

BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF OREGON

In the Matter of )  
Jay L. Harris, D.C. ) STIPULATED  
 )  
 ) FINAL ORDER  
 )  
 Licensee. ) Case # 2000-3012  
\_\_\_\_\_ )

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. Jay Harris, D.C. (hereafter "Licensee"), is a licensed chiropractic physician in Oregon since July 1, 1980. Licensee has no previous complaint history with the OBCE. The Board has determined the facts as follows:

FINDINGS OF FACT

1.

On Monday, August 7, 2000, Licensee called the OBCE to self-report a single incident of consensual sexual relations involving a staff person who had also been treated as a patient over the course of her employment. Licensee admits that no patient records were created for Patient/Staff 1.

CONCLUSION OF LAW

2.

The Board, having jurisdiction over this matter, finds that Licensee's conduct as described above constitutes violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015 (1)(a)(b)(c) in that Patient/Staff 1 meets the definition of "patient" as found in OAR 811-010-0005 (4). Failure to keep patient records on Patient/Staff 1 is a violation of OAR 811-015-0005 (1) and (1)(a).

The Board acknowledges that Licensee may not have understood the definition of patient as found in OAR 811-010-0005 (4) and thus may not have intended to enter into a sexual relationship with a patient. However, it is the responsibility of all licensees to read and understand the administrative rules governing the practice of chiropractic. In this case, the Board

reaffirms the standard of care, as it has found in the past, that any chiropractic treatment or examination of a chiropractic physician's staff creates a patient-doctor relationship with all of the attendant responsibilities.

### STIPULATIONS

3.

This matter having come properly before and been considered by the Board, and Licensee having voluntarily stipulated and consented to the issuance and entry of this order by signing below,

IT IS HEREBY ORDERED THAT:

- a) Pursuant to ORS 183.415(5), the Board and Licensee agree to informally dispose of and settle this matter.
- b) Licensee stipulates that he has been advised of his right to request a hearing in this matter pursuant to ORS 183.415(2)(a), and to be represented at a hearing pursuant to ORS 183.415(3).
- c) Licensee waives his right to a hearing in this matter.
- d) Licensee is placed on probation for one year
- e) Licensee shall participate in counseling regarding boundaries and dual relationships with a mental health provider approved by the Board. Licensee shall cause the provider to submit periodic reports to the Board regarding Licensee's progress for as long as licensee is in counseling. Licensee waives any privilege and consents to allow contact between the provider and the board for purposes of verifying compliance with the terms and conditions of this order. All counseling and reporting will be at the sole cost of Licensee.
- f) Licensee shall complete a course of education addressing boundary issues and dual relationships approved by the Board. At a minimum, this shall include reading three books or monographs on the subject, and writing a report on each, to be submitted to the Board, and locating and attending an additional 12 hours of professional continuing education relating to this topic.
- g) Licensee agrees to not engage in any conduct or verbal behavior toward any female patient or staff person that may be reasonably interpreted by the patient or staff as sexual, sexually suggestive, seductive or demeaning.
- h) 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, the incident may be used as a basis for license revocation.

4.

Licensee is assessed the costs of this proceeding in the amount of \$846 pursuant to ORS 684.100(9).

5.

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

I have read and I fully understand all of the above Stipulated Final Order and fully agree to its terms.

Dave McTeague, Executive Director  
Oregon Board of Chiropractic Examiners  
State of Oregon

Date: 09-19-2001

Original signature on file  
at the OBCE office.

Jay Harris DC

Date: 09-19-2001

BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF OREGON

In the Matter of	)	
	)	<b>NOTICE OF PROPOSED</b>
Jay L. Harris, D.C.	)	
	)	<b>DISCIPLINARY ACTION</b>
	)	
Licensee.	)	<b>Case # 2000-3012</b>
<hr/>		

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. Jay Harris, D.C. (hereafter "Licensee"), is a licensed chiropractic physician in Oregon since July 1, 1980. Licensee has no previous complaint history with the OBCE. The Board proposes to issue the following Notice of Disciplinary Action for the following reasons:

1.

