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

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In the Matter of)
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Kimberly Guthrie, DC) STIPULATED FINAL
) ORDER
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Licensee.) Case # 2012-5021

RECEIVED

JUN 10 2013

OREGON BOARD OF
CHIROPRACTIC EXAMINERS

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The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Kimberly Guthrie, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in the State of Oregon.

Findings of Fact

1.

The Board received a complaint in regards to care provided to Patient 1, and opened an investigation. On November 30, 2012, the Board issued a Notice of Proposed Disciplinary Action in which the Board made allegations and proposed taking disciplinary action which is incorporated herein by reference.

Conclusions of Law

2.

The Board finds the alleged conduct to be an interference with a Board investigation and conduct that is unprofessional and constitutes a violation of ORS 684.100(f)(A), and OAR 811-035-0015(20).

Stipulations

3.

Therefore, pursuant to ORS 183.417(3) and ORS 684.100(9)(g) the OBCE orders:

1. The parties wish to settle and resolve this matter without further proceedings and have agreed to enter this stipulated final order in regards to the allegations in the notice issued on November 30, 2012. Licensee is aware of her right to a hearing with her attorney present to contest the charges and hereby waives that right and agrees to entry of this final order. The signature of this order also waives any right to appeal.
2. Licensee agrees to zero out the patient balance owed by Patient 1.
3. Licensee agrees to take and pass the NBCE ethics test within 1 year at an expense to Licensee.
4. The Board waives all costs and fees incurred.
5. Failure to complete this final stipulated order with the terms so stated, may result in further discipline, up to and including, revocation.

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

6 In the Matter of)
7) NOTICE OF PROPOSED
8 Kimberly Guthrie DC) DISCIPLINARY ACTION
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12 Licensee.) Case # 2012-5021
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15 The Board of Chiropractic Examiners (Board) is the state agency responsible for
16 licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Kimberly
17 Guthrie DC (Licensee), is licensed by the Board to practice as a chiropractic physician in the
18 State of Oregon. The Board proposes to discipline Licensee for the following reasons.
19

20 1.

21 The Oregon Board of Chiropractic Examiners received a complaint in regards to care
22 provided to Patient 1. This Patient had been treating with Licensee for shoulder pain for a little
23 over a month and incurred charges in excess of \$1000. On August 15, 2012 the Board requested
24 a response from Licensee regarding issues surrounding the treatment plan that Patient 1 had
25 signed up for and her dissatisfaction with the services. Soon after that was sent to Licensee, on
26 September 4, 2012, Licensee e-mailed the patient and said "I am willing to write off your balance
27 and not send you to collections if you e mail and call the Oregon Board of Chiropractic
28 Examiners to withdraw your complaint. Please give me a call to discuss this matter. Please let
29 me know your position on this proposal today."
30

31 2.

32 In Licensee's response to an inquiry by the Board as to why she attempted to leverage the
33 write off of the amount due to dropping the complaint, Licensee stated "I regret sending the e-
34 mail and realize this should have been handled differently. My intent was to write off the
35 balance of Patient 1's account as I did not like having a patient dissatisfied with her experiences
36 at our clinic. I now realize I should not have raised the issue of the Board complaint with her."
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3.

The Board finds the above to be an interference with a Board investigation and conduct that is unprofessional and constitutes a violation of ORS 684.100(f)(A), and OAR 811-035-0015(20).

4.

Due to the aforementioned violations, the OBCE proposes to require Licensee to provide 20 hours of chiropractic community service at a Board Approved Location within one year, and to forgive the balance owed by Patient 1 (\$1,056), and to take and pass the NBCE Ethics & Jurisprudence Examination within 6 months.

5.

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

6.

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 21 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.

7.

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.

8.

If Licensee fails to request a hearing within 21 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. Licensee's submissions to the OBCE to-date regarding the subject of this case automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a prima facie case.

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DATED November 30, 2012

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original Signatures are on file at OBCE office

By:

Dave McTeague, Executive Director

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Certificate of Service

I, Dave McTeague, certify that on November 30, 2012, I served the foregoing Notice of Proposed Disciplinary Action upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Kimberly Guthrie DC
15962 SW Boones Ferry Rd., Ste. 202
Lake Oswego, OR 97035

By regular mail to:

Original Signatures are on file at OBCE office

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners