

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

RECEIVED
SEP 10 2010

D.O.J., GENERAL COUNSEL
SALEM, OREGON

In the Matter of)
) Case # 2010-1002
Susan Gray, D.C.)
)
) **Stipulated Final Order**
Licensee.)
)
)

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

Findings of Fact

1.

In January 2010, Patient 1 filed a complaint about getting treatment with Licensee and her refusal to bill the insurance company for payment. Patient 1 complained because the insurance claim could not be further processed without a bill provided by Licensee. Patient 1 had requested this from Licensee in a certified letter but had not received any response.

2.

In Licensee's response to the complaint, Licensee admitted that she was unable to keep and process adequate records during the time periods that Patient 1 complained of. Licensee further attempted to explain how some health issues with her family and herself had occurred. When the Board received the information provided by Licensee in her response, the chart notes provided were totally inadequate.

Licensee has been disciplined in the past for failure to release records. In September 2000 Licensee stipulated to be reprimanded and pay costs of discipline due to her failure to release records. In 2002 Licensee was suspended and a cost recovery was assessed for failure to release medical records.

3.

The preceding chronology of events demonstrates that Licensee has a pattern of not being able to provide her patients with the records as required under the statutes and rules. This is a great disservice to her patients who rely on her professional ability in order to properly process their insurance claim.

Conclusions of Law

4.

The Board finds that the acts and conduct of Licensee described above are in violation of:

a) OAR 811-015-0006 (1) A Chiropractic physician shall make available within a reasonable time to a patient or a third party upon the patient's written request, copies or summaries of medical records and originals or copies of the patient's X-rays.

b) ORS 684.100 (1)(t) ...failing to give reasonable access to the records and files of the physician's patients at any time.

Stipulations

5.

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 to the entering of this final order. Licensee agrees that she is aware of his right to a hearing with her attorney present to contest the charges and hereby waives that right and agrees to entry of

this order. The signature of this order also waives any right to appeal. The parties wish to settle and resolve the above matter without further proceedings.

2. Licensee is on probation for three years from the date this order becomes final as long as she is actively licensed. The probationary period will not be counted if her license becomes lapsed, surrendered, retired or inactive.
3. During the three year probationary period, Licensee agrees not to accept any PIP or Workers Compensation patient cases.
4. Licensee agrees to random patient charts and billing audits to be conducted by the Board or their representative. Licensee agrees to cooperate with the Board in terms of providing files at their request.
5. Licensee agrees to be mentored by a board approved mentor chiropractor.. Licensee must participate in and successfully complete a mentoring plan with a board approved Mentor for a minimum of one year or longer if the Mentor determines this is needed. The Mentor will be a licensed Oregon chiropractic physician chosen by the OBCE who will sign a personal services contract with the OBCE for the provision of this service. The mentoring plan will have a focus on development of acceptable examination, appropriate release of records, clinical justification, informed consent, charting and risk management practices to ensure compliance with applicable statutes and rules as well as addressing all issues identified in this order. The Mentor will be responsible to review charts and report any findings to the Board that are appropriate. At any time that the Licensee ceases active practice, her license lapses or she changes to inactive status, this will not count towards completing of the minimum mentoring period. The Mentor will perform file reviews of records and billings of Licensee's case work and report to the board on his progress at

meeting minimum standards of chiropractic health care. Licensee must allow the Mentoring Doctor to enter Licensee's business premises to examine, and review Licensee's patient or other records to determine compliance with the terms of this order, for the duration of this Mentoring plan. If the Mentor requests and with the patient's agreement, Licensee will allow the Mentor to observe a patient encounter. The Mentor will make periodic reports to the OBCE regarding Licensee's progress in meeting minimum standards of chiropractic health care. As part of this report, the Mentor may pull one or two of the patient files reviewed with identifiers redacted for the Board's review. The financial compensation for the mentoring doctor will be at Licensee's expense which will be due and payable to the OBCE. The Mentor will provide OBCE with periodic billings for services and in turn the OBCE will bill the Licensee. The hourly rate will be determined by the Mentoring Doctor in agreement with the OBCE plus mileage at the state rate. Successful completion of the mentoring plan also requires that this financial obligation be met; however the OBCE will be reasonable in setting up a payment plan if Licensee makes a request. Failure of Licensee to fully cooperate with the Mentor and the mentoring plan will be grounds for future disciplinary action.

6. Licensee agrees to reimburse Patient 1 the amount of \$5,000, the estimated loss to the patient for Licensee's failure to document her care, do appropriate billing and timely release of patient records. Licensee must make payments to Patient 1 in the amount of \$300 a month to begin on September 1, 2010. Payment will be made to Patient 1 but will be sent each month to the Board address and the Board will in turn mail it to the Patients for reimbursement to allow the board to monitor that payments are being made by Licensee. Licensee's failure to make payments may be cause for further discipline.

7. Licensee agrees to continue to receive mental health counseling during the probationary period.
8. Licensee agrees to promptly respond to valid release of patient records requests. Failure to do so will be grounds for further discipline.
9. Failure to complete this final stipulated order with the terms so stated, may result in further discipline, up to and including, revocation.

Effective last date signed below.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file at OBCE

By: B. Dave McTeague
Dave McTeague, Executive Director
Date: _____

Original signature on file at OBCE

By: Susan Gray
Susan Gray D.C., Licensee
Date: 9/1/10

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
Susan Gray, D.C.) Case # 2010-1002
)
)
 Licensee.) **NOTICE OF PROPOSED**
) **REVOCATION OF LICENSE**
)
)
_____)

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The Board finds that the acts and conduct of Licensee described above are in violation of:

- a) OAR 811-015-0006 (1) A Chiropractic physician shall make available within a reasonable time to a patient or a third party upon the patient's written request, copies or summaries of medical records and originals or copies of the patient's X-rays.
- b) ORS 684.100 (1)(t) ...failing to give reasonable access to the records and files of the physician's patients at any time.

5.

The Board proposes to revoke Licensee's license to practice chiropractic due to the aforementioned violations pursuant to ORS 684.100(a).

6.

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

7.

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.

8.

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.

9.

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.

10.

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.

DATED this 25th day of March 2010.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file at OBCE

By:

Dave McTeague, Executive Director

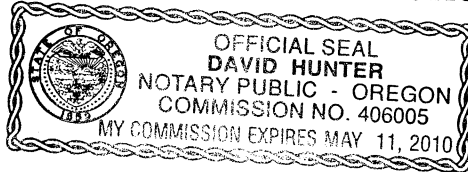
VERIFICATION

State of Oregon) Susan Gray DC
County of Marion) Case # 2010-1002

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.

Original signature on file at OBCE

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS



SUBSCRIBED AND SWORN to before me
this 25th day of March, 2010.

Original signature on file at OBCE

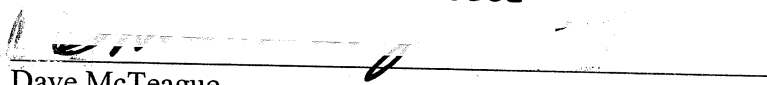
NOTARY PUBLIC FOR OREGON
My Commission Expires: May 11, 2010

CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on March 24, 2010, I served the foregoing Notice upon Susan Gray DC, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Susan Gray, DC
1920 NW Johnson St. Ste. 116
Portland, OR 97209

Original signature on file at OBCE


Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners