

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

In the Matter of	}	STIPULATED FINAL ORDER
Braxton Nguyen, DC	}	
Licensee	}	Case # 2011-2002, 2011-3034 and 2011-5017

The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Braxton Nguyen, DC (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 alleging that Licensee's records had violations of billing, coding, inaccurate records and lack of clinical justification in the chart notes. In response to a complaint, the Oregon Board of Chiropractic Examiners directed the Peer Review Committee (PRC) to review the complaint with Licensee. The PRC reviewed 17 patient chart notes and billing records totaling over 5700 pages.

2.

Licensee was interviewed by the Peer Review Committee in August 2012 regarding the allegations above and his treatment of Patients 1-13.

3.

The investigation and interviews concerning Patients 1-2 and 4-7 revealed the following findings:

a. As to Patient 1, some of Licensee's chart notes and forms lacked clinic identifiers. This violates OAR 811-015-0005(1)(b). Licensee has updated his software program and forms to include clinic identifiers.

Licensee's chart notes did not document therapeutic exercises, with billing code 97110, in enough detail to evidence clinical justification for the procedures. This violates OAR 811-015-0005(1) and OAR 811-015-0010(1).

Licensee failed to record in his chart note the diagnostic necessity of not utilizing thyroid shielding during x-rays. This violates OAR 811-030-0020(7) and OAR 811-030-0030(2)(d).

1 b. As to Patient 2, Licensee failed to record in his chart note the diagnostic
2 necessity of not utilizing gonadal or thyroid shielding during x-rays. This violates OAR
3 811-030-0020(7) and OAR 811-030-0030(2)(d).

4 c. As to Patient 4, Licensee failed to include additional documentation,
5 beyond his Criteria Prescription regarding his clinical justification for recommended
6 decompression treatment in his chart notes. This violates OAR 811-015-0010(1).

7 d. As to Patient 5, Licensee failed to include additional documentation
8 concerning his clinical justification for spinal decompression treatment. This violates
9 OAR 811-015-0010(1).

10 e. As to Patient 6, Licensee's initial treatment plan reported general
11 guidelines for treatment for the patient's injuries and should have been more specifically
12 tailored to treatment of a two year old. All of the treatment modalities listed, although not
13 used, would have been inappropriate if provided to a two year old. This patient received
14 59 treatments over five and a half months. The PRC felt this number of treatments for a
15 two-year required additional documentation of clinical justification. This violates ORS
16 684.100(1)(f)(B), OAR 811-015-0005(1)(a), OAR 811-015-0010(1) and (4).

17 f. As to Patient 7, Licensee failed to document the specific regions of
18 intersegmental traction provided to the patient. This violates OAR 811-015-0005(1)(a).

19 Patient 7 was a passenger in a car struck while traveling on the freeway. Licensee treated
20 Patient 7 aggressively for six months, but discontinued treatment when Patient 7 could no
21 longer afford care. Patient 7 had marked findings on the closing exam. Licensee
22 indicated in his closing notes the patient had continued impairments and would need
23 ongoing supportive and maintenance treatment. Licensee's chart notes indicate Patient 7
24 had reached a level of maximum medical improvement with respect to certain conditions,
25 which appeared inconsistent with his other findings without further explanation.
26 Licensee's documentation was inadequate to explain Patient 7's election to discontinue
treatment. This violates OAR 811-015-0005(1) and OAR 811-015-0010(1).

g. In some cases, Licensee failed to making appropriate designations in his
chart concerning diagnostic necessity on increased collimation or lack of gonadal or
thyroid shielding during x-rays. This violates OAR 811-030-0020(7) and OAR 811-030-
0030(2)(d).

h. The PRC felt that Licensee overused the code D0004 for translation.
Licensee has since discontinued using translation codes during treatment where a
bilingual CA is present. This violates OAR 811-035-0015(2)

4.

The investigation of Patient 8 revealed the following findings:

Patient 8 treated with Licensee from February through June 2010 after a motor
vehicle accident. She complained of neck, mid and low back pain, and bilateral shoulder
pain, greater on the left. Licensee ordered an MRI of her lumbar are on May 19, 2010.
The radiologist noted a finding of hydronephrosis. Licensee failed to report this finding
in his chart or his subsequent discussion of the finding with the patient and his
subsequent referral of the patient to her medical doctor. Licensee did submit to the Board
the testimony of two employees, who confirm that Licensee did discuss the MRI report

1 with the patient, provide her with a copy and instruct her to see her doctor. In addition,
2 the employees confirm he continued to ask the patient if she had seen her doctor.
However, Licensee failed to document his continued efforts.

3 In addition, Licensee failed to timely change his computer notes to reflect that
4 plaintiff's abdominal surgery had taken place. Although Licensee's hand written note for
5 June 14, 2010 reflected he knew plaintiff's surgery had occurred, his unrevised version of
6 his June 14, 2010 computerized chart note stated "prognosis for her thoraco-lumbar
region is fair to guarded and is complicated by a benign tumor that will be removed
surgically very soon. The benign tumor has been closely monitored by her M.D."
Licensee subsequently revised his chart note to reflect the current history.

7 Licensee's August 9, 2010 chart note indicated the patient's condition had been
8 hindered by frequent exacerbations post-surgery and residual scar tissue formation made
9 her prognosis fair to guarded. Due to the seriousness of the patient's post-surgical
condition, Licensee should have documented his initial and continuing instructions to the
patient in the chart and formal referral to her treating physician.

10 The above violates ORS 684.100(1)(f)(A), OAR 811-015-0005(1)(a), OAR 811-
015-0010(1), (2) and (4).

11 CONCLUSIONS OF LAW

12 5.

13 On November 15, 2012, the Board considered and adopted the report of the Peer
14 Review Committee finding Licensee in violation of ORS 684.100(1)(f)(A), OAR 811-
015-0005(1), OAR 811-015-0010(1), (2) and (4), OAR 811-035-0015(2), OAR 811-030-
15 0030(2)(d), OAR 811-030-0020(7) and violating Oregon Chiropractic Practice and
Utilization Guidelines for providing excessive care without additional supporting
16 documentation.

17 STIPULATIONS

18 6.

19 Therefore, pursuant to ORS 684.100(9)(b), (f) and (g) the OBCE orders:

- 20 1. The parties have agreed to enter this stipulated final order. Licensee agrees to the
21 entering of this final order. Licensee agrees that he is aware of his right to a hearing with
22 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
- 23 2. Licensee will pay a \$10,000 civil penalty to the OBCE, payable within 180 days
24 of this order becoming final.
- 25 3. Licensee is given five years of probation which begins when this order becomes
26 final.

1 4. Licensee is suspended for a period of 30 days, to begin June 1, 2013. Licensee
2 cannot provide any chiropractic treatment during his suspension. No posted notice shall
be required.

3 5. Licensee will be mentored by a Board approved mentor for up to three years and
4 must successfully complete the mentoring plan.

5 a. Frequency of mentoring:

6 i. Licensee will meet with his mentor personally at least 8
7 times the first year.

8 ii. The mentor will determine the number of meetings required
9 thereafter.

10 iii. Licensee is required to respond promptly to any reasonable
11 request from the mentor. Failure to respond to telephone or email inquiries within 48
12 hours without a valid explanation is a violation of this Stipulated Final Order. The
13 mentor will be instructed to report this violation to the Board.

14 b. Conclusion of mentoring. The mentor may recommend
15 completion or reduction of the mentoring plan after the first year.

16 c. Commencement of mentoring period. The calculation of the time
17 period for the mentoring plan will begin on the date of the initial visit with the mentor.
18 At any time that Licensee ceases active practice, his license lapses or changes to inactive
19 status, this will not count towards completion of the mentoring plan period. Periodic
20 vacations and/or minor illnesses are not included in inactive practice.

21 d. The mentor will be a licensed Oregon Chiropractic Physician
22 chosen by the OBCE who will sign a personal services contract with the OBCE for this
23 service. The OBCE will endeavor to choose a mentor within a reasonable distance from
24 Licensee's clinic.

25 e. Mentoring Plan. The mentoring plan will focus on improved
26 record keeping, examination procedures, appropriate clinical justification and appropriate
billings and will ensure compliance with statutes and rules and address all issues
identified in the Final Order.

f. File Reviews. The mentor will be responsible to review charts and
report any findings to the Board that are appropriate. The mentor will perform file
reviews of records and billings of Licensee's case work and report to the Board on
Licensee's progress at meeting minimum standards of chiropractic health care.

g. Cooperation. Licensee agrees to cooperate with the mentoring
agreement and must allow the mentoring doctor to enter Licensee's business premises to

1 examine and review Licensee's patient or other records to determine compliance with the
2 terms of this order, for the duration of this mentoring plan.

3 h. Observation. If the mentor or Board makes a request, and the
4 patient consents, Licensee will allow the mentor to observe patient encounters, including
5 examination or reexaminations. Licensee will cooperate with the mentor on a reasonable
6 schedule for this to occur.

7 i. Reporting. The mentor will make quarterly reports to the OBCE
8 regarding Licensee's progress towards compliance with ORS 684 and OAR 811 and the
9 terms of this Final Order.

10 j. Compensation of mentor. The financial compensation for the
11 mentoring doctor will be at Licensee's expense and be paid to the OBCE. The mentor
12 will provide the OBCE with periodic billings for services and the OBCE will bill the
13 Licensee for these services. The hourly rate will be determined by the mentoring doctor
14 in agreement with the OBCE plus mileage at the state rate. Said hourly rate will not
15 exceed the usual and customary charges for these services. Successful completion of the
16 mentoring plan requires this financial obligation to be met. If a hardship request is made
17 by Licensee, the OBCE will set up a reasonable payment plan.

18 k. Licensee shall raise any questions or reasonable objections
19 concerning the appointment of the mentor or the execution of the mentoring plan to the
20 OBCE Executive Director. If such concerns are not resolved with the Executive
21 Director, they will be addressed by the Board and their next meeting.

22 6. Licensee will be subjected to file pulls and reviews by the Board for the duration
23 of the probation. Licensee shall allow a representative or agent of the Board to retrieve
24 files and will allow staff to make copies of the file for Board review with his knowledge.
25 The Board may also request that Licensee make in person Board appearances with
26 reasonable notice.

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

8. If Licensee is absent from the State of Oregon at any time during his suspension,
the probation and suspension will be tolled during those specific time periods. The
following events are excluded from this rule:

- a. Out of state continuing education courses;
- b. Family emergencies;
- c. Travel to nearby areas in the State of Washington;
- d. Reasonable family vacations following suspension; and

1 e. Any other event that Licensee receives permission from the OBCE
to attend.

2 9. The Board agrees to waive any costs on this matter.

3 IT IS SO STIPULATED AND AGREED TO:

4 DATED this 29TH day of May, 2013.

5 Original Signatures are on file in OBCE office

6 By:

Braxton Nguyen, DC

7 DATED this 28th day of May, 2013.

8 BOARD OF CHIROPRACTIC EXAMINERS

9 Original Signatures are on file in OBCE office

10 By:

Dave McTeague, Executive Director

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

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

In the Matter of)
)
Braxton Nguyen DC) NOTICE OF PROPOSED
) DISCIPLINARY ACTION
)
)
)
Licensee.) Case # 2011-2002 and 2011-3034

The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Braxton Nguyen DC (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 alleging that Licensee’s records had violations of billing, coding, inaccurate records and lack of clinical justification in the chart notes. In response to a complaint, the Oregon Board of Chiropractic Examiners directed the Peer Review Committee (PRC) to review the complaint with Licensee. The PRC reviewed 17 patient chart notes, billing records totaling over 5700 pages.

2.

Licensee was interviewed by the Peer Review Committee in August 2012 regarding the allegations above and his treatment of Patients 1-13.

3.

The investigation and interviews revealed the following information:

1. In regards to Patient 1, the records showed no clinic identifiers were found on pages 389-391 and 395-403. Therapeutic exercise billing code 97110 was used 28 times of the 41 treatment dates and lacked the minimal information in the notes to justify the procedures. Electrical stimulus code 97014 was used 29 of the 41 treatment dates and this modality code can only be billed if the area treated is not in a region that has received spinal manipulation. This is a bundling violation in terms of the billing. The PRC found that a consult code of 99211 on date of service 3/29/11 for handing out a cold pack was not appropriate, nor clinically justified. The therapeutic exercise code 97530 for date of service 6/23/11 for take home exercise instructions was inappropriate, as the CPT defines therapeutic activities as direct patient contact by the provider. The final exam performed on 9/2/11 stated all areas at maximum medical improvement without findings on the closing exam. However, on that same date, the patient

1 received a 3-4 region spinal manipulation, electrical stimulation, ice pack and four units of
2 massage when the patient had no symptoms. On 2/17/11 x-rays were taken of the cervical spine
3 (3 of them) and lumbar spine (4 of them) with only moderate findings on the initial exam of an
4 11 year old child. The films show no shielding of gonadal or thyroid areas and lack appropriate
5 collimation. This is grossly inappropriate with the age of this patient lacking significant findings.

6
7 The above violates ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR 811-015-
8 0010(1),(2), (3) and (4), OAR 811-035-0015(2) and OAR 811-030-0030(2)(a)-(n), OAR 811-
9 030-0020(7) and OAR 333-106-0030.

10
11 2. In regards to Patient 2, this patient had x rays and there was no shielding and
12 inappropriate collimation.

13
14 The above violates ORS 684.100(1)(f)(A), OAR 811-030-0030(a)-(n) and OAR 811-
15 030-0020(7).

16
17 3. Patient 3 received treatment on 9/29/10 and was billed an E0230 code for ice cap or
18 collar with no explanation on the SOAP note. Review of records also found that this patient was
19 billed L0628 for lumbosacral orthosis with straps, but no mention in the notes. Billing for the
20 date of service 10/5/10 and 11/5/10 was omitted. This patient was billed a 99201 but the notes
21 do not support this billing code. (Page 4401). A re-exam was billed as a 99213 for this patient
22 but it did not include a past or present history on this patient. This patient was billed a code
23 99211, and by explanation on the take home sheet appears to be a pillow support or wedge for a
24 chair. Billing for low level laser therapy at a 97032 code was in the chart and was not supported.
25 On 10/29/10 an exam was done showing no positive neurologic findings, yet the patient reports
26 he is staying the same. The exam sheet says patient had a positive Soto Hall. On pages 4437-
27 4439 of the notes there is a Rx for decompression by this practitioner but no soap note to explain
28 clinical justification. This was billed as a S9090 defined as vertebral axial decompression and
29 was billed \$200 per session. There were notes regarding this patient having a MRI, yet the notes
30 contained no clinical justification for a cervical MRI to be requested.

31
32 The above violates ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR 811-015-
33 0010(1),(2), (3) and (4), OAR 811-035-0015(2).

34
35 4. As to Patient 5, chart notes indicate on page 619 that the day after an acute injury it
36 was suggested this patient apply heat to all regions. The PRC felt this was inappropriate. This
37 patient was also given multiple orthotic supports, a pillow, an ice pack, heat pack and
38 thermobrace and the chart notes did not appear to provide clinical justification for this to occur.
39 A billing code of 97014 for electrical stim over spinal regions was given with adjusting all
40 regions, without using a modifier of -59. 7 different views of the cervical and 4 of the lumbar
41 were done via x-rays with moderate complaints and absent significant findings and no radicular
42 symptoms. The PRC felt that was excessive x-ray exposure. On page 656 the Soap note
43 indicates the patient was in constant moderate pain, and yet noted she was improving. On page

1 656 the patient was given supervised resistance exercise for the neck and back. However, the
2 exercise sheet lacked certain information. The log was provided but only listed the region and
3 repetition. On re exam Licensee ordered a MRI on lumbar spine, it showed mild changes and
4 then an order for spinal decompression was also signed by Licensee. Decompression on each
5 OV after MRI at \$200 was found by PRC to be questionable.

6
7 The above violates ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR 811-015-
8 0010(1),(2), (3) and (4), OAR 811-035-0015(2) and OAR 811-030-0030(2)(a)-(n), OAR 811-
9 030-0020(7) and OAR 333-106-0030.

10
11 5. Patient 6, a 2 year old male appeared with neck, mid and low back pain rated at a 6,
12 yet the notes don't explain how this patient communicated that to the practitioner. The chart
13 notes state the patient has trouble dressing himself, yet he's two years old. Notes also said he had
14 trouble standing for more than one hour; PRC noted the patient was two years of age. The
15 treatment plan on this patient was to provide chiropractic adjustment, myofascial trigger point
16 physiotherapy, muscle stimulation, intersegmental traction, therapeutic exercise, and therapeutic
17 massage. The PRC found all modalities on a two year old are inappropriate if not impossible. A
18 3/25/10 EMG occurred, but there were no dates on the file, and this is a standing unaided test
19 with most readings off the chart note. PRC found that this was a highly questionable test and
20 most likely an invalid test. This child received a total of 59 treatments and the PRC felt a two
21 year old with questionable clinical rational was over treated by Licensee.

22
23 The above violates ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR 811-015-
24 0010(1),(2), (3) and (4), OAR 811-035-0015(2).

25
26 6. Patient 7 was billed a 97012 for several visits in April and May 2010 and the specific
27 region was not noted in the charts. There were multiple charges for code 99211 for dispensing of
28 ice, heat pack, pillow and a brace without clinical justification in the charts. PRC found that this
29 patient treated aggressively with this Licensee for 6 months then treatment suddenly stops with
30 Licensee saying the patient had reached maximum medical improvement, while there were
31 marked findings on the closing exam (pages 3971-3975). There was inadequate explanation in
32 the chart notes as to this patient's progress and reasons for treatment to cease.

33
34 The above violates ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR 811-015-
35 0010(1),(2), (3) and (4), OAR 811-035-0015(2).

36
37 7. The PRC felt that Licensee overused the code D004 for translation that is routinely
38 used throughout all files reviewed. The PRC felt that a translator fee may be reasonable in a
39 consult, but not in a treatment when a bilingual CA is normally present.

40
41 The PRC also found that all x-rays reviewed showed they were lacking an adequate
42 collimation and most were missing appropriate gonadal and thyroid shielding. There also
43 appeared to be a pattern of referring the patients out for MRI without significant radicular

1 symptoms and no positive orthopedic or neurological exam findings as a means to prescribe the
2 Axial Decompression.

3
4 The above violates ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR 811-015-
5 ~~0010(1),(2), (3) and (4), OAR 811-035-0015(2) and OAR 811-030-0030(2)(a)-(n), OAR 811-~~
6 ~~030-0020(7) and OAR 333-106-0030.~~

7
8 4.

9 On November 15, 2012, the Board considered and adopted the report of the Peer Review
10 Committee finding Licensee in violation of The above violates ORS 684.100(1)(f)(A), OAR
11 811-015-0005(1), OAR 811-015-0010(1),(2), (3) and (4), OAR 811-035-0015(2) and OAR 811-
12 030-0030(a)-(n), OAR 811-030-0020(7) and OAR 333-106-0030 and violating Oregon
13 Chiropractic Practice and Utilization Guidelines for providing excessive and possibly
14 unnecessary care.

15
16 5.

