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OCT 20 2009

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

OREGON BOARD OF
CHIROPRACTIC EXAMINERS

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6 In the Matter of)
7)
8 Shane McLaughlin, D.C.) STIPULATED FINAL ORDER
9)
10)
11 Licensee.) Case # 2009-2002
12)
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. Shane
16 McLaughlin, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in
17 the State of Oregon.

18 Findings of Fact

19 1.

20 The Board received a complaint that the patient was charged for equipment that was
21 never received and for office visits that did not occur. In response to a complaint, the Oregon
22 Board of Chiropractic Examiners directed the Peer Review Committee (PRC) to review the
23 complaint with Licensee.
24

25 2.

26 Licensee was interviewed by the Peer Review Committee on May 14, 2009 regarding his
27 treatment of Patient 1. Patient 1 was treated after a motor vehicle accident.
28

29 3.

30 In the interview Licensee provided information and the Peer Review Committee noted
31 the following information:
32

33 1. Licensee's chart notes were fabricated as admitted to by Licensee. Licensee admitted
34 that the first two chart notes were accurate, but the others were not. However, when Licensee
35 was questioned about two specific statements in the first two days notes, he admitted they were
36 false and were computer generated canned notes. This violates ORS 684.100(1)(g)(A) and OAR
37 811-015-0005(1) and OAR 811-015-0010(1).
38

39 2. A second visit of Patient 1's chart notes indicated that Licensee dispensed a Ten's
40 Unit, conductive pads and a cervical pillow to the patient. Licensee subsequently billed the
41 patient's insurance company for these items. Licensee had no individual recollection of
42 personally dispensing that equipment and had no reason to believe that the patient left his clinic
43 with these items. This violates ORS 684.100(1)(g)(A), OAR 811-015-0010(1), OAR 811-035-
0015(5)(7) and (12).

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OREGON BOARD OF
CHIROPRACTIC EXAMINERS

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2 3. Approximately 30 days after the patient's second visit, Licensee's staff notified him
3 that there were four appointments for the patient that did not have charges or notes. At that time,
4 Licensee created those notes, in detail, and the associated charges without any direct memory or
5 records for those visits. This violates ORS 684.100(1)(g)(A), OAR 811-015-0005 and OAR
6 811-015-0010, OAR 811-035-0015(5)(7) and (12).

7 4. In the chart notes, there was no recorded history for the patient. Licensee was unaware
8 of previous treatment of Patient 1 by other providers. The patient was involved in a motor
9 vehicle accident eight months prior and was seen by at least one medical doctor. Intake forms
10 show recent cortisone injections for this patient by another practitioner, and a MRI or CT scan.
11 Licensee's notes did not make any mention of this care. No past health history or treatment was
12 provided by Licensee. The charts lacked clinical justification for care. This violates ORS
13 684.100(1)(g)(A), OAR 811-015-0005.

14 5. Three orthopedic tests recorded radiating pain for Patient 1. Muscle tests indicated
15 weakness in five muscle groups. When questioned about a possible neurological deficit of this
16 patient, Licensee acknowledged it was a possibility. When asked about the lack of
17 documentation supporting that consideration, Licensee was defensive, but unable to answer why
18 the chart notes failed to address this. This violates ORS 684.100(1)(g)(A), OAR 811-015-0005.

19 6. When questioned how a scheduled patient could not show up for a 30 minute
20 appointment on four occasions and him not know that, Licensee was not able to articulate a
21 reasonable answer that could explain this. This was concerning for the Peer Review Committee
22 given the patient load that Licensee indicated. This violates ORS 684.100(1)(g)(B).

23
24 Board Findings

25 4.

26 On July 16, 2009, the Board considered and adopted the report of the Peer Review
27 Committee and now finds the Licensee in violation of ORS 684.100(1)(g)(A) and (B) and OAR
28 811-015-0005(1), 811-015-0010(1), and 811-035-0015(5)(7) and (12).

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30 Stipulations

31 5.

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33 Therefore, pursuant to ORS 183.415(5) and ORS 684.100(9)(e) the OBCE orders:

- 34 1. The parties have agreed to enter this stipulated final order. Licensee agrees to the
35 entering of this final order. Licensee agrees that he is aware of his right to a hearing with
36 his attorney present to contest the charges and hereby waives that right and agrees to entry
37 of this order. The signature of this order also waives any right to appeal. The parties
38 wish to settle and resolve the above matter without further proceedings.
- 39 2. Licensee agrees to be suspended for 60 consecutive days to begin upon receipt of this
40 final order.
- 41 3. Licensee will agree to pay a civil penalty in the sum of \$5000 payable to the Board within
42 6 months of this final order.

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

Civil Penalty PLUS Cost Recovery

6 In the Matter of)
7)
8 Shane McLaughlin, D.C.) NOTICE OF PROPOSED
9) DISCIPLINARY ACTION
10)
11 Licensee.) Case # 2009-2002

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. Shane
16 McLaughlin, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in
17 the State of Oregon. The Board proposes to discipline Licensee for the following reasons.
18

19 1.

20 The Board received a complaint that the patient was charged for equipment that was
21 never received and for office visits that did not occur. In response to a complaint, the Oregon
22 Board of Chiropractic Examiners directed the Peer Review Committee (PRC) to review the
23 complaint with Licensee.
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25 2.

26 Licensee was interviewed by the Peer Review Committee on May 14, 2009 regarding his
27 treatment of Patient 1. Patient 1 was treated after a motor vehicle accident.
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29 3.

30 In the interview Licensee provided information and the Peer Review Committee noted
31 the following information:
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33 1. Licensee's chart notes were fabricated as admitted to by Licensee. Licensee admitted
34 that the first two chart notes were accurate, but the others were not. However, when Licensee
35 was questioned about two specific statements in the first two days notes, he admitted they were
36 false and were computer generated canned notes. This violates ORS 684.100(1)(g)(A) and OAR
37 811-015-0005(1) and OAR 818-015-0010(1).
38

39 2. A second visit of Patient 1's chart notes indicated that Licensee dispensed a Ten's
40 Unit, conductive pads and a cervical pillow to the patient. Licensee subsequently billed the
41 patient's insurance company for these items. Licensee had no individual recollection of
42 personally dispensing that equipment and had no reason to believe that the patient left his clinic
43 with these items. This violates ORS 684.100(1)(g)(A), OAR 811-015-0010(1), OAR 811-035-
0015(5)(7) and (12).

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2 3. Approximately 30 days after the patient's second visit, Licensee's staff notified him
3 that there were four appointments for the patient that did not have charges or notes. At that time,
4 Licensee created those notes, in detail, and the associated charges without any direct memory or
5 records for those visits. This violates ORS 684.100(1)(g)(A), OAR 811-015-0005 and OAR
6 811-015-0010, OAR 811-035-0015(5)(7) and (12).

7 4. In the chart notes, there was no recorded history for the patient. Licensee was unaware
8 of previous treatment of Patient 1 by other providers. The patient was involved in a motor
9 vehicle accident eight months prior and was seen by at least one medical doctor. Intake forms
10 show recent cortisone injections for this patient by another practitioner, and a MRI or CT scan.
11 Licensee's notes did not make any mention of this care. No past health history or treatment was
12 provided by Licensee. The charts lacked clinical justification for care. This violates ORS
13 684.100(1)(g)(A), OAR 811-015-0005 and OAR 811-035-0015(5)(7) and (12).

14 5. Three orthopedic tests recorded radiating pain for Patient 1. Muscle tests indicated
15 weakness in five muscle groups. When questioned about a possible neurological deficit of this
16 patient, Licensee acknowledged it was a possibility. When asked about the lack of
17 documentation supporting that consideration, Licensee was defensive, but unable to answer why
18 the chart notes failed to address this. This violates ORS 684.100(1)(g)(A), OAR 811-015-0005,
19 OAR 811-035-0015(5)(7) and (12).

20 6. When questioned how a scheduled patient could not show up for a 30 minute
21 appointment on four occasions and him not know that, Licensee was not able to articulate a
22 reasonable answer that could explain this. This was concerning for the Peer Review Committee
23 given the patient load that Licensee indicated. This violates ORS 684.100(1)(g)(B), OAR 811-
24 015-0010.

25
26 4.

27 On July 16, 2009, the Board considered and adopted the report of the Peer Review
28 Committee finding Licensee in violation of ORS 684.100(1)(g)(A) and (B) and OAR 811-015-
29 0005(1), 811-015-0010(1), and 811-035-0015(5)(7) and (12), and violating Oregon Chiropractic
30 Practice and Utilization Guidelines for providing care without clinical justification.

31
32 5.

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34 Due to the aforementioned violations, the OBCE proposes to:

- 35
36 a) Suspend Licensee's license for a period of 90 days consecutively,
37 b) Place Licensee on probation for two years,
38 c) As a condition of probation, the Board or its staff representative shall have access to
39 Licensee's business premises to examine, review and photocopy Licensee's patient
40 records, to be selected by the Board or representative. Licensee must cooperate in
41 providing the records or that may be considered cause for further discipline.
42

- 1 d) Assess a civil penalty in the sum of \$5,000, due and payable within 90 days of the
2 Final Order,
3 e) Require Licensee to complete 12 hours of board approved continuing education on
4 documentation and chart notes within 6 months. This continuing education is in addition
5 to the required amount for licensure.
6

7 6.
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9 Licensee shall pay costs of this disciplinary proceeding, including investigative costs and
10 attorney fees pursuant to ORS 684.100(9)(g).
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12 7.
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14 Licensee has the right, if Licensee requests, to have a formal contested case hearing
15 before the OBCE or its hearings officer to contest the matter set out above. At the hearing,
16 Licensee 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 8.
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23 The answer shall be made in writing to the OBCE and shall include an admission or
24 denial of each factual matter alleged in this notice, and a short plain statement of each relevant
25 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this
26 notice and not denied in the answer will be considered a waiver of such defense; new matters
27 alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and
28 evidence shall not be taken on any issue not raised in the notice and answer.
29

30 9.
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32 If Licensee requests a hearing, before commencement of that hearing, Licensee will be
33 given information on the procedures, rights of representation and other rights of the parties
34 relating to the conduct of the hearing as required under ORS 183.413-415.
35

36 10.
37

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

DATED July 24, 2009

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file at OBCE

By: 
Dave McTeague, Executive Director

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State of Oregon) Case # 2009-2002
County of Marion) Shane McLaughlin 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

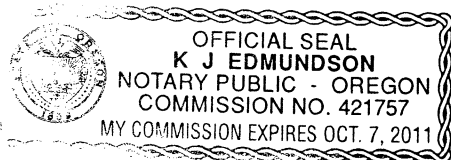
SUBSCRIBED AND SWORN to before me

this 24th day of July, 2009

Original signature on file at OBCE

NOTARY PUBLIC FOR OREGON

My Commission Expires: 10/7/2011



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Certificate of Service

I, Dave McTeague, certify that on July 24, 2009, I served the foregoing Notice of Proposed Disciplinary Action upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Shane McLaughlin, DC
Core Elements Chiropractic
13112 NE Halsey Street
Portland, Oregon 97230

Original signature on file at OBCE

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners