

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of:)	
)	
TIMOTHY GOULART, D.C.)	FINAL ORDER
)	
Licensee.)	CASE NO. 97-1019
_____)	

1.

On May 27, 1991, the Oregon Board of Chiropractic Examiners (OBCE) served Timothy Goulart, D.C. (Licensee), with a proposed Letter of Reprimand, Periodic Review of Chart Notes (Proposed Notice of Reprimand), alleging that Licensee committed an act in violation of the Board's rule. A copy of the proposed Letter of Reprimand is attached hereto and marked Attachment A. The Board informed Licensee that it intended to reprimand Licensee, require Licensee to allow the OBCE to periodically review patient records and chart notes, and recover from Licensee the costs of the proceeding.

2.

By an Agreement dated July 21, 1998, Licensee admitted the facts alleged in the Proposed Notice of Reprimand and submitted a written statement to the OBCE, a copy of which is attached hereto and marked Attachment B, required a hearing, and waived his right to appear.

3.

On August 20, 1998, the OBCE held a hearing on the Proposed Notice of Reprimand and considered the allegations and Licensee's admissions and statement.

4.

The OBCE finds that the allegations in the Proposed Notice of Reprimand are true and constitute a violation of OAR 811-030-0030(2)(f) for failing to appropriately identify x-ray films; and OAR 811-020-0095(2)(b), OAR 811-015-0005(1) and ORS 684.100(1)(g)(A) for failing to meet the minimum standards of completeness and accuracy that are required for chart notes history and examination notes.

5.

In light of the above, and pursuant to ORS 183.415(5), the OBCE ORDERS that:

5.1 Licensee is hereby REPRIMANDED for the above violations.

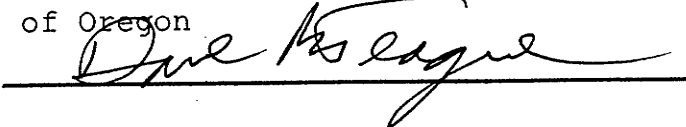
5.2 Licensee is required to allow the OBCE to periodically review Licensee's patient records and chart notes.

5.3 Licensee is assessed the costs of this proceeding in the amount of \$662.40, pursuant to ORS 684.100(7)(g).

DATED this 24th day of August, 1998.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By:


Dave McTeague, Executive Director

NOTICE: You are entitled to judicial review of this order pursuant to the provisions of ORS 183.480. Judicial Review may be obtained by filing a petition in the Oregon Court of Appeals. The petition must be filed within 60 days from the date of service of this order.

1 pay, cash, and personal injury patient, and associated x-rays on
2 January 27, 1998.

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4 4.

5 The Peer Review Committee reviewed Licensee's patient files
6 and x-rays on February 19, 1998 and reported as follows:

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8 (a) Licensee had a prior disciplinary action involving the
9 use of x-rays.

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11 (b) The committee requested and reviewed additional x-rays
12 from Licensee and determined that position markers were
13 absent and patient identification was missing on most of the
14 x-rays in violation of OAR 811-030-0030 (2) (f).

15
16 (c) The chart notes, history, and examination information
17 were below minimal standard in that they were either
18 incomplete or inaccurate or both.

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20 5.

21 The OBCE reviewed and accepted the Peer Review Committee
22 report on March 19, 1998.

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24 6.

25 The conduct described in Section 4 (b) and (c) is in
26 violation of OAR 811-030-0030 (2) (f) for failing to appropriately
27 identify X-Ray films; OAR 811-010-0095(2) (b), OAR 811-015-0005(1)
28 and 684.100(1) (g) (A) for failing to meet the minimum standards of

1 completeness and accuracy that are required for chart notes
2 history and examination records.

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4 7.

5 Pursuant to 684.100(9)(g) the OBCE proposes to issue a
6 Letter of Reprimand, and to require Licensee to allow the OBCE or
7 it's representative to enter Licensee's business premises for one
8 year, or until such time that the OBCE decides that said action
9 is no longer necessary, the OBCE may examine, review and
10 photocopy Licensee's patient records and chart keeping notations
11 to ensure that Licensee complies with the minimum requirements of
12 ORS chapter 684 and OAR Chapter 811 with regards to chart notes,
13 history, examination records, and proper identification of x-
14 rays. Such examinations and requests for photocopies of file
15 entries by the OBCE of it's representative may not be refused by
16 Licensee.

