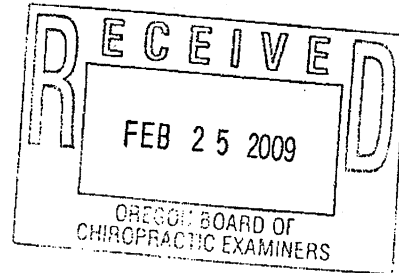


BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	FINAL STIPULATED
Thomas F. Miller, D.C.)	ORDER
)	
)	
Licensee.)	Case # 2008-1003



The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Thomas F. Miller, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in the State of Oregon. The Board proposes to discipline Licensee for the following reasons.

FINDINGS OF FACT

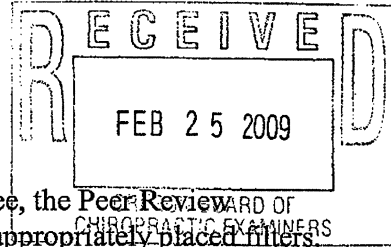
1.

The Board received a complaint that Licensee over charged a patient and then added charges to her account after the full payment was made. The patient also complained that multiple x-rays were taken which exposed the ovaries of the patient. In response to a complaint, the Oregon Board of Chiropractic Examiners directed the Peer Review Committee to review the patient file and interview the Licensee.

2.

Patient presented with complaint to upper back stating she may have a rib out. Licensee told her that chiropractic care could help and an exam and x-rays were necessary. Licensee told patient that there would be a charge for the exam. Licensee told the patient that he should take films of the neck and low back. The patient agreed to these procedures and charges. After the exam and x-rays were taken, the patient had to leave. She returned later after lunch that same day, and paid for her exam and x-ray fees. Since the patient was short on time, Licensee forwent discussing findings and proposed treatment, x-ray findings or the charges that were about to attach to treatment. He adjusted the patient in several areas. The patient left for the day and returned two days later still in pain. She asked if there were going to be any charges for that visit since she was still in pain. She was informed there would not be charges for the visit but that she still owed \$96 for the previous visit. The patient was very unhappy believing she had paid her balance prior to leaving on the first visit.

The patient returned on a later date to pay for the adjustments. Upon review of the x-rays, patient realized her ovaries were not shielded during the lumbar x-ray that Licensee took.



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3.

From the records reviewed and from the interview of Licensee, the Peer Review Committee found that Licensee took x-rays without collimation or appropriately placed filters. There were no eye or thyroid shields and the ovarian shield he used was not over the ovaries. None of the x-rays reviewed showed any collimation to the areas of interest.

In the Peer Review Committee interview, Licensee stated that he did not explain to the patient on the second visit the cost of adjustment, either orally or in writing. He deviated from his normal patient discussion because this patient was in a hurry and he never did explain the costs. Licensee said on the first visit he failed to give the front desk the fee slip until later in the day after the patient had left. Thus, the front desk and the patient were not aware of any further charges beyond the exam and the x-rays when the patient checked out.

CONCLUSIONS OF LAW

4.

The Board finds that Licensee's failure to use appropriate x-ray shields and lack of collimation or appropriately placed filters to the areas on the body that were of interest fell below the minimum standards in violation of ORS 684.100(1)(g)(A), OAR 811-030-0020(2) and (7).

Failure to inform the patient of the exam fee violates ORS 684.100(1)(g)(A), and OAR 811-015-0000(2) which requires that each Licensee shall maintain a schedule of fees charged for common services and should be available for patients upon request. Licensee failed to notify the patient orally or in writing. Licensee failed to make sure the patient was informed about the billing procedures prior to any charges being incurred.

STIPULATIONS

5.

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 \$1,500 payable to the Board within 30 days of this final order.
3. Licensee agrees to attend continuing education classes in x-ray technique for a total of 12 hours of live viewing education within 6 months of this order becoming final. Licensee agrees to provide verification of completion of these classes to the Board and that these hours are in addition to the 20 hours annual required by the Board.
4. Failure to complete this final stipulated order with the terms so stated, may result in further discipline, up to and including, revocation.

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

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In the Matter of)	
)	NOTICE OF PROPOSED
Thomas F. Miller, D.C.)	DISCIPLINARY ACTION
)	
)	
Licensee.)	Case # 2008-1003

The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Thomas F. Miller, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in the State of Oregon. The Board proposes to discipline Licensee for the following reasons.

1.

The Board received a complaint that Licensee over charged a patient and then added charges to her account after the full payment was made. The patient also complained that multiple x-rays were taken which exposed the ovaries of the patient. In response to a complaint, the Oregon Board of Chiropractic Examiners requested the Peer Review Committee to review the patient file and interview the Licensee.

