

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

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In the Matter of)
) Case # 2006-1039
Thomas F. Miller, D.C.)
)
)
) **STIPULATED FINAL ORDER**
Licensee.) **CIVIL PENALTY**
)
)
_____)

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. Thomas F. Miller, D.C. (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

Findings of Fact

1.

A patient filed a complaint in July 2006, regarding a television ad issued by Licensee. The advertisement stated that you would receive a \$245 free offer if you called for an appointment within the next 12 days. In the ad it specified that you would receive free:

- A consultation with Licensee to discuss your problem and answer all your questions.
- A complete back pain DRX 9000 Qualification Evaluation.
- A surface EMG to help pin-point what is causing your problem.
- A written recommended action plan giving you the results of your examination tests, if you qualify for the program and what your options are
- A free live demonstration of the space age DRX 9000.

The ad further stated that to get this you must call and make an appointment with licensee within the next 12 days. The advertisement referred to Dr. Thomas Miller but did not state that he was a D.C. or chiropractic physician.

2.

In the complaint, the patient stated that he made an appointment. When he arrived, the Licensee played a video tape of the machine and took two x-rays for a fee of \$75.00. He was also scheduled for an MRI. Licensee wanted to schedule the patient for 6-8 weeks of machine therapy but would respond to Patient's request for cost estimates, stating it depended. The patient complained that he did not get a live demonstration of the DRX9000 as was claimed. He also did not get a written recommendation of an "action plan" of the examination. He did not receive a surface EMG to help pinpoint the problems he was having.

3.


As a result of the complaint, the board requested and received the patient's records and reviewed those along with the complaint and advertisement in question.

Conclusions of Law

4.

Licensee has failed to identify his profession on this advertisement which is in writing. By referring to himself as Dr. Thomas Miller, Licensee is not fulfilling the requirements of the Oregon Doctor's Title Act which requires use of the terms, "chiropractor," "chiropractic physician," or presumably "chiropractic" in reference to a clinic in connection with all advertising. It also violated OAR 811-015-0045(2) and (3). This is in violation of the Oregon Doctors' Title Act, ORS, 676.110, and OAR 811-015-0045 (3) which says, "A Chiropractic physician shall adhere to the Doctors' Title Act, ORS 676.110(2)."

5.

In addition, after review of the chart notes and information provided in the investigation, the examination did not support a referral for nor clinical justification for a MRI on the patient. This is in violation of OAR 811-015-0010(1). 

6.

In not providing the promised EMG, demonstration of the machine and written report to the patient, Licensee violated OAR 811-015-0045(1)(a) as it is improper advertising which is untruthful, misleading or deceptive.

Stipulations

7.

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 to the entering of this 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. The signature of this order also waives any right to appeal. The parties wish to settle and resolve the above matter without further proceedings.
2. Licensee will agree to pay a civil penalty in the sum of \$1,000 payable to the Board within 30 days of this final order.
3. Licensee agrees to abide by the law entitled "Dr's Title Act" found in ORS 676.110 and OAR 811-015-0045(3).
4. Licensee agrees to abide by the law and rules regarding Chiropractic Advertising found in OAR 811-015-0045(2) and (3).
5. Licensee agrees to make the necessary changes to any media television, web or news advertisements to come into compliance with the statutes and rules mentioned in numbers 3 and 4 above.

6. Failure to complete this final stipulated order with the terms so stated, may result in further discipline, up to and including, revocation.

I have fully read and fully understand all of the above facts and agree to the above terms:

IT IS SO ORDERED DATED this 26th day of ~~January~~ February 2007.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures on file
at the OBCE office.

By

Dave McTeague, Executive Director

Original signature on file
at the OBCE office.

By:

Thomas F. Miller D.C.