

OCT 15 2012

OREGON BOARD OF CHIROPRACTIC EXAMINERS

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

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In the Matter of)
) STIPULATED FINAL ORDER
Mike Leboss)
) (Civil Penalty)
)
Respondent.) Case # 2011-1012, 2012-1025,
2012-1026, 2012-1027

The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Mike Leboss (Respondent) is not licensed by the Board to practice as a chiropractic physician in the State of Oregon.

Findings of Fact

1.

In April 2011 the Board received complaints that Respondent was practicing chiropractic without a license based on information obtained regarding patients who had received treatment from him in the Newport, Oregon area. The Board investigated and issued a Notice of Proposed Civil Penalty on August 9, 2012. In the Notice, three persons reported receiving chiropractic manipulations from Respondent. The Board hereby incorporates by reference sections 1 through 5 of the Notice issued on that date and asserts that those are the findings they rely on in the issuance of this final order. Respondent took a position of No Contest.

Conclusions of Law

2.

The Board finds that conduct described above is a violation of ORS 684.015(a), 684.020(1), ORS 684.100(1)(f)(A), and (q), OAR 811-035-0015(6), (12), and (14) that Respondent practiced chiropractic without a license and engaged in unprofessional conduct. The Board finds that the Respondent's conduct exposed the citizens of Oregon to great harm.

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. Respondent 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. Respondent agrees to waive any right to appeal. In lieu of proceeding to contested case hearing, the parties agree to settle and resolve the above matter without further proceedings.
2. Respondent agrees not to engage in the practice of chiropractic and related procedures which require a license by a regulated health care profession.
3. Respondent agrees that as long as he continues to provide personal training to clients in Oregon he will consult with and document at least annually in person conference with a chiropractic physician regarding his training activities with clients to ensure that he is compliant with this order.
4. Respondent agrees to a \$2,000 civil penalty payable in ten monthly installments of \$200 each due the 1st of every month beginning November 1, 2012. The remaining \$8,000 civil penalty is stayed pending compliance with ORS 684 and this Stipulated Final Order. In the event that Respondent continues monthly payments, then relocates out of the state of Oregon and by March 31, 2012 has paid a total of \$1,500, the remaining \$8,500 is stayed pending compliance with ORS 684 and this Stipulated Final Order.
5. If Respondent violates any of the terms of this order, it may result in further board action pursuant to the applicable provisions of ORS 684 and OAR 811.
6. The Board agrees to waive any cost recovery against Respondent in this case.

This order is effective on the date signed by the Board and is a public record.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original Signatures are on file at OBCE office

By: [Signature]
Dave McTeague, Executive Director

Date: 10-15-2012

Original Signatures are on file at OBCE office

By: [Signature]
Mike Leboss

Dated: 10-10-2012

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

6 In the Matter of)
7)
8 Mike LeBoss) NOTICE OF PROPOSED
9) DISCIPLINARY ACTION
10) (Civil Penalty)
11 Respondent.) Case # 2011-1012, 2012-1025,
12 2011-1026, 2011-1027
13

14 The Board of Chiropractic Examiners (Board) is the state agency responsible for
15 licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Mike
16 LeBoss (Respondent) is not licensed by the Board to practice as a chiropractic physician in the
17 State of Oregon.
18

19 1.

20 In April 2011 the Board received complaints that Respondent was practicing chiropractic
21 without a license based on information obtained from patients who had received treatment from
22 him in the Newport, Oregon area. The original complaint was from someone who claimed they
23 had been injured by Respondent while receiving treatment from him as a "trainer." These
24 adjustments occurred in the gym where Respondent was working.
25

26 Respondent denied that he was doing chiropractic manipulations but said he did lifestyle
27 and nutritional coaching, muscle balancing as a trainer, stretching with clients, muscle release
28 techniques using pressure points and exercises to balance muscular imbalances.
29

30 2.

31 Patient 1 met Respondent while in a gym lobby and he indicated to her he could fix her
32 hip imbalance and offered his services. She told Respondent she had a history of low back disc
33 disease and had seen chiropractors regularly since 1996. After moving to Newport in 2006, she
34 had not seen a chiropractor. During the first visit, he completed a chiropractic adjustment. He
35 told Patient 1 that he was trained in multiple modalities and would add strength training to a
36 therapy routine to assist her. He presented himself as fully competent to perform a myriad of
37 vertebral adjustments, similar to the ones she had received from a chiropractor. He charged
38 Patient 1 \$40 per session.
39

40 During one adjustment where he pulled her head directly backwards while lying on her
41 back, Patient 1 immediately felt pain radiate down towards her left thoracic region. She left after

1 that treatment and contacted Respondent stating she was in pain to that region for several weeks.
2 She then went to a physician.

3
4 Patient 1 stated that Respondent discussed treating other clients with her, several of
5 whom had scoliosis.

6 3.

7 The Board became aware of two additional patients, Patient 2 and Patient 3 who had
8 received painful adjustment procedures from Respondent, one on more than one occasion.

9
10 Patient 1 was treated 2-3 times over a 2 year period. She complained that her knee hurt
11 and he said he could help. She had knee surgery 3 years prior and was nervous about getting
12 treatment on that leg. Respondent treated Patient 2 a total of three times in his office. He would
13 begin by stretching her, and then begin adjustment, like giving her a bear hug. He also did
14 cervical adjustments while she was face up by turning her head sharply to either side until the
15 neck cracked with sound. Patient 2 said Respondent referenced all these adjustments by saying
16 that her knee pain and stiffness were all interrelated and that all areas needed to be treated to
17 alleviate pain. The adjustments on her neck, hips and leg were painful. She did not receive a
18 complete check of other injury history, nor an exam. She did not recall Respondent writing any
19 of the information down. Patient 2 discontinued seeing Respondent because of the pain inflicted.

20
21 4.

22 Patient 3 suffered from hip and back pain for many years. She had met Respondent in the
23 gym and had agreed to get some stretching treatment when Respondent put her on the table and
24 began manipulating her legs without warning, jerking on her leg. She cried out in pain, saying
25 "what are you doing?" Respondent laughed and said "I suffer from the same thing, I know how
26 to help." He also had her stand facing the wall, put her hands behind her head and stood behind
27 her linking his hands somehow behind hers and leaned back, lifted her and cracked her back. He
28 was insistent about cracking her neck but she told him she had it fused and to not do so. She only
29 had any treatment from him on one occasion.

30
31 5.

32 Respondent is not a licensed Chiropractor in the State of Oregon. Respondent holds no
33 other health regulatory licenses or certificates in the State of Oregon. Respondent is performing
34 chiropractic techniques as described by ORS 684.010(2) and is performing techniques that are
35 taught in chiropractic schools. Patients 1, 2 and 3 have reported harmful treatments from
36 Respondent. Respondent is risking causing harm to other patients that he has provided this
37 treatment to.

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39 6.

40 The Board finds that conduct described above is a violation of ORS 684.015(a),
41 684.020(1), ORS 684.100(1)(f) (a), and (q), OAR 811-035-0015(6), (12), and (14) that
42 Respondent practiced chiropractic without a license and engaged in unprofessional conduct. The
43 Board finds that the Respondent's conduct exposed the citizens of Oregon to great harm.

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2 7.

3 Due to the aforementioned violations, the OBCE proposes to require Respondent to pay a
4 civil penalty in the sum of \$10,000 to the Board. This is pursuant to their authority under ORS
5 684.100(9). Payment of the civil penalty is due within 30 days of this order becoming final. The
6 Board also orders that Respondent cease and desist from performing any chiropractic treatment
7 including adjustment and/or manipulations.
8

9 8.

10 Respondent shall pay costs of this disciplinary proceeding, including investigative costs
11 and attorney fees pursuant to ORS 684.100(9)(g).
12

13 9.

14 Respondent has the right, if Respondent requests, to have a formal contested case hearing
15 before the Office of Administrative Hearings to contest the matter set out above. At the hearing,
16 Respondent may be represented by an attorney and subpoena and cross examine witnesses. That
17 request for hearing must be made in writing to the OBCE, must be received by the OBCE within
18 30 days from the mailing of this notice (or if not mailed, the date of personal service), and must
19 be accompanied by a written answer to the charges contained in this notice.
20

21 10.

22 If Respondent requests a hearing, before commencement of that hearing, Respondent will
23 be given information on the procedures, rights of representation and other rights of the parties
24 relating to the conduct of the hearing as required under ORS 183.413-415.
25

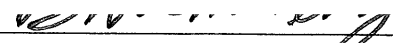
26
27 11.

28 If Respondent fails to request a hearing within 30 days, or fails to appear as scheduled at
29 the hearing, the OBCE may issue a final order by default and impose the above sanctions against
30 Respondent. Upon default order of the Board or failure to appear, the contents of the Board's file
31 regarding the subject of this automatically become part of the evidentiary record of this
32 disciplinary action upon default for the purpose of proving a prima facie case.
33

34 DATED August 9, 2012.
35

36 BOARD OF CHIROPRACTIC EXAMINERS
37 State of Oregon

38 Original Signatures are on file at OBCE office

39
40 By: 
41 Dave McTeague, Executive Director
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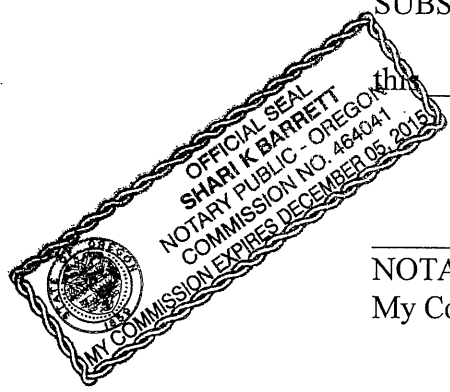
State of Oregon) Case # 2011-1012, 2012-1025,
2011-1026, 2011-1027
County of Marion) Mike LeBoss

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 Civil Penalty is true to the best of my knowledge as I verily believe.

Original Signatures are on file at OBCE office

Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me
this 9th day of Aug, 2012



Original Signatures are on file at OBCE office

NOTARY PUBLIC FOR OREGON
My Commission Expires: Dec 5 2015

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2 **Certificate of Service**
3

4 I, Dave McTeague, certify that on August 9, 2012, I served the foregoing Notice of
5 Proposed Disciplinary Action upon the party hereto by mailing, certified mail, postage prepaid, a
6 true, exact and full copy thereof to:
7

8 Mike LeBoss
9 ME Fitness Center
10 1111 SW 10th St.
11 Newport, OR 97365
12

13
14 By regular mail to:
15
16

17 Original Signatures are on file at OBCE office
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19
20 _____
21 Dave McTeague
22 Executive Director
23 Oregon Board of Chiropractic Examiners
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