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18 8.

19 Licensee shall pay costs of this disciplinary proceeding,
20 including investigative costs and attorney fees pursuant to ORS
21 684.100(9)(g).

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23 9.

24 The OBCE shall retain the authority to revisit this matter and,
25 should future violations occur, it may initiate disciplinary
26 proceedings. In the event of any subsequent complaint or cause for
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1 Board review, Licensee shall retain the ability to request a hearing
2 on the new violation before any discipline becomes effective.
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4 10.

5 Licensee has the right, if Licensee requests, to have a
6 formal contested case hearing before the OBCE or its hearings
7 officer to contest the matter set out above. At the hearing,
8 Licensee may be represented by an attorney and subpoena and cross
9 examine witnesses. That request for hearing must be made in
10 writing to the OBCE, must be received by the OBCE within 21 days
11 from the mailing of this notice (or if not mailed, the date of
12 personal service), and must be accompanied by a written answer to
13 the charges contained in this notice.
14

15 11.

16 The answer shall be made in writing to the OBCE and shall
17 include an admission or denial of each factual matter alleged in
18 this notice, and a short plain statement of each relevant
19 affirmative defense Licensee may have. Except for good cause,
20 factual matters alleged in this notice and not denied in the
21 answer will be considered a waiver of such defense; new matters
22 alleged in the answer (affirmative defenses) shall be presumed to
23 be denied by the agency and evidence shall not be taken on any
24 issue not raised in the notice and answer.
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26 12.

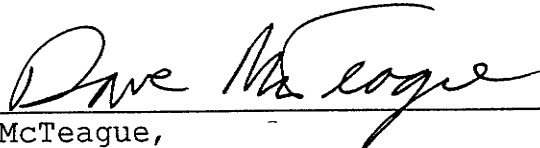
27 If Licensee requests a hearing, before commencement of that
28 hearing, Licensee will be given information on the procedures,

1 rights of representation, and other rights of the parties
2 relating to the conduct of the hearing as required under ORS
3 183.413-415.
4

5 13.

6 If Licensee fails to request a hearing within 21 days, or
7 fails to appear as scheduled at the hearing, the OBCE may issue a
8 final order by default and impose the above sanctions against
9 Licensee. Licensee's submissions to the OBCE to-date regarding
10 the subject of this disciplinary case and all information in the
11 OBCE's files relevant to the subject of this case automatically
12 become part of the evidentiary record of this disciplinary action
13 upon default for the purpose of proving a prima facie case.
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16 DATED this 27 day of May, 1998
17 Board of Chiropractic Examiners
18 State of Oregon

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20 _____
21 Dave McTeague,
22 Executive Director
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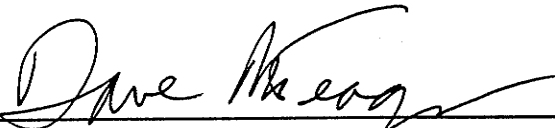
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VERIFICATION

State of Oregon)

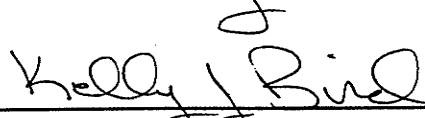
County of Marion)

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.

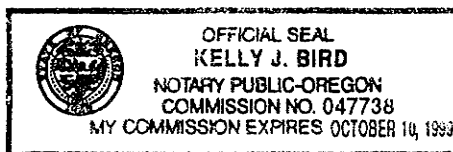


DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 27th day of May, 1998.



NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/10/99



1
2 CERTIFICATE OF SERVICE
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5 I certify that on *MAY 27, 1998*, I served the foregoing Notice
6 upon the parties hereto by mailing, certified mail, postage
7 prepaid, a true, exact and full copy thereof to:

8
9 Timothy Goulart, D.C.
10 424 NE Franklin Ave
11 Bend, Oregon 97701

12 

13 David R. Laborico
14 Investigator
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