

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	Case # 2007-2002, 2007-2007, 2007-2011
Richard Crokin, D.C.)	
)	AMENDED
)	STIPULATED FINAL ORDER
Licensee.)	(Ending Probation)
)	
_____)	

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

1.
Findings of Fact

The Findings of Fact for the Stipulated Final Order dated June 24, 2008 are incorporated by reference. The Board finds Licensee has been fully compliant with the terms of the Stipulated Final Order and has paid his civil penalty in full.

2.
Conclusions of Law

Taking an x-ray of pregnant patient 1 is a violation of ORS 684.100(1)(g)(A) and (B) and OAR 811-015-010.

The deceptive and misleading aspects of the phone contact with patients 1, 2 and 3 are in violation of OAR 811-015-0045(1), (2) and (3), and the information conveyed to the patient and references to AIM only, violates the Oregon Doctors' Title Act, ORS, 676.110, and OAR 811-015-0045 (3) which says, "A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2)."

Hiring telemarketers and paying them a fee per patient is a violation of ORS 684.100(1)(g)(A) and OAR 811-035-0015(24).

Billing the insurance company for cervical x-rays that were not taken is in violation of ORS 684.100(1)(g)(A) and OAR 811-015-0005(1) and 811-035-0015(5) and (7).

Failure to document sufficient clinical justification for treatment of Patient 2 is a violation of OAR 811-015-0010(1). (Clinical rationale within acceptable standards and understood by a group of peers, must be shown for all opinion, diagnostic and therapeutic procedures.)

Inaccurate or insufficient documentation of examination procedures is a violation of OAR 811-015-0005(1) (It will be considered unprofessional conduct not to keep complete and accurate records on all patients...)

Evaluation and Management code levels billed to the insurer that are not substantiated by the records reviewed are in violation ORS 684.100(1)(g)(A) and OAR 811-035-0015 (12).

3.
STIPULATIONS

Therefore, pursuant to ORS 183.415(5) and ORS 684.100(9)(e) the OBCE orders:

1. The parties have agreed to enter this amended stipulated final order. Licensee agrees that he is aware of his right to a hearing with his attorney present to contest the charges and hereby waives that right and agrees to entry of this order. The parties wish to settle and resolve the above matter without further proceedings.
2. Licensee's license to practice chiropractic was suspended for 9 months effective August 1, 2008. Three months of that will be stayed and Licensee was suspended for six months. Should Licensee be absent from this state for any period of time which would interfere with meeting this requirement, Licensee shall request written pre-approval from the Board for alternative means of satisfying the terms. Such absence does not include travel outside the state of Oregon for vacations, continuing education, medical treatment or other temporary absences of a similar nature. Failure to receive Board pre-approval will result in an extension of this suspension for any period of time in which Licensee resides or practices outside the state of Oregon and may also result in other action.
3. Licensee was placed on probation for a period of five years from August 1, 2008. Effective April 12, 2012, Licensee is released from probation.
4. Provided Licensee abides fully by the terms of this order, he may return to the active practice of Chiropractic on February 1, 2009 without prior Board approval.
5. Licensee will complete 10 hours of continuing education on billing and coding to be completed during 6 months of Licensee's period of suspension. This is in addition to any required amount of CE to maintain licensure. Licensee shall provide proof of attendance to the Board.
6. Licensee agrees to permanently cease and desist from any paid advertisements and/or telemarketing to traffic crash victims in the manner described in the findings of fact, including but not limited to the use of hiring telemarketers and paying them a fee for patient referral.
7. Licensee shall pay a \$7500 civil penalty (paid in full).
8. Licensee shall not be permitted during the period of suspension to testify as an expert witness, unless Licensee is aware of a date that has already been scheduled for expert testimony that cannot be changed and Licensee provides to the Board in writing, the name of the case, dates of testimony and locations that testimony will occur.

Apr. 11. 2012 2:02PM

No. 0821 P. 4

9. If Licensee violates any of the terms of this order, the Board may, after Notice and Hearing, enter further disciplinary orders up to and including revocation.
10. This amended order is effective on April 11, 2012.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures on file at OBCE office

By:

Dave McTeague, Executive Director

Date: 4-11-2012

Original signatures on file at OBCE office

By:

Richard Crokin D.C.

Date: 4-11-12

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

Richard Crokin, D.C.

Licensee.

)
) Case # 2007-2002, 2007-2007, 2007-2011
)
) **STIPULATED FINAL ORDER**
) **SUSPENSION**
) **AND CIVIL PENALTY**
)
)
)

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

Findings of Fact

1.

A complaint was filed in March 2007, regarding a telephone contact made by Licensee who practiced with "American Integrated Medicine." Patient 1 had been in a motor vehicle accident and was pregnant at the time. The patient had her OBGYN examine her and seemed to be okay. On February 2, 2007 she received a phone call from Loraina of American Integrated Medicine. (AIM) Licensee is the chiropractic physician at AIM. In that telephone call, the patient was told that the insurance company had contacted AIM and requested they present themselves for an exam and evaluation of potential injuries as a result of the accident. In fact, their insurance company had not made that request but AIM and Licensee received the information from DMV and police reports about accidents that had occurred.

2.

Believing that their insurance company had requested it, both Patient 1 and her husband went for exams. Licensee performed those exams. Patient 1, although 7 months pregnant, was x rayed and was told it would be okay for her to get the x ray by Licensee. Patient 1 raised the issue of safety of an x ray while being pregnant and was reassured. After the exam was completed, Patient 1 was told she needed follow up treatment for her back being out of alignment. Patient 1 told Licensee her back was hurting prior to the accident due to the pregnancy. Patient 1 did not return for treatment, but instead, contacted her insurance carrier and found out that AIM was not requested by them.

3.

Submitting a 7 month pregnant women for x rays was not clinically or medically justified in this matter. The fundamental purpose of diagnostic imaging is to provide information to assist in the development of a diagnosis or treatment plan. The chiropractic must make imaging decisions

based on what is best for the patient. Review of patient records did not result in any clinical or medical justification, nor was Patient 1 provided any justification. This violates ORS 684.100(1)(g)(A) and (B) in that it is conduct that is contrary to recognized standards of the chiropractic profession and is the ordering of unnecessary x rays that is contrary to the recognized standards as well. In addition, it is unprofessional conduct in that it subjected the patient to endangerment. In that it lacked clinical justification for the x rays it violated OAR 811-015-010.

4.

During the investigation, Patient 1 indicated in the solicited phone contact with AIM, they had no idea that the clinic was providing chiropractic service, or what type of service was being provided. Licensee admitted during the investigation, that there was a script that staff was communicating to potential patients. Licensee provided that script during the investigation which states "I am calling from American Integrated Medicine regarding your accident on 1/30/06. We were notified of the incident and are calling to schedule a screening for potential injuries associated with the accident. The information will be sent to your insurance carrier as documentation."

The script does not indicate to the potential patient what type of medical practice the person is making an appointment with. Patient 1 did not know she was going to a chiropractor until she arrived at the clinic for the appointment. In addition, there is a conveyed misconception to the patient that somehow AIM is related to or requested by the patient's insurance carrier. This makes the patient feel obligated to make an appointment under the belief that their insurance company has requested or required this when that is not the case. During the investigation, Licensee offered to change the script from what was read to Patient 1. When Licensee submitted the changed script to the Board, although improved, it still was lacking in providing the necessary information to a potential patient and was still misleading, particularly being delegated to staff to make certain liberties with the script while talking to potential patients.

5.

During the telephone contact with Patient 1, Licensee failed to identify his profession or what type of medical clinic or profession the patient is making an appointment with. By referring to it as "American Integrated Medicine" and providing no further information, that is misleading to the potential patient. In addition, the script referring the auto accident and stating it will be referred to the insurance carrier, is misleading to the patient in that they are under the belief that their insurance company has requested or required the visit. The deceptive and misleading aspects of the phone contact are in violation of OAR 811-015-0045(1), (2) and (3), and the information conveyed to the patient and references to AIM only, violates the Oregon Doctors' Title Act, ORS, 676.110, and OAR 811-015-0045 (3) which says, "A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2)."

6.

A complaint was filed in July of 2007 regarding treatment of Patient 2, who was treated following a motor vehicle accident despite reporting to her insurance that she was not injured. Licensee was interviewed by the Peer Review Committee in reference to this complaint specifically. Patient 2 alleges that she received numerous calls from Licensee's office asking her to come for treatment despite her claim that she never had any pain or discomfort following the

accident. Licensee's notes state that Patient 2 presented in obvious distress on April 19, 2007 with neck and low back pain 20 days after the traffic accident and states she requested to be released from care due to not speaking English which limited her understanding of her recovery. Patient 2 had reported to her insurance carrier in July of 2007 that she was not injured in the accident, that she had no headaches, neck aches, shoulder, arm or back aches and hip or leg pain.