17 Due to the aforementioned violations, the OBCE proposes to put Licensee on probation
18 for five years in addition to the following provisions:

19 A. Licensee is required to be monitored by Affiliated Monitors for first three years of the
20 probation period once the suspension has been served.

21 Licensee shall obtain an office compliance audit by Affiliated Monitors. Affiliated
22 Monitors will determine the appropriate timing for this audit in consultation with the OBCE.
23 The compliance auditor designated by Affiliated Monitors shall have demonstrated training
24 and/or experience in determining whether a health care practitioner or facility is in compliance
25 with all applicable state and federal laws and regulations that affect the provider in preparing and
26 implementing compliance plans or programs for such providers.

27 The compliance auditor shall conduct a compliance audit and assessment of Licensee's
28 chiropractic practice for the purpose of determining whether Licensee's practice is in satisfactory
29 compliance with all applicable state laws, rules and regulations, including but not limited to the
30 laws, rules and regulations which pertain to the delivery of, documentation of, and/or billing and
31 payment for health care services. The audit and assessment will remain confidential between
32 Licensee and Affiliated Monitors.

33 The compliance auditor shall develop a written Compliance Plan for Licensee, based on
34 the results of the compliance audit and assessment, which identifies the specific preventative and
35 correction action which Licensee has taken or will take in the future to ensure continuing
36 satisfactory compliance with all applicable federal and state laws, rules and regulations. The
37 Compliance Plan shall be released to the Board and Licensee shall execute all necessary releases.

38 The Compliance Plan shall address, at a minimum the following:

39 a. The establishment and implementation of written policies and procedures for all
40 aspects of Licensee's practice, including office operations and administration, patient care,
41 response to patient complaints or concerns, clinical record-keeping, confidentiality of patient
42 records and access to such records, and billing and coding procedures;

1 b. The exercise of due diligence with respect to hiring and retention of present and/or
2 prospective employees, if any, and in the delegation of patient care functions to such personnel if
3 applicable;

4 c. The assurance that all present and/or prospective employees properly carry out their
5 responsibilities under the Compliance Program, including the reporting of possible compliance
6 problems to the Compliance Monitor;

7 d. The performance of periodic internal reviews as outlined in the above;

8 e. The establishment and implementation of adequate procedures for investigating and
9 facilitating appropriate corrective responses to identified compliance problems and patient
10 complaints and concerns.

11 Licensee shall engage the services of Affiliated Monitors to serve as the Compliance
12 Monitor to monitor Licensee's implementation of the Compliance Plan through a three year
13 monitoring period, and to furnish the Board with written reports concerning Licensee's progress
14 in implementing the Compliance Plan once every 90 days throughout the monitoring period. The
15 frequency of monitoring visits will be determined by the Compliance Monitor in consultation
16 with Affiliated Monitors and the Board, however the Board's expectation is that monitoring will
17 be on a monthly basis for as long as the Compliance Monitor determines this to be needed during
18 the probationary period.

19
20 Licensee shall ensure that the Compliance Monitor conducts a complete and
21 comprehensive administrative and clinical review of Licensee's chiropractic practice at least
22 once every 90 days during the monitoring period, and submits to the Board a written report of the
23 results of each such review. This administrative and clinical review shall identify any and all
24 deficiencies in Licensee's administrative or clinical practices which, in the professional judgment
25 of the Compliance Monitor shall provide a copy of each such report to Licensee. The
26 Compliance Monitor shall provide a copy of each such report to Licensee. In the event that the
27 Compliance Monitor is unable to complete this administrative and clinical review in a timely
28 fashion due to the Compliance Monitor's own personal and professional commitments, Licensee
29 and Compliance Monitor shall notify the Board in writing of the reasons why Compliance
30 Monitor is unable to complete the review by that date, and the Board, for good cause shown, may
31 extend the deadline for completion of that review and submission of the required report.

32 In a timely manner, Licensee shall take any and all corrective actions which are
33 reasonably necessary to correct any and all deficiencies identified in any of the administrative
34 and clinical reviews conducted by the Compliance Monitor.

35 Licensee expressly agrees that he shall be responsible for all costs and expenses
36 associated with the Compliance Audit and Plan by Affiliated Monitors, and that the Board shall
37 bear no responsibility or liability for the costs of those services.

38 The first such Compliance Report shall be due one hundred twenty days after the
39 Compliance Plan is developed by Affiliated Monitors.

40
41 B. Licensee will be subjected to file pulls and reviews by the Board for the duration of
42 the probation. Licensee shall allow a representative or agent of the Board to retrieve files and
43 will allow the staff to make copies of the file for Board review.

1
2 C. Licensee will pay a civil penalty in the sum of \$5,000. This will be due within 90
3 days of this order. Failure to make full payment of this penalty by that time may result in further
4 discipline, up to and including revocation.
5

6 D. Licensee is required to complete 12 hours of continuing education on chart notes and
7 coding, and 12 hours of continuing education on clinical justification. This continuing education
8 is in addition to the required amount for licensure and must be completed within 90 days of the
9 effective date of the final order.
10

11 E. If Licensee is absent from the State of Oregon at any time during this probation or
12 suspension, the probation and suspension are thereby tolled during those specific time periods.
13

14 6.

15
16 Licensee shall pay costs of this disciplinary proceeding, including investigative costs and
17 attorney fees pursuant to ORS 684.100(9)(g).
18

19 7.

20 Licensee has the right, if Licensee requests, to have a formal contested case hearing
21 before the OBCE or its administrative law judge to contest the matter set out above. At the
22 hearing, Licensee may be represented by an attorney and subpoena and cross examine witnesses.
23 That request for hearing must be made in writing to the OBCE, must be received by the OBCE
24 within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and
25 must be accompanied by a written answer to the charges contained in this notice.
26

27 8.

28
29 The answer shall be made in writing to the OBCE and shall include an admission or
30 denial of each factual matter alleged in this notice, and a short plain statement of each relevant
31 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this
32 notice and not denied in the answer will be considered a waiver of such defense; new matters
33 alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and
34 evidence shall not be taken on any issue not raised in the notice and answer.
35

36 9.

37
38 If Licensee requests a hearing, before commencement of that hearing, Licensee will be
39 given information on the procedures, rights of representation and other rights of the parties
40 relating to the conduct of the hearing as required under ORS 183.413-415.
41
42
43

1
2
3 If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the
4 hearing, the OBCE may issue a final order by default and impose the above sanctions against
5 Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file
6 regarding the subject of this automatically become part of the evidentiary record of this
7 disciplinary action upon default for the purpose of proving a prima facie case.
8

9 DATED this 30th day of November 2012.

10
11 BOARD OF CHIROPRACTIC EXAMINERS
12 State of Oregon

13 Original Signatures are on file in OBCE office

14
15 By:

16 Dave McTeague, Executive Director
17
18
19
20
21
22
23
24

1 State of Oregon) Case # 2011-2002 and 2011-3034

2 County of Marion) Braxton Nguyen DC

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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.

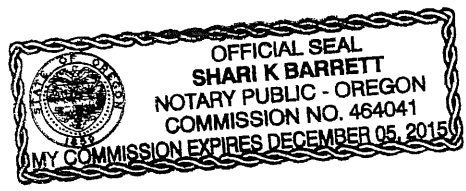
Original Signatures are on file in OBCE office

Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me
this 29th day of November, 2012

Original Signatures are on file in OBCE office

NOTARY PUBLIC FOR OREGON
My Commission Expires: Dec 5, 2015



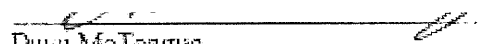
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on November 30, 2012, I served the foregoing Proposed Notice of Discipline upon Braxton Nguyen DC, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Braxton Nguyen
9055 SW Beaverton Hillsdale Hwy Suite A
Portland OR 97225

Original Signatures are on file in OBCE office



Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners