

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

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OREGON BOARD OF
CHIROPRACTIC EXAMINERS

In the Matter of)
)
Michael Hopkins, D.C)
License No: 3584)
)
Licensee.)
)
STIPULATED FINAL ORDER

Case # 2009-1025

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. Michael Hopkins, DC (hereafter "Licensee"), is a licensed chiropractic physician in Oregon.

Findings of Fact

1.

In 2007 Patient 1 first met Licensee as she became a patient. Patient 1 began to see Licensee regularly for back problems through 2007. Licensee began to hug Patient 1 when her treatment was over. At first, Patient 1 took these as friendly hugs and then it began to occur more often at the beginning of treatment that Licensee would hug her. Patient 1 then finished schooling in a massage program and approached Licensee about working with him. Then in December 2007, Licensee set up a massage appointment with Patient 1 to receive a Thai massage. Patient 1 divulged to Licensee issues she was having in her marriage and Licensee also shared details about his marriage struggles and fidelity issues.

In the spring of 2008, Patient 1 continued to treat with Licensee and had a recurring back issue. In the summer of 2008 she was doing many massages per day and was experiencing pain for which she again sought treatment with Licensee. Patient 1 broke up with her husband in July 2008. In August 2008 Licensee came to Patient 1's apartment to receive a massage as her thank you for all the treatment Licensee had been providing her. After the massage they sat on the patio and talked for an hour and a half where Licensee shared other marital issues. Licensee also told her to consider the massage she gave him to be her "interview massage" to be employed with his practice. Licensee soon asked Patient 1 to work for him and began to text her with flirtatious texts stating that he admitted to being attracted to her.

On September 16, 2008, Patient 1 had severe neck pain and called Licensee who came to her apartment. Licensee treated and massaged her. During treatment, Licensee

told her to turn over and then kissed her. He began removing her dress and sexual intercourse occurred. After this occurred, Licensee told Patient 1 that "when he was driving to her home he had turned around several times thinking if he came to her apartment he knew he was going to do something."

Patient 1 continued to work at Licensee's clinic, at the same time they continued the sexual relationship. Patient 1 indicated that they would often have sex in the clinic after the work day was over and they were staying late.

In the Fall of 2008, Licensee attempted to break off the intimate relationship with Patient 1. At one point after trying to break it off Licensee then told Patient 1 that he loved her. The relationship continued through June 2009 until Licensee's wife contacted Patient 1 over the phone and fired her. His wife also confronted Patient 1 at the clinic and an altercation occurred where Licensee's wife scratched and punched Patient 1 and was criminally charged with harassment. Licensee had to break up the fight. A couple of weeks later, Licensee talked to Patient 1 and apologized for what had occurred and told her "he was sick and needed help, that he couldn't control himself, and wondered if the next patient walking through the door would have sex with him."

In a board interview, Licensee admitted to having an affair with Patient 1 and admitted that they had sex in the office several times. He also admitted to the altercation that occurred with his wife and Patient 1. The office manager and several patients were aware of the affair Licensee had with Patient 1.

2.

Patient 2 became a patient of Licensee in 2008. She has seen Licensee 12 times in the past year. Patient 2 also considered Licensee a friend. She had socialized with Licensee and his wife and had participated in a murder mystery party with them. Licensee also returned a necklace to her that she left at the clinic and had a glass of wine with her at her home. Patient 2 denied initially that she had ever kissed Licensee, but later in an interview said "it didn't ring a bell, and offered that it may have happened, but she didn't know why" without providing further explanation. In a Board interview, Licensee admitted that on June 2, 2009 he was working on her neck and she was facing up and she reached up and caressed his arms. He continued to massage her and she sat up and pulled him to her and kissed him. Licensee said the treatment ended when that occurred but he later discussed what he referred to as the "boundary crossing" with her.

Licensee made note of Patient 2 "putting her hands all over me and pulling me close to kiss me" in the June 2 chart notes. Licensee also indicated in the chart notes that Patient 2 was asked not to return to the office for treatment due to, the fact that "we crossed a boundary today that we shouldn't have and I feel I can no longer treat her objectionably (sp)." Prior to this, on April 29, 2009, Licensee made note of Patient 2's prognosis and presentation as "poor Ms. Garris is only here because she wants to piss off my massage therapist and to gain another notch in her bedpost by f—king me."