On Monday, August 7, 2000, Licensee called the OBCE office and spoke with Dave McTeague, Executive Director, to self-report an incident of consensual sexual relations involving a staff person. Licensee is co-owner of Clackamas Chiropractic Clinic. Licensee confirmed that he and two other doctors in his clinic, had over the course of employment provided chiropractic treatments to the staff person, hereafter termed Patient/Staff 1. Patient/Staff 1 had been an employee of Licensee's clinic for approximately three years as a receptionist and billing clerk. Licensee admits that no patient records were created for Patient #1.

2.

Both Licensee and Patient/Staff 1 report they had sexual relations in Patient/Staff 1's apartment the evening of Friday, April 7, 2000, after visiting two drinking establishments, neither having had dinner, and both having had numerous beers and drinks. Licensee states that Patient/Staff 1 and he engaged in a consensual sexual act. Patient/Staff 1 states she did not give consent, and relates losing consciousness of events in her apartment.

3.

Licensee and Patient/Staff #1 state different accounts of the workplace environment. Patient/Staff 1's account of the workplace environment is that it was not unusual for Licensee to

touch her back and give her an unsolicited embrace and kiss at closing time. Patient/Staff 1 states Licensee either tried to or did kiss her on six to ten occasions.

Licensee states that for several months prior to April 7, 2000 , if no one else was present, Patient/Staff 1 would "kiss me good night.." Licensee's statement is supported by Patient 2 and Patient 3 who both say they witnessed Patient/Staff 1 kiss Licensee at closing time.

4.

Licensee has been involved with OBCE activities for many years. Licensee's experience includes, serving as a Proctor of the OBCE's practical clinical examination; performing as Chief Examiner for the National Board of Chiropractic Examiner's Part IV practical examination; and serving on the OBCE's Practice Guidelines Nominal Panel, where he recently participated in the consensus process which developed a statement on patient-doctor boundary issues. As such, Licensee is expected to be conversant in the rules and regulations governing the practice of chiropractic in Oregon.

5.

The Board finds that Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's conduct herein, as described above, constitutes violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015 (1)(a)(b)(c) in that Patient/Staff 1 meets the definition of "patient" as found in OAR 811-010-0005 (4). Failure to keep patient records on Patient/Staff 1 is a violation of OAR 811-015-0005 (1) and (1)(a).

6.

Due to the aforementioned violations, the OBCE proposes to suspend Licensee's license for six months, and following that, place him on probation for three years, and for the first year of the probationary period require that an adult chaperone be present at all times when treating and/or examining any female patients.

7.

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

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 15<sup>th</sup> day of February, 2001.

BOARD OF CHIROPRACTIC EXAMINERS  
State of Oregon

Original signature on file  
at the OBCE office.

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Dave McTeague  
Executive Director

State of Oregon )  
County of Marion ) Case # 2000-3012

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 the OBCE office.

DAVE McTEAGUE, EXECUTIVE DIRECTOR  
OREGON BOARD OF CHIROPRACTIC EXAMINERS

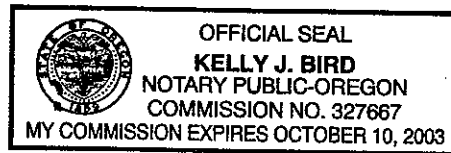
SUBSCRIBED AND SWORN to before me

this 14<sup>th</sup> day of February 2001

Original signature on file  
at the OBCE office.

NOTARY PUBLIC FOR OREGON

My Commission Expires: 10/10/03



**CERTIFICATE OF SERVICE**

I, Dave McTeague, certify that on February 15, 2001, I served the foregoing Notice of Proposed Disciplinary Action upon Jay L. Harris, D.C., the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Jay L. Harris D.C.  
14995 SE 82nd Dr.  
Clackamas, Oregon 97015

Original signature on file  
at the OBCE office.

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Dave McTeague  
Executive Director  
Oregon Board of Chiropractic Examiners