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BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of the license of)
WINSTON MORROW, D.C.) FINAL ORDER
Licensee.) IN CONTESTED CASE

THIS MATTER came on for hearing at the duly noted time and place, 9:00 a.m., May 28, 1992, at Room 140 of the State Office Building, 800 NE Oregon Street, Portland, Oregon 97232, in response to a Notice of Assessment of Civil Penalty against Winston Morrow, D.C. (Morrow), a chiropractic physician licensed by the Oregon Board of Chiropractic Examiners (Board). Morrow had been noticed by the Board that it would assess a civil penalty in the amount of \$5000 for overtreatment and overutilization as alleged in the Notice.

Board members present were Gary Zimmerman, D.C., Presiding Officer, Mitzi Naucler, and Bonnie McDowell, D.C. Paul J. Sundermier, Assistant Attorney General, presented the case for the State of Oregon. Morrow was represented by Dean Heiling, Attorney at Law, Portland, Oregon.

Prior to the hearing, on motion of the State, the Notice of Civil Penalty was amended by interlineation to correct a typographical error concerning the statutory violation, which was amended to read ORS 684.100(1)(q). Licensee did not object and it was so amended.

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1 Testimony was taken from Richard McCarthy, D.C., as an expert
2 witness on behalf of the State. Morrow also testified along with
3 his office manager, [REDACTED] Exhibit No. 1 - chart
4 notes, Exhibit No. 2 - billings/ledger, and Exhibit No. 3 -
5 correspondence, were offered and admitted into evidence. A letter
6 from patient [REDACTED], Exhibit 1A, was admitted into evidence
7 over the objection of the State. Demonstrative Exhibits Nos. 5, 6
8 and 7 were offered by the State, but were not admitted upon
9 objection of the Licensee.

10 After hearing all the evidence and receiving the exhibits, the
11 Board heard the argument of counsel and closed the hearing. The
12 Board then deliberated in Executive Session and thereafter
13 announced in open public session the following:

14 FINDINGS OF FACT .

15 1. Dr. Morrow treated [REDACTED] 85 times from May 18, 1989
16 through December 4, 1989.

17 2. Dr. Morrow treated patient [REDACTED] 10 times from
18 February 10, 1990 through August 29, 1990.

19 3. Dr. Morrow treated [REDACTED] an average of 19 times per
20 month prior to receiving a denial letter from Worker's
21 Compensation. After that time, Dr. Morrow treated the patient an
22 average of 4 times per month until December 4, 1989 when he stopped
23 treating her until February 20, 1990. Then he treated an average of
24 one and one-half times per month until the last treatment, August
25 29, 1990.

26 4. Patient records did not indicate any re-examination
27 procedures that would justify such a change in treatment regime.

1 5. It is usual to re-evaluate a patient after an initial
2 program of treatment and Dr. Morrow said his initial program of
3 treatment would last six weeks. He expected that this patient would
4 probably require two to three six-week treatment programs.

5 6. Dr. Morrow used the same physiotherapy treatments during
6 the entire course of the treatment.

7 7. Dr. Morrow failed to keep complete and detailed records
8 including re-evaluations or comparisons that may have supported
9 continued treatment or an alteration of treatment.

10 8. Dr. Morrow relied upon the patient's subjective reports
11 to him rather than conducting objective re-evaluations for
12 management of her case.

13 9. The patient's subjective reports cannot substitute for
14 the doctor's professional evaluation and judgement.

15 10. The Board of Chiropractic Examiners referred the case to
16 Peer Review, gave Dr. Morrow a written notice and Dr. Morrow
17 testified that he received the written notice.

18 11. Dr. Morrow did not attend either of the Peer Review
19 meetings as scheduled, although he called the Board office on the
20 dates he was scheduled to appear to say that he would not attend.

21 12. At the time of the Peer Review meetings, Dr. Morrow was
22 suffering from severe business, financial and personal stresses
23 which resulted in physical and emotional illness.

24
25 **ULTIMATE FINDINGS OF FACT**

26 1. Dr. Morrow's treatment of patient [REDACTED] was
27 excessive when it was continued without objective rationale.

28 PAGE 3 - FINAL ORDER IN CONTESTED CASE (WINSTON MORROW, D.C.)

1 2. Dr. Morrow violated OAR 811-15-010(1) and (2) in that he
2 failed to keep a complete and detailed chart for patient [REDACTED]

3 [REDACTED]
4 3. Dr. Morrow failed to appear before the Peer Review
5 Committee two separate times.

6 CONCLUSIONS OF LAW

7 Dr. Winston Morrow violated ORS 684.100(1)(q) and OAR 811-15-
8 010(1) and (2)(a) which state "rationale must be shown for all
9 repetitive diagnostic and therapeutic procedures" and "treatment
10 continued to the same extent over a prolonged period of time for a
11 condition without favorable patient response shall be considered
12 excessive".

13 His failure to appear before the Peer Review Committee is
14 mitigated by his physical and emotional illness which he was
15 suffering at the time.

16 ORDER

17 The Board imposes a civil penalty of \$3000 to be paid by July
18 15, 1992, for violating ORS 684.100(1)(q) and OAR 811-15-010(1) and
19 (2)(a).

20 DATED this 19 day of June, 1992

21 OREGON BOARD OF CHIROPRACTIC EXAMINERS

22 Original signature on file
23 at the OBCE office.

24 By: Christie Joachim
Executive Director

25 NOTICE: You are entitled to judicial review of this Final Order
26 pursuant to the provisions of ORS 183.480. Judicial review may be
27 obtained by filing a petition in the Oregon Court of Appeals. The
petition must be filed within 60 days from the date of service of
this Final Order.

CERTIFICATE OF MAILING

1
2 The above Final Order was mailed by first class mail to
3 Winston Morrow, D.C. at 845 S. E. 122ND AVE.
4 PORTLAND, OREGON, on the 22ND day
5 of JUNE, 1992.

6 Original signature on file
7 at the OBCE office.
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