

BEFORE THE
BOARD OF CHIROPRACTIVE EXAMINERS
STATE OF OREGON

In the Matter of)
Edward McCullough, DC) **STIPULATED FINAL ORDER**
Licensee.) **Case #2017-3007 and 2018-1007**

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. Edward McCullough, DC (hereafter "Licensee"), is a licensed chiropractic physician in Oregon.

1.

Findings of Fact

Licensee is a chiropractor who worked at Wellspring Centre for Body Balance in Medford, Oregon. On February 9, 2018, the Board issued a Proposed Notice of Disciplinary Action. That notice is hereby incorporated by reference and is to become the findings of fact. Licensee denied the allegations in the Notice of Proposed Disciplinary Action and violation of any rule or standards and requested a contested case hearing.

2.

Conclusions of Law

The Board finds that Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's conduct, and blending doctor/patient and personal relationships as described above, in regards to Coworker 1, constitutes violations of ORS 684.100(1)(f)(A); and OAR 811-035-0015(1)(a)-(e). The Board finds that there was a doctor/patient relationship with Coworker 1 prior to inappropriate and/or any boundary violations and that the doctor/patient relationship had not been appropriately terminated prior to boundary violation pursuant to OAR 811-010-005(4).

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3.

Stipulations

Therefore, pursuant to ORS 183.417(3) 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. The parties wish to settle and resolve the above matter without further proceedings.
2. Licensee agrees to take and successfully pass the Professional Boundaries and Ethics Course offered by Professional Boundaries Inc., in person at one of their locations in the United States and do so by September 30, 2018. Licensee is responsible to report to the Board completion of the class and grade information when completed. This class is in addition to the required amount of continuing education required for licensure.
3. Licensee successfully completed the PBI course on June 8-10, 2018, and has thus completed the terms of the Stipulated Final Order.
4. Failure to abide by the terms of this agreement may result in further discipline, after appropriate notice, up to and including revocation.
5. There will be no cost recovery sought by the Board.
6. This order is effective on the date signed by the Board and is a public record.

BOARD OF CHIROPRACTIC EXAMINERS

State of Oregon

DATED this 31st day of July, 2018.

Original signatures are on file in the OBCE administrative office.

By: [Signature]
Cassandra C. McLeod-Skinner, J.D., Executive Director

DATED this 20th day of June, 2018.

Original signatures are on file in the OBCE administrative office.

By: [Signature]
Edward McCullough, D.C.

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	NOTICE OF PROPOSED
Edward McCullough, DC)	
)	DISCIPLINARY ACTION
)	
Licensee.)	Case # 2017-3007
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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. Edward McCullough, DC (hereafter “Licensee”), is a licensed chiropractic physician in Oregon. The Board proposes to discipline Licensee for the following reasons:

1.

Licensee is a chiropractor who worked at Wellspring Centre for Body Balance in Medford, Oregon. He provided treatment to at least two staff members who worked at the clinic.

2.

The Board received a complaint that Licensee had slapped one of his female coworkers on the buttocks during work. It was also alleged that Licensee slapped this same employee sometime after, on the thigh. There were also complaints that Licensee would hug from behind, give unwanted contact, and brush his arms across the chest of the same female employee. Further, employees described aggressive behavior and a power dynamic towards the same female staff member. The complaint alleged that the female coworker exclaimed at the time of the slap to the buttock, “Dude, you just slapped my ass.”

Licensee departed employment with the clinic shortly after these and other allegations were raised to the clinic owner. Months later, the same allegations were reported to the Board.

3.

The Board interviewed Licensee regarding these allegations. Licensee initially denied that he contacted a female, Coworker 1, in this manner. The Board investigators proposed that the complaint had not alleged that the contact was made for sexual gratification. Licensee then acknowledged that he may have made contact in the described manner with Coworker 1 as described. Licensee denied that the contact was sexual. Licensee denied that Coworker 1 told him “dude, you just slapped my ass.”

4.

The Board interviewed Coworker 1, who recalled the interaction and noted that one instance of such contact was witnessed by another employee, Coworker 2. She stated she reported Licensee’s behavior to the office manager. Coworker 1 confirmed that she was treated by Licensee on three occasions during October 2016. She stated she felt Licensee slap her butt with his fingers or the back of his hand. She turned to him and said “dude, you just slapped my ass.” She stated Licensee responded, “No, I flicked your ass.” On another occasion, Coworker 1 described where Licensee smacked the side of her thigh when he walked through the door one morning. This made her uncomfortable. She further noted that when the two were seated side by side, he reached across her, causing the inside of his forearms to brush her breasts. She told the office manager she didn’t want to be left alone with Licensee after this occurred.

5.

The Board also interviewed Coworker 2 who allegedly witnessed Licensee's contact with Coworker 1's buttocks. Coworker 2 explained that she was also treated by Licensee. Coworker 2 recalled Licensee making contact with Coworker 1's buttocks, and that Coworker 1 had exclaimed at that time, "Dude, you just slapped my ass."

6.

The Board finds that Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's conduct, and blending doctor/patient and personal relationships as described above, in regards to Coworker 1, constitutes violations of ORS 684.100 (1)(f)(A); and OAR 811-035-0015(1)(a)-(e). The Board finds that there was a doctor/patient relationship with Coworker 1 prior to inappropriate or 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).

7.

Due to the aforementioned violations, the OBCE proposes that Licensee be put on probation until he takes and successfully passes the Professional Boundaries and Ethics Course, offered by Professional Boundaries, Inc. Licensee will be required to provide verification of attendance and passing to the Board. The education will be in addition to that required for licensure.

8.

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

9.

Licensee has the right, if Licensee requests, to have a formal contested case hearing before the OBCE or its Administrative Law Judge 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.

10.

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.

11.

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.

12.

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.

13.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS:

Active duty service members have a right to stay these proceedings under the federal Service Members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

Dated this 9th of February, 2018.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures are on file in the OBCE administrative office.

Cassandra C. McLeod-Skinner, J.D.
Executive Director

VERIFICATION

State of Oregon)
County of Marion) Case # 2017-3007

I, Cassandra C. McLeod-Skinner, 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 signatures are on file in the OBCE administrative office.

Cassandra C. McLeod-Skinner, JD
EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 9 day of February, 2018

Original signatures are on file in the OBCE administrative office.

NOTARY PUBLIC FOR OREGON
My Commission Expires: 2/22/21



CERTIFICATE OF SERVICE

I, Cassandra C. McLeod-Skinner, certify that on February 9, 2018, I served the foregoing Notice of Proposed Discipline upon Edward McCullough, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Edward McCullough DC
720 Cardley Avenue
Medford, OR 97504

Elizabeth Farrell, AAL
0324 SW Abernethy St
Portland OR 97239
farrelllaw@hotmail.com

Original signatures are on file in the OBCE administrative office.

Cassandra C. McLeod-Skinner JD
Executive Director
Oregon Board of Chiropractic Examiners