

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

In the Matter of
Frank Heresco DC

Licensee.

FINAL ORDER BY DEFAULT

Case # 2010-5007

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. Frank Heresco DC (hereafter "Licensee"), is a licensed chiropractic physician in Oregon.

Findings of Fact

1.

In 2008 through 2009, Licensee employed chiropractor Robert Tallman as an associate doctor. During his employment, Licensee received approximately 5 complaints from patients indicating that he had either touched them inappropriately or had made inappropriate remarks to them while they were receiving treatment.

2.

In the summer of 2010, while the Board was investigating Dr. Tallman for inappropriate sexual contact with a patient in the Medford area, it became known that Dr. Tallman had previously worked for Licensee in the Corvallis area prior to moving to Medford. Upon further review, the Board became aware that Tallman had 5 patients approach Licensee to complain about him slipping his hand under underwear and dresses while providing treatment. At the time, Licensee put Tallman on probation and attempted to change the associate's behavior, but did not report these incidents to the Board directly, nor convince the patients to do so. Licensee terminated Tallman's employment in that clinic due to these complaints. Once the Board became aware of these allegations, Licensee could only provide two of the patient names to the Board of the five complaints that he had received while Tallman was employed at his clinic.

3.

Patient 1 and 2 stated they came forward to Licensee because they thought he would do the right thing and put a stop to this behavior.

4.

Associate Tallman was charged with harassment and sex abuse III in Jackson County the week of June 21, 2010 and the Benton County District Attorney is currently investigating whether to issue criminal charges on the Corvallis patient's allegations.

5.

On August 5, 2010, a Proposed Notice of Discipline was sent to Licensee. In that notice, Licensee was told that the record herein would be used by the Board for purposes of default and to establish a prima facie case. Licensee subsequently informed the Board within the required time period that he was not going to request a hearing. Licensee also said, "After discussions with the patients who had concerns.... Tallman always had a reasonable explanation. Regardless what looks obvious now was not obvious at the time.... In hindsight I should have contacted the Board after I received the letter from the patient who said she was going to contact (the Board). I should have followed up on that..." Licensee is now in default.

Conclusions of Law

6.

The Board finds that Licensee's conduct as described herein constitutes a failure to report and is a violation of ORS 684.200(1) and OAR 811-010-0040(1).

Order

7.

Due to the aforementioned violations, the OBCE hereby reprimands Licensee for these violations. The Board required Licensee to pay a civil penalty in the sum of \$4,800 which Licensee paid on October 13, 2010.

Dated October 22, 2010

**BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon**

Original signature on file at OBCE



**Dave McTeague
Executive Director**

A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court of Appeals pursuant to the provisions of ORS 183.482. Judicial review may be obtained by filing a petition for review with the Office of State Court Administrator, Supreme Court Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is requested by filing a petition in the Court of Appeals within 60 days following the date the order upon which the petition is based is served. * * * * *

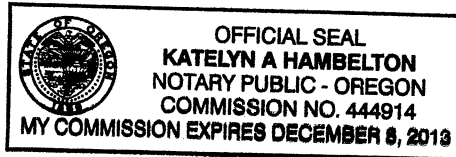
State of Oregon
County of Marion

) Case # 2010-5007
) Frank Heresco DC

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Oregon Board of Chiropractic Examiners, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice of Proposed Disciplinary Action 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 22nd day of October, 2010

Original signature on file at OBCE

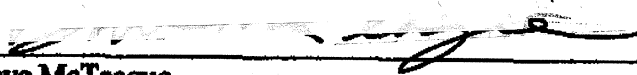
NOTARY PUBLIC FOR OREGON
My Commission Expires: Dec. 8th, 2013

Certificate of Service

I, Dave McTeague, certify that on October 22, 2010 I served the foregoing Notice of Proposed Discipline upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Frank Heresco, DC
Heresco Chiropractic & Assoc
408 NW 7th St
Corvallis, OR 97330

Original signature on file at OBCE



Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners