for providing excessive and possibly
32 unnecessary care.

33
34 Order

35
36 The Board finds that Licensee's conduct as described herein constitutes reason for
37 discipline of his chiropractic license in this state. Licensee is placed on probation for three years
38 with the conditions and requirements:

- 39
40 a) Plan of Supervision with a board appointed chiropractic physician (Mentor). For the
41 first year of probation, Licensee is prohibited from treatment of any patient for MVA
42 (PIP) coverage over a two month period from the date of initial examination without the

1 chart being reviewed by the Mentor and a signature obtained by the mentor authorizing
2 continued treatment; during the three year probation.
3

4 b) Licensee must participate in and successfully complete a mentoring plan of as part of
5 the Plan of Supervision with a board approved Mentor for a period of at least one year.
6 The Mentor will be a licensed Oregon chiropractic physician chosen by the OBCE who
7 will sign a personal services contract with the OBCE for the provision of this service.
8 (Dan Winslow DC is the designated Mentor.) The mentoring plan will have a focus on
9 development of acceptable examination, clinical justification, informed consent, charting
10 and risk management practices to ensure compliance with statutes and rules and
11 addressing all issues identified in this order. The Mentor will be responsible to review
12 charts and report any findings to the Board that are appropriate. At any time that the
13 Licensee ceases active practice, his license lapses or he changes to inactive status, this
14 will not count towards completing of the mentoring period. The Mentor will perform file
15 reviews of records and billings of Licensee's case work and report to the board on his
16 progress at meeting minimum standards of chiropractic health care. Licensee must allow
17 the Mentoring Doctor to enter Licensee's business premises to examine, and review
18 Licensee's patient or other records to determine compliance with the terms of this order,
19 for the duration of this Mentoring plan. If the Mentor requests and with the patient's
20 agreement, Licensee will allow the Mentor to observe a patient encounter. The Mentor
21 will make periodic reports to the OBCE regarding Licensee's progress in meeting
22 minimum standards of chiropractic health care. As part of this report, the Mentor may
23 pull one or two of the patient files reviewed with identifiers redacted for the Board's
24 review. The financial compensation for the mentoring doctor will be at Licensee's
25 expense which will be due and payable to the OBCE. The Mentor will provide OBCE
26 with periodic billings for services and in turn the OBCE will bill the Licensee. The
27 hourly rate will be determined by the Mentoring Doctor in agreement with the OBCE plus
28 mileage at the state rate. Successful completion of the mentoring plan also requires that
29 this financial obligation be met; however the OBCE will be reasonable in setting up a
30 payment plan if Licensee makes a request. Failure of Licensee to fully cooperate with the
31 Mentor and the mentoring plan will be grounds for future disciplinary action.
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33 c) At any time the Mentor may pull and retrieve patient files reviewed with identifiers
34 redacted for the Board's review. In addition, Licensee is required to allow the OBCE or
35 it's representative to periodically review Licensee's patient records and chart notes. This
36 includes review and photocopy of licensee's patient records to ensure licensee complies
37 with the requirements of ORS 684 and OAR 811.
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39 d) Licensee will pay a civil penalty in the sum of \$2000.
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41 e) Licensee is required to complete 12 hours of board approved continuing education on
42 chart notes and coding, and 4 hours of continuing education on x ray technique. This


1 continuing education is in addition to the required amount for licensure and must be
2 completed within 60 days of the effective date of the final order.
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6 Dated July 17, 2009

7 BOARD OF CHIROPRACTIC EXAMINERS
8 State of Oregon
9

10 By:

11
12 *Original signature on file at OBCE*

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16 _____
17 Dave McTeague
18 Executive Director
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23 A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court
24 of Appeals pursuant to the provisions of ORS 183.482. Judicial review may be obtained by
25 filing a petition for review with the Office of State Court Administrator, Supreme Court
26 Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is requested by filing a
27 petition in the Court of Appeals within 60 days following the date the order upon which the
28 petition is based is served.
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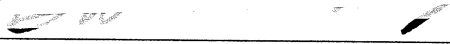
Certificate of Service

I, Dave McTeague, certify that on July 17, 2009, I served the foregoing Final Order by Default upon the party hereto by mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

Andrew Cha, DC
575 NE 2nd. Street
Gresham, Oregon 97030

Robert Williamson AAL
960 Broadway NE
Salem, Oregon 97301

Original signature on file at OBCE



Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

