

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

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FEB -3 2014

OREGON BOARD OF
CHIROPRACTIC EXAMINERS

In the Matter of)
) Case # 2013-1024
Frank Hurd DC)
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) **STIPULATED FINAL ORDER**
Licensee.)
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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 Hurd DC (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

Findings of Fact

1.

In January 2013, Patient 1 went to Licensee for care for issues of being very tired. Upon examination, Licensee ordered lab tests and suggested a dark field microscopic study. Patient 1 agreed to the study. Licensee collected a blood sample and then viewed it under his microscope; claiming that he was looking into the microscope 25,000 to 30,000 times the regular vision. Patient 1 was told that among the abnormalities displayed in his view were one large parasite. Licensee told Patient 1 that about 50% of patients have this parasite which he referred to as a thread worm related to the trichinella parasite. Upon conclusion of his diagnosis, Licensee sold Patient 1 various supplements that were to resolve this condition and she was instructed to take them for four months.

Patient 1 then went to her primary care physician and received testing which was negative for parasites. When Patient 1 confronted Licensee about her diagnosis from the primary care physician, Licensee said that most microscopes except for his, would miss seeing the parasites because they would appear so tiny.

In response to the complaint from the Board, the Board had this matter reviewed by Kara Burnham Ph.d. a microbiologist who provided to the Board various research she did on this type of test and resulting diagnosis. In her review Ms. Burnham stated "live blood analysis used by licensee has not been demonstrated to be a reliable scientific technique for diagnosis. The image shown in the materials included with this case do not match any of the known blood borne pathogens. The "thread worm" as Licensee called it, is also known as a pinworm infection. The parasite is not blood borne and would not be detected in the blood of an infected individual. It would be diagnosed by eggs in the perianal folds or in the fecal matter of the patient. It is

extremely unlikely that a “threadworm” infection was present in this patient.” Dr. Burnham indicated that the live blood analysis Licensee performed was not a reliable technique for diagnosis. She stated that this technique grew from the work of an early scientist, Enderlein in the 1920’s and has been shown to be unreliable in the modern scientific world. Research references were supplied to the Board to support that this type of testing was not diagnostically supported by the medical evidence.

Licensee disagrees with the Board’s assessment, stating, “Patient with body aches, nausea, and digestive problems phoned requesting a live blood cell test. Patient was given appointment for chiropractic exam and request for routine blood work at local hospital. Based on patient complaint, history, lab results, exam, and my nearly 50 years of clinical experience, gave Chiropractic treatment and performed a live blood cell test, at patients request, to aid in managing her condition. Supplements were given to patient for nausea, elevated blood sugar, digestive complaints and one for parasite observed. There has been no precedent ruling in Chiropractic specific to live blood cell testing in Oregon.”

Conclusions of Law

2.

The Board reviewed the information provided by Patient 1’s records, Licensee and Dr. Burnham. The Board was convinced that this type of testing and diagnosis was not supported by the scientific and medical information provided by Dr Burnham and her supporting references. The Board also felt that this test was not part of the accepted standard of chiropractic treatment in the State of Oregon as defined pursuant to ORS 684.100(1)(f)(A). The Board felt that for Licensee to charge a patient for this type of treatment would be to violate ORS 684.100(1)(o). Since there was no scientific or medical support for use of this type of testing, the Board requested Licensee to cease and desist from any dark field microscopy for use in diagnosis of patients in his chiropractic treatment.

Licensee’s use of his dark field microscopic study (and/or live blood cell analysis) is in violation of ORS 684.100(1)(f)(A), and (1)(o) and to charge a patient for this care and subsequent supplements is in violation of OAR 811-035-0015(2) and (5).

Stipulations

3.

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 that he is aware of his right to a hearing with his attorney present to contest the charges and hereby waives that right and agrees to entry of this order. Licensee agrees to waive any right to appeal. In lieu of proceeding to the contested case hearing, the parties wish to settle and resolve the above matter without further proceedings.

2. Licensee will cease and desist from this type of diagnostic testing in his chiropractic practice. Licensee will refund Patient 1 for her costs; a total of \$273.00 payable to the patient within 30 days this order becomes final, with proof provided to the Board. Licensee is assessed a \$500 civil penalty payable to the Board within 30 days.
3. If Licensee violates any of the terms of this order, it may result in further discipline pursuant to ORS 684.100.
4. The Board agrees to waive any cost recovery against Licensee in this case.
5. This order is effective on the date signed by the Board and is a public record.

IT IS SO ORDERED and effective last date signed below.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures are on file in OBCE office.

By: _____
Dave McTeague, Executive Director

Dated: Feb. 3, 2014

Original signatures are on file in OBCE office.

By: _____
Frank Hurd DC

Dated: 1-28-14

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.

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