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Patient presented with complaint to upper back stating she may have a rib out. Licensee told her that chiropractic care could help and an exam and x-rays were necessary. Licensee told patient that there would be a charge for the exam. Licensee told the patient that he should take films of the neck and low back. The patient agreed to these procedures and charges. After the exam and x-rays were taken, the patient had to leave. She returned later after lunch that same day, and paid for her exam and x-ray fees. Since the patient was short on time, Licensee forwent discussing findings and proposed treatment, x-ray findings or the charges that were about to attach to treatment. He adjusted the patient in several areas including some that had no examination or diagnosis. The patient left for the day and returned two days later still in pain. She asked if there were going to be any charges for that visit since she was still in pain. She was informed there would not be charges for the visit but that she still owed \$96 for the previous visit. The patient was very unhappy believing she had paid her balance prior to leaving on the first visit.

The patient returned on a later date to pay for the adjustments. Upon review of the x-rays, patient realized her ovaries were not shielded during the lumbar x-ray that Licensee took.

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In the Peer Review Committee interview, Licensee stated that he did not explain to the patient on the second visit the cost of adjustment, either orally or in writing. He deviated from his normal patient discussion because this patient was in a hurry and he never did explain the costs. Licensee said on the first visit he failed to give the front desk the fee slip until later in the day after the patient had left. Thus, the front desk and the patient were not aware of any further charges beyond the exam and the x-rays when the patient checked out.

4.

The Board finds that Licensee's failure to use appropriate x-ray shields and lack of collimation or appropriately placed filters to the areas on the body that were of interest fell below the minimum standards in violation of ORS 684.100(1)(g)(A), OAR 811-030-0020(2) and (7).

Failure to inform the patient of the treatment fee violates ORS 684.100(1)(g)(A), and OAR 811-015-0000(2) which requires that each Licensee shall maintain a schedule of fees charged for common services and should be available for patients upon request. Licensee failed to notify the patient orally or in writing. Licensee failed to make sure the patient was informed about the billing procedures prior to any charges being incurred.

5.

Due to the aforementioned violations, the OBCE proposes to issue a Letter of Reprimand, a \$2500 civil penalty, to attend a continuing education class in x-ray technique within 6 months of this order becoming final, for a total of 12 hours. That is in addition to the 20 hours annual continuing education requirement.

6.

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

7.

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

1 within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and
2 must be accompanied by a written answer to the charges contained in this notice.
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6 The answer shall be made in writing to the OBCE and shall include an admission or
7 denial of each factual matter alleged in this notice, and a short plain statement of each relevant
8 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this
9 notice and not denied in the answer will be considered a waiver of such defense; new matters
10 alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and
11 evidence shall not be taken on any issue not raised in the notice and answer.
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15 If Licensee requests a hearing, before commencement of that hearing, Licensee will be
16 given information on the procedures, rights of representation and other rights of the parties
17 relating to the conduct of the hearing as required under ORS 183.413-415.
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21 If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the
22 hearing, the OBCE may issue a final order by default and impose the above sanctions against
23 Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file
24 regarding the subject of this automatically become part of the evidentiary record of this
25 disciplinary action upon default for the purpose of proving a prima facie case.
26

27 DATED this 13th day of August, 2008.
28

29 BOARD OF CHIROPRACTIC EXAMINERS
30 State of Oregon
31

32 Original signature on file at OBCE _____
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34 By: _____
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36 Dave McTeague, Executive Director
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2 VERIFICATION
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4 State of Oregon) Thomas F. Miller D.C.
5 County of Marion) Case # 2008-1003
6

7 I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Board of
8 Chiropractic Examiners of the State of Oregon, and as such, am authorized to verify pleadings in
9 this case: and that the foregoing Notice is true to the best of my knowledge as I verily believe.
10

11 **Original signature on file at OBCE.**

12 DAVE McTEAGUE, EXECUTIVE DIRECTOR
13 OREGON BOARD OF CHIROPRACTIC EXAMINERS
14

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16
17 SUBSCRIBED AND SWORN to before me
18 this 14 day of August, 2008.
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20 **Original signature on file at OBCE**

21 NOTARY PUBLIC FOR OREGON
22 My Commission Expires: 11-5-08
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3 **CERTIFICATE OF SERVICE**

4 I, Dave McTeague, certify that on August 13, 2008 I served the foregoing Notice upon Thomas
5 F. Miller DC, the party hereto, by mailing, certified mail, postage prepaid, and a true, exact and
6 full copy thereof to:
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12 **Original signature on file at OBCE**

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14 _____
15 Dave McTeague
16 Executive Director
17 Oregon Board of Chiropractic Examiners
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