3.

Patient 3 has been good friends with Licensee for many years. She first started seeing Licensee as a patient in August 2005. Currently she sees him as a patient once a year. Their families often socialize together and she and Licensee often socialize together alone or with their children. Licensee would text Patient 3 often and would inform her of information about his affair with Patient 1. Patient 3 stated that Licensee traded hugs freely with her and she was that way with all his friends. In a board interview, Licensee admitted that in the fall of 2008 he took a trip to Las Vegas with Patient 3 without his wife and his wife was aware of their friendship.

4.

Patient 4 was a patient in 2008-2009. When she came for treatments, she could hear Licensee discuss patients' problems in the small waiting room where other patients could overhear. Patient 4 recalled that Licensee mentioned potentially sensitive private health information in front of others.

5.

In the Board interview, Licensee admitted that he shared descriptive anatomical patient information about an older female patient to office staff and told the staff that she removed all of her clothing and was naked in the treatment room. He also told office staff about another female patient's anatomy and that something was pierced.

Licensee also admitted that he failed to keep contemporaneous chart notes for some patients, in fact letting some patient files fall as much as six months behind.

Conclusions of Law

6.

The Board finds that Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's conduct, in regards to Patients 1, 2 and 3 constitutes violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015(1)(a)-(e). The Board finds that there was a doctor/patient relationship with Patients 1, 2 and 3 prior to sexual contact and/or any boundary violations and that the doctor/patient relationship had not been appropriately terminated prior to sexual contact or boundary violation pursuant to OAR 811-010-0005(4). In regards to Patient 4 and paragraph 5 the Board finds that Licensee's conduct constitutes violations of ORS 684.100 (1)(g)(A); and OAR 811-035-0015(11). For failure to keep chart notes this constitutes violations of ORS 684.100(1)(g)(A) and OAR 811-015-0005(1).

Order

7.

The Board finds Licensee in violation of ORS 684.100(1)(g)(A) and OAR 811-035-0015(1)(b)-(e) and orders Licensee to complete the following:

1. Licensee's Licensee to practice Chiropractic is hereby suspended for 120 days beginning February 1, 2010 through May 31, 2010. Licensee may not participate in any type of practice of chiropractic during that time period.
2. Licensee is placed on Probation for a period of three years from the date of completion of the suspension.
3. Licensee must attend and complete the PROBE ethics program in February 2010 at his own expense and provide proof of completion of the program and a final report of completion to the Board within thirty days of completion.
4. Licensee is assessed a civil penalty in the sum of \$5000 payable to the Board within 30 days of this signed order.
5. Licensee must have Board approved chaperones present during examination and treatment of all female patients for three years from June 1, 2010 to June 1, 2013. The chaperone shall not be related to the Licensee or involved in the past or currently in a personal relationship with Licensee. The chaperone shall meet with representatives of the Board to be interviewed and approved. The Licensee shall provide the chaperone with a copy of the Final Order and obtain the chaperone's agreement to inform the Board if the chaperone has any concerns that Licensee has violated the conditions of this order or is engaging in behavior which may place a patient at risk. An agreement with Licensee stipulating no harm or retribution to the chaperone may be incurred for reporting to the Board will also be signed. Each female patient shall be required to read and initial a statement explaining the reasons for having a female chaperone at the time of the initial visit. A parent or guardian shall sign the statement for a female patient who is below the age of eighteen. The chaperone shall initial the statement. Licensee shall retain the statement in the patient's file. A patient may not waive the presence of the chaperone. The chaperone shall initial the patient's chart at the time of each visit to confirm presence during the visit. The chaperone must be provided for all female patients regardless of age and they may be a Certified Chiropractic Assistant that is employed by Licensee.

6. Further violations of this final order may result in further discipline up to and including revocation of the license.

Dated this 3rd of ~~January~~ February 2010.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file at OBCE

By: [Signature]
Dave McTeague, Executive Director

Original signature on file at OBCE

BY: [Signature]
Michael Hopkins DC, Licensee