Patient 2 was contacted by AIM with the similar script as Patient 1. That script recited by Licensee during his interview describes AIM as an independent chiropractic, physical therapy and neurology office. There is no neurologist on staff at AIM. Furthermore, Licensee stated that he told prospective patients that the Portland Police Department gave him the patient's name and number and that they needed to get them scheduled for an exam. A reasonable person may believe that there is a relationship between the Portland Police Department and the Licensee based on that statement. This is patently false, misleading and potentially intimidating to patients not born and raised in the United States and is in violation of OAR 811-015-0045(1), (2) and (3), and the information conveyed to the patient and references to AIM only, violates the Oregon Doctors' Title Act, ORS, 676.110, and OAR 811-015-0045 (3) which says, "A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2)." Licensee acknowledged that there was no physician practicing in the clinic with any certification or credentials of advanced neurological training. The use of the word neurology implies what is not present at this clinic and is misleading. The postcards that are sent out by Licensee to prospective patients indicate there is a naturopath on staff at AIM. During his interview, Licensee informed the Peer Review Committee that there is no naturopath on staff at this clinic, nor had there been since over 18 months prior to him starting at the clinic. This is misleading as well.

7.

During the interview, Licensee informed the Peer Review Committee that he pays two telemarketers working as independent contractors \$20 for each patient that is referred to him. He further stated that this is their only compensation for their job of getting new patients to the clinic. A review of Licensee's appointment book indicated at least 20 instances of referrals from the telemarketers. Licensee confirmed that the notations in the appointment book indicated that the telemarketer would be paid and that is how they keep track of their paid activities. The telemarketers come to his office to make the calls from the office and are provided a script from Licensee as to what they will say to the prospective patients. This is in violation of ORS 684.100(1)(g)(A) and OAR 811-035-0015(24).

8.

The records were reviewed by the Peer Review Committee and Licensee was interviewed. The Peer Review Committee found from their review and Licensee's own statement, that Licensee had billed the insurance company for cervical x-rays that were not taken. This violates ORS 684.100(1)(g)(A) and OAR 811-015-0005(1) and 811-035-0015(5) and (7). The AP and lateral lumbar x-ray series provided to the PRC by Licensee do not show any evidence of collimation, are overexposed, and are of poor diagnostic quality. This is in violation of 811-030-0020(2) "All radiographs shall be of diagnostic quality. Radiographic films are subject to review by the Board to determine quality. Poor quality radiographs may result in disciplinary action."

The Peer Review Committee also found that inconsistencies in what the charts stated and Licensee's statements during his peer review interview. In addition there were several areas of

inconsistencies in Licensee's chart notes with a patient's account which brings to question the charts accuracy. The Peer Review Committee found that Licensee had no credibility in his testimony at the interview.

Failure to document sufficient clinical justification for treatment of Patient 2 is a violation of OAR 811-015-0010(1). (Clinical rationale within acceptable standards and understood by a group of peers, must be shown for all opinion, diagnostic and therapeutic procedures.)

Inaccurate or insufficient documentation of examination procedures is a violation of OAR 811-015-0005(1) (It will be considered unprofessional conduct not to keep complete and accurate records on all patients...)

Evaluation and Management code levels billed to the insurer that are not substantiated by the records reviewed are in violation ORS 684.100(1)(g)(A) and OAR 811-035-0015 (12).

9.

In July 2007, Patient 3 was in a traffic crash and subsequently received a telephone solicitation from what she thought was State Farm insurance, the other driver's insurance company. The solicitor said that most back injuries don't show up until weeks down the road and that she should get checked out. Patient 3 said that made sense to her, but was really shocked that her insurance talked with State Farm. (She later determined this did not occur.) Patient 3 was under the impression this call was from State Farm insurance, the carrier for the person who rear ended her car. She said the solicitor asked if she would be interested in an exam to see if there were any injuries to my back. She agreed to submit to the examination. The (male) solicitor said he would transfer her over to the clinic office. "He transferred me over to another office and a woman picked up....she scheduled the appointment. I didn't have to explain to her that I had been transferred. (she was expecting the call) When I did talk to them over the phone they just assumed that I was going to see them." The attempt to convince Patient 3 that an insurance company wanted her to submit to this examination is deceptive and misleading in violation of OAR 811-015-0045(1)

10.

In January 2008, Prospect 1 was in a car accident. About a week later Prospect 1's husband received a telephone solicitation from a male caller from "American Integrated." He said they wanted Prospect 1 to come in for a free examination. He was led to believe the caller was from their insurance company or represented insurance companies and they wanted her to come in for an examination to get checked out.

Prospect 1's husband said caller did not say anything about this being a "chiropractic, physical therapy, or neurology" clinic (as is supposed to be the case with the supposed updated script). He didn't have any idea of what kind of clinic it was. He told them he'd have to think about their offer and give them a call back. He said he did call back later and a female answered, "American Integrated Chiropractic." He said then he understood this was a chiropractic clinic looking for business. The attempt to convince Prospect 1's husband that an insurance company wanted his

wife to submit to this examination is deceptive and misleading in violation of OAR 811-015-0045(1). The failure to clearly identify this as a chiropractic clinic in the telephone solicitation is a violation of the Oregon Doctors' Title Act, ORS, 676.110, and OAR 811-015-0045 (3) which says, "A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2)."

11.

CONCLUSIONS OF LAW

Taking an x-ray of pregnant patient 1 is a violation of ORS 684.100(1)(g)(A) and (B) and OAR 811-015-010.

The deceptive and misleading aspects of the phone contact with patients 1, 2 and 3 are in violation of OAR 811-015-0045(1), (2) and (3), and the information conveyed to the patient and references to AIM only, violates the Oregon Doctors' Title Act, ORS, 676.110, and OAR 811-015-0045 (3) which says, "A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2)."

Hiring telemarketers and paying them a fee per patient is a violation of ORS 684.100(1)(g)(A) and OAR 811-035-0015(24).

Billing the insurance company for cervical x-rays that were not taken is in violation of ORS 684.100(1)(g)(A) and OAR 811-015-0005(1) and 811-035-0015(5) and (7).

Failure to document sufficient clinical justification for treatment of Patient 2 is a violation of OAR 811-015-0010(1). (Clinical rationale within acceptable standards and understood by a group of peers, must be shown for all opinion, diagnostic and therapeutic procedures.)

Inaccurate or insufficient documentation of examination procedures is a violation of OAR 811-015-0005(1) (It will be considered unprofessional conduct not to keep complete and accurate records on all patients...)

Evaluation and Management code levels billed to the insurer that are not substantiated by the records reviewed are in violation ORS 684.100(1)(g)(A) and OAR 811-035-0015 (12).

12.

STIPULATIONS

Therefore, pursuant to ORS 183.415(5) and ORS 684.100(9)(e) the OBCE orders:

1. The parties have agreed to enter this stipulated final order. Licensee agrees that he is aware of his right to a hearing with his attorney present to contest the charges and hereby waives that right and agrees to entry of this order. The parties wish to settle and resolve the above matter without further proceedings.
2. Licensee's license to practice chiropractic is suspended for 9 months effective August 1, 2008. Three months of that will be stayed and Licensee is required to serve 6 consecutive months suspension upon signature of this order. Should Licensee be absent from this state for any period of time which would interfere with meeting this requirement, Licensee shall request written pre-approval from the Board for alternative means of satisfying the terms. Such absence does not include travel outside the state of Oregon for vacations, continuing education, medical treatment or other temporary absences of a similar nature. Failure to receive Board pre-approval will result in an extension of this suspension for any period of

time in which Licensee resides or practices outside the state of Oregon and may also result in other action.

3. Licensee is placed on probation for a period of five years from August 1, 2008.
4. Provided Licensee abides fully by the terms of this order, he may return to the active practice of Chiropractic on February 1, 2009 without prior Board approval.
5. Licensee will complete 10 hours of continuing education on billing and coding to be completed during 6 months of Licensee's period of suspension. This is in addition to any required amount of CE to maintain licensure. Licensee shall provide proof of attendance to the Board.
6. Licensee agrees to permanently cease and desist from any paid advertisements and/or telemarketing to traffic crash victims in the manner described in the findings of fact, including but not limited to the use of hiring telemarketers and paying them a fee for patient referral.
7. Licensee shall pay a \$7500 civil penalty. Commencing March 1, 200⁹~~8~~ Licensee will make monthly payments of \$200, due and payable by the 1st of every month, until the remaining amount owed is paid. If ten days pass the 1st of the month, and payment is not received, Licensee will be considered delinquent in payment and may be charged interest at the rate determined by the state rate. Payments which are over 90 days delinquent if payments have stopped, then the entire amount remaining becomes due and may be referred either to the Department of Revenue for collections, or to state contracted private collection firms and may include the filing of liens on property, and/or the OBCE may lien Licensee's real property.
8. Licensee shall not be permitted during the period of suspension to testify as an expert witness, unless Licensee is aware of a date that has already been scheduled for expert testimony that cannot be changed and Licensee provides to the Board in writing, the name of the case, dates of testimony and locations that testimony will occur.
9. Licensee shall not apply for release from probation any earlier than August 1, 2013.

10. If Licensee violates any of the terms of this order, the Board may, after Notice and Hearing, enter further disciplinary orders up to and including revocation.

11. This order is effective on August 1, 2008.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file at OBCE.

By: [Signature]
Dave McTeague, Executive Director
Date: June 24, 2008

Original signature on file at OBCE.

By: [Signature]
Richard Crokin D.C.
Date:

