

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

MAURO A. CIVICA D.C.,
License No.: 3039

)
) Case # 2003-5016

)
) FINAL STIPULATED
) ORDER
) SUSPENSION OF LICENSE
) PROBATION EXTENSION

The Oregon Board of Chiropractic Examiners (hereafter "Board") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Mauro A. Civica, D.C. (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon and is subject to the jurisdiction of the OBCE. The Board has determined the facts as follows:

Findings of Fact

1.

At all relevant times, Licensee was a Licensed Chiropractor in the State of Oregon and was employed as a chiropractor at 452 NW First Street, Canby, Oregon.

On December 14, 2001, Licensee entered into a Stipulated Final Order in cases numbers 99-1012, 99-1010, 99-1021, 99-1024, 99-3005 and 2000-1008. That resulted out of a Notice of Proposed Discipline for revocation of Licensee's license issued on July 20, 2000, and a contested case hearing which resulted in a Final Order revoking the license of Licensee that issued on September 20, 2001. The Stipulated Final Order allowed Licensee to remain licensed but required a 7 year probationary period with other requirements during that time period. The Stipulated Final Order was signed by the Board and became final on December 14, 2001.

2.

In the Stipulated Final Order, Licensee agreed to a permanent license restriction in paragraph 5. That restriction specifically stated:

Licensee shall have an OBCE approved female chaperone present during examination and treatment of all female patients. The chaperone shall not be related to the Licensee or involved in the past or currently in a personal relationship with Licensee. The chaperone shall meet with representatives of the Board to be interviewed. The Licensee shall provide the chaperone with a copy of the Stipulated Final Order and obtain the chaperone's agreement to inform the Board if the chaperone has concerns that Licensee has violated the conditions of the Stipulated Final Order or is engaging in behavior which may place a

patient at risk. An agreement with Licensee stipulating no harm or retribution to the chaperone may be incurred for reporting to the OBCE will also be signed.

Paragraph 7 of the Stipulated Order required:

During probation, Licensee will be required to submit to annual compliance polygraph tests with a polygrapher chosen by the Board. Licensee will provide for all costs for the examinations.

3.

On July 18, 2003, Licensee submitted to his required polygraph examination with polygrapher Kenneth L. Simmons. Licensee told Mr. Simmons that he had one elderly women patient who insists on having her examination without a chaperone present, but he does the exam with the door open. When asked "other than that one woman, since your last exam, have you treated a female patient without a chaperone present?" Licensee answered "no." The polygrapher found that when answering that question, Licensee was not answering truthfully based upon his evaluation of the polygraph charts. Due to that finding, the Board began to investigate Licensee's use of chaperones and whether Licensee was violating his Stipulated Final Order.

4.

During investigation, the Board found that from October 31, 2003 through May 21, 2004, Licensee was using a chaperone that had not been approved by the Board as was required by the Stipulated Final Order. The Board learned that the prior Board approved chaperone had left the clinic on October 31, 2003. During October 31, 2003 through May 21, 2004, Licensee made no effort to communicate with the Board that a new chaperone was needed which required a Board interview, that an interim chaperone was needed and should be interviewed by the Board, nor made any effort to follow the Stipulated Final Order. During investigation, the Board became apprised that Licensee also allowed a non Board approved chaperone for his female patients to act as chaperone and that Licensee had an ongoing personal relationship with that chaperone during the time period from October 2003 to May 2004; also in violation of the Stipulated Final Order. In recent correspondence from the Board, Licensee was asked why a Board approved chaperone was not sought until recently when the need arose in November 2003. Licensee did not provide a response to the Board's inquiry.

In addition, prior to October 31, 2003 and after the Stipulated Final Order was signed on December 14, 2001, the Licensee did not abide by the requirements that all females be chaperoned during treatment. The Board approved chaperone was forced by Licensee to leave the treatment room to go to the front desk, greet customers and answer the phone. When the chaperone pointed out to Licensee that the order required her presence, Licensee became verbally and physically threatening toward the chaperone. The chaperone was forced by Licensee, to leave some female patients for periods of time ranging from several seconds to several minutes, unchaperoned due to Licensee's bullying behavior toward the chaperone. The Board approved chaperone also witnessed Licensee repeatedly expressing disrespect toward the Board and for the requirements of his Stipulated Final Order.

5.

On May 28, 2004, the Notice of Discipline was issued regarding Licensee's failure to adhere to the chaperone requirements of the Stipulated Final Order. Subsequently, Licensee caused several potential chaperones to present for interview at the Board's offices in Salem.

Andrea Ruffing and Jill Inman were interviewed on May 11, 2004. In correspondence from the Board dated May 12, 2004, licensee was told that Ms. Ruffing and Inman were not approved, pending further discussion with the board, citing their status as patients being a concern. Amy Langeliers also presented for interview at this time, but withdrew as a chaperone applicant, and said she was Licensee's office manager. Ms. Langeliers also said she had served as Licensee's chaperone since October 31, 2003 and also said that Jill Inman had served as chaperone as well. Ms. Langeliers also denied a personal relationship with Licensee.

Marjorie Elizabeth Rasher was approved to work as Dr. Civica's chaperone following her OBCE interview on May 12, 2004. The Board has recently learned that Ms. Rasher stopped working for Licensee sometime in August (possibly late August) 2004. Ms. Rasher indicated no expectation of returning to his employ.

Carol Marie Robertson was approved to work as a chaperone for Licensee, following her June 4, 2004 interview with Board staff. In a letter from the Board to Licensee dated June 4, 2004, Licensee was made aware of that approval. September 17, 2004 was Ms. Robertson's last work day in Dr. Civica's clinic. Ms. Robertson does not expect to return to Dr. Civica's employment due to her current school schedule.

During July 2004, Licensee had two more potential chaperone candidates interview with the Board to get them "board approved" to serve as chaperones.

One of those was Luciana Alberto, who was interviewed on July 8, 2004, and was informed at the time that if she were approved the OBCE would contact both her and Licensee to confirm.

Also interviewed on July 8, 2004 was Michelle Ingram. After her interview, Board staff indicated verbal approval to her. On July 23, 2004, the Board communicated to Licensee that Ms. Ingram was approved. Ms. Ingram never actually worked as Licensee's chaperone.

On July 23, 2004, the Board communicated to Licensee by letter, that Luciana Alberto was not approved as a chaperone. The letter listed the specific reason; that her fiancé (now husband) was the brother of Amy Langeliers' best friend, and that they had socialized with Licensee and Ms. Langeliers, now Licensee's spouse, on a regular basis. For this reason, the Board did not believe Ms. Alberto would be a reliable reporter to the Board, should the need occur.

However, since that time and since the first Notice of Discipline was issued, during September and October 2004, Licensee has allowed Luciana Alberto to perform chaperone tasks in his clinic. Ms. Alberto was not approved by the board but was in fact rejected as qualified to perform chaperone duties. Licensee now claims "confusion or miscommunication" in regards to Ms. Alberto's status as his chaperone, however Licensee has not received any oral or written communication from the OBCE that "approves" Ms. Alberto for chaperone duties. To OBCE's knowledge, Licensee currently has no approved chaperones and continues to treat female patients without a board approved chaperone in violation of the Stipulated Final Order.

Final Stipulated Order (Mauro Civica D.C.)

Conclusions of Law

6.

Licensee violated the terms of the Final Stipulated Order of September 11, 2001. The above described conduct of Licensee violates ORS 684.100(1)(g)(A) and, OAR 811-035-0015(23). These acts constitute disobeying a final order of the Board in violation of the statute and rules (Specifically, paragraph 5) in that the chaperone requirement was not fulfilled when full time chaperones were not provided to all female patients as required; Licensee failed to follow the requirements of his agreement that the chaperones would be Board approved and had a non Board approved chaperone, if any, for a seven month period from October 31, 2003 to May 21, 2004. In addition, after being Noticed for Discipline, thus, Licensee continued to violate the Stipulated Order of September 11, 2001, when he had a non board approved chaperone during September and October, 2004. Licensee also allowed a non Board approved chaperone that Licensee had an ongoing personal relationship with to act as a chaperone, which directly violates paragraph 5 of the Stipulated Final Order. In addition, Licensee failed his polygraph test as was required in Paragraph 7 of the Stipulated Final Order. That failure was directly linked to questions regarding whether Licensee was abiding by the terms of the chaperone requirements.

Stipulation

7.

Now Therefore, the Board and the Licensee stipulate and agree pursuant to ORS 183.415(5), that this disciplinary action may be concluded by entry of this Stipulated Final Order upon the following terms:

1. Licensee agrees that he has been advised of his right to request review of this matter pursuant to ORS 183.415(2)(a). Licensee waives his right to review in this matter.
2. Licensee's license is suspended for 90 days beginning on February 15, 2005 during which time he may not engage in the practice of chiropractic,
3. Following the period of suspension, Licensee's license is placed on probation for a period of 7 years.
4. As a **PERMANENT** restriction on his license, Licensee has agreed to the following:
 - A. Licensee shall have an OBCE approved female chaperone present during examination and treatment of all female patients. The chaperone shall not be related to the Licensee or involved in the past or currently in a personal relationship with Licensee. The chaperone shall meet with representatives of the Board to be interviewed. The Licensee shall provide the chaperone with a copy of the Stipulated Final Order and obtain the chaperone's agreement to inform the Board if the chaperone has concerns that Licensee has violated the conditions of the Stipulated Final Order or is engaging in behavior which may place a patient at risk. An agreement with Licensee stipulating no harm or retribution to the chaperone may be incurred for reporting to the OBCE will also be signed.

Further, each female patient shall be required to read and initial a statement explaining the reasons for having a female chaperone at the time of her initial visit. A parent or guardian shall sign the statement for a female patient who is below the age of eighteen. (18). The chaperone shall initial the statement. Licensee shall retain the statement in the patient's file. A patient may not waive the presence of the chaperone. The chaperone shall initial the patient's chart at the time of each visit to confirm her presence during the visit.

B. Licensee is permanently prohibited from performing any coccyxgeal or vaginal adjustments.

C. Licensee is permanently prohibited from massaging any female patients.

5. During probation, Licensee agrees to enter into treatment with an Oregon licensed psychologist or psychiatrist approved by the OBCE and continue in treatment as long as that professional deems necessary. This professional must specialize in treatment of sexual offenders. All therapy and reporting will be at the sole cost of the licensee. Licensee shall cause the treating psychologist to submit periodic reports to the OBCE regarding Licensee's progress at a duration of not less than once every six months. Licensee waives any privilege and consents to allow contact between the treating psychologist or psychiatrist and the OBCE for purposes of verifying compliance with the terms and conditions of this proposed order. Treatment will be required until such time that the provider deems and supports in writing that Licensee is no longer in need of treatment. If no further treatment is deemed necessary, the Board may require a second evaluation from a professional so that a joint determination by the professionals involved can be made to determine if removal from treatment is appropriate. The Board has agreed that it will not use the services of Dr. Blake Fischer-Davidson in this matter.
6. During probation, Licensee will be required to submit to annual compliance polygraph tests with a polygrapher chosen by the Board. Licensee will provide for all costs for the examinations.
7. During probation, Licensee will be required to allow visits by the Board or its representative who shall have access to Licensee's business premises to examine, review and photocopy Licensee's patient records and record keeping process.
8. In the prior Stipulated Final Order dated September 11, 2001, (Paragraph 8) Licensee agreed to be assessed costs for that proceeding in the amount of \$15,000.00 pursuant to ORS 684.100(9)(g). That agreement remains in effect and the signature of this Stipulated Order does not void that agreement on behalf of Licensee.
9. Upon signature of this order Licensee agrees to come into compliance with the chaperone requirements enumerated in paragraph 4. Licensee agrees that if he fails

to come into immediate compliance with paragraph 4 of this order, that would be considered as grounds for the Board to proceed to emergency suspension where he would be entitled to a hearing. Licensee agrees that the Board may revoke his license if after a contested case hearing it is shown that the provisions of this stipulated final order have been violated. Licensee agrees to not engage in any conduct or verbal behavior toward any patient that may be reasonably interpreted by the patient as sexual, sexually suggestive, seductive or demeaning. If at any time after the date of entry of this order, the OBCE establishes after contested case hearing that licensee has engaged in inappropriate sexual contact with patients, that conduct may be used as a basis for license revocation.

8.

This Stipulated Final Order memorializes the entire agreement between the Licensee and the Board and supercedes all prior offers, negotiations or settlement discussions re

I have read and I fully understand all of the above Stipulated Final Order and fully agree to its terms. IT IS HEREBY ORDERED (pursuant to the above Stipulations) THAT:

1. Licensee's license is suspended for 90 consecutive days beginning February 15, 2005.
2. Licensee's license is on probation for a period of 7 years upon signature of this order.
3. Licensee is permanently prohibited from performing any coccyxgeal or vaginal adjustments;
4. Licensee is permanently prohibited from massaging any female patients;
5. Licensee must permanently have an approved chaperone for all female patients;
6. During probation licensee agrees to enter treatment with a professional psychologist or psychiatrist;
7. During probation, Licensee will complete annual compliance polygraphs;
8. During probation, Licensee will allow Board access to records to review patient records and record keeping process;
9. Licensee will immediately come into compliance with paragraph 4 and if he fails to do so that may be considered as grounds for an emergency suspension.

9. Licensee will immediately come into compliance with paragraph 4 and if he fails to do so that may be considered as grounds for an emergency suspension.

IT IS SO ORDERED this 18th of January, 2005.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file
By _____ at the OBCE office.
Dave Mc League
Executive Director

By: _____

Mauro Civica, D.C.

9. Licensee will immediately come into compliance with paragraph 4 and if he fails to do so that may be considered as grounds for an emergency suspension.

IT IS SO ORDERED this _____ of January, 2005.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: _____
Dave McTeague
Executive Director

Original signature on file
at the OBCE office.
Mauro Civica, D.C.

Final Stipulated Order (Mauro Civica D.C.)



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

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Press Release

January 19, 2005

Chiropractor Accepts Second Suspension & Probation for Violations of Board Order

The chiropractic license of Maura A. Civica DC, Canby, will be suspended for 90 days beginning February 15, 2005 for violating the terms of a previous agreement with the Oregon Board of Chiropractic Examiners (OBCE). The suspension will be followed by a new seven-year probation period with conditions as well as continuing several permanent limitations on his license.

Under the terms of the December 14, 2001 Stipulated Final Order, Dr. Civica was required to have a board approved chaperone present at all times when examining or treating female patients. On May 28, 2004, the OBCE issued a Notice of Proposed Disciplinary Action alleging violations of the Stipulated Final Order. They issued an Amended Notice on November 24, 2004.

The Board's findings were that Dr. Civica practiced without a board approved chaperone from October 31, 2003 through May 21, 2004, and made no effort to contact the Board regarding approval for a new chaperone. The Board also found that prior to October 31, 2003 he required his chaperone to attend to the front desk business, leaving him alone for short periods with female patients. Following the May 28, 2004 Notice, Dr. Civica took steps to obtain several board approved chaperones, and three were approved and three were not approved. Subsequently, he allowed one of the unapproved persons to chaperone his female patients during September and October 2004.

Dr. Civica accepted the proposed sanctions with a Feb. 15th start date in lieu of proceeding to a contested case hearing before an impartial Administrative Law Judge.

The OBCE is the state agency responsible for licensing and regulation of the chiropractic profession with a primary mission of public protection. Decisions are made by a seven-member board consisting of five chiropractic physicians and two public members.

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For more information contact Dave McTeague, Executive Director, at 503-378-5816 ext. 23, or by email dave.mcteague@state.or.us

The mission of the Oregon Board of Chiropractic Examiners is to protect and benefit the public health and safety, and promote quality in the chiropractic profession.



BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

MAURO A. CIVICA D.C.,
License No.: 3039

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NOTICE OF PROPOSED
SUSPENSION OF LICENSE,
PROBATION EXTENSION

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1.

At all relevant times, Licensee was a Licensed Chiropractor in the State of Oregon and was employed as a chiropractor at 452 NW First Street, Canby, Oregon.

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patient at risk. An agreement with Licensee stipulating no harm or retribution to the chaperone may be incurred for reporting to the OBCE will also be signed.

Paragraph 7 of the Stipulated Order required:

During probation, Licensee will be required to submit to annual compliance polygraph tests with a polygrapher chosen by the Board. Licensee will provide for all costs for the examinations.

3.

On July 18, 2003, Licensee submitted to his required polygraph examination with polygrapher Kenneth L. Simmons. Licensee told Mr. Simmons that he had one elderly women patient who insists on having her examination without a chaperone present, but he does the exam with the door open. When asked "other than that one woman, since your last exam, have you treated a female patient without a chaperone present?" Licensee answered "no." The polygrapher found that when answering that question, Licensee was not answering truthfully based upon his evaluation of the polygraph charts. Due to that finding, the Board began to investigate Licensee's use of chaperones and whether Licensee was violating his Stipulated Final Order.

4.

During investigation, the Board found that from October 31, 2003 through May 21, 2004, Licensee was using a chaperone that had not been approved by the Board as was required by the Stipulated Final Order. The Board learned that the prior Board approved chaperone had left the clinic on October 31, 2003. During October 31, 2003 through May 21, 2004, Licensee made no effort to communicate with the Board that a new chaperone was needed which required a Board interview, that an interim chaperone was needed and should be interviewed by the Board, nor made any effort to follow the Stipulated Final Order. During investigation, the Board became apprised that Licensee also allowed a non Board approved chaperone for his female patients to act as chaperone and that Licensee had an ongoing personal relationship with that chaperone during the time period from October 2003 to May 2004; also in violation of the Stipulated Final Order. In recent correspondence from the Board, Licensee was asked why a Board approved chaperone was not sought until recently when the need arose in November 2003. Licensee did not provide a response to the Board's inquiry.

In addition, prior to October 31, 2003 and after the Stipulated Final Order was signed on December 14, 2001, the Licensee did not abide by the requirements that all females be chaperoned during treatment. The Board approved chaperone was forced by Licensee to leave the treatment room to go to the front desk, greet customers and answer the phone. When the chaperone pointed out to Licensee that the order required her presence, Licensee became verbally and physically threatening toward the chaperone. The chaperone was forced by Licensee, to leave some female patients for periods of time ranging from several seconds to several minutes, unchaperoned due to Licensee's bullying behavior toward the chaperone. The Board approved chaperone also witnessed Licensee repeatedly expressing disrespect toward the Board and for the requirements of his Stipulated Final Order.

5.

The above described conduct of Licensee violates ORS 684.100(1)(g)(A) and, OAR 811-035-0015(23). These acts constitute disobeying a final order of the Board in violation of the statute

and rules (Specifically, paragraph 5) in that the chaperone requirement was not fulfilled when full time chaperones were not provided to all female patients as required; Licensee failed to follow the requirements of his agreement that the chaperones would be Board approved and had a non Board approved chaperone, if any, for a seven month period from October 31, 2003 to May 21, 2004. Licensee also allowed a non Board approved chaperone that Licensee had an ongoing personal relationship with to act as a chaperone, which directly violates paragraph 5 of the Stipulated Final Order. In addition, Licensee failed his polygraph test as was required in Paragraph 7 of the Stipulated Final Order. That failure was directly linked to questions regarding whether Licensee was abiding by the terms of the chaperone requirements.

6.

Due to the aforementioned violations, the OBCE proposes to suspend Licensee's license for 3 months. In addition, Licensee's seven year probation that began with the signing of the December 14, 2001 order, will begin to run anew, with seven years of probation to begin with all terms listed in the Stipulated Final Order when this Notice of Proposed Discipline becomes final. All permanent restrictions remain as agreed in the Stipulated Final Order of December 14, 2001.

7.

Licensee shall pay costs of this disciplinary proceeding, including 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. The cost of this disciplinary proceeding is due and payable within 21 days of the effective date of any Final Order or the receipt of the total calculated amount.

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 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.

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 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.

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 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.

IT IS SO ORDERED this 28th day of May, 2004.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file
at the OBCE office.
By: Jim Wilkens DC, President

CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on May 28, 2004, I served the foregoing Notice upon Mauro A. Civica DC, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Mauro A. Civica, DC
452 NW First
Canby, Oregon 97013

Original signature on file
at the OBCE office.

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners