

STATE OF OREGON
BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of the)	FINDINGS OF FACT,
Proposed License)	ULTIMATE FINDINGS OF FACT,
Revocation of)	CONCLUSIONS OF LAW, ORDER
Floyd Harold Nickila)	AND NOTICE OF OPPORTUNITY FOR
)	JUDICIAL REVIEW

HISTORY OF THE CASE

On July 19, 1990, the Oregon Board of Chiropractic Examiners ordered respondent to begin serving, on August 13, 1990, a previously litigated 180 day suspension of his license to practice chiropractic for violating ORS 684.100 (1)(g)(A), in that he had repeatedly permitted and required employees of his clinic, who were not licensed or authorized by the Oregon Board of Radiologic Technology, to practice radiologic technology on his patients. Respondent was also ordered to pay a \$1000 civil penalty.

During the period of suspension, respondent engaged in conduct which the Board alleged constituted the practice of chiropractic. The Board filed a lawsuit in Marion County Circuit Court, September 17, 1990, seeking a temporary restraining order, preliminary injunction, and a permanent injunction to prohibit respondent from practicing chiropractic when not actively licensed to do so. On September 24, 1990, that case was resolved by the entry of a stipulated permanent injunction. Respondent stipulated that he had engaged in conduct which constituted the practice of chiropractic between August 13, 1990 and Sept. 12, 1990, in spite of the Board's previous Order not to do so.

Following the entry of the injunction, the Board served respondent with a Notice of Proposed License Revocation, on Oct. 5, 1990, based upon the same conduct alleged in the injunction case.

The license revocation hearing was heard by the Board on February 21, 1991. Respondent was represented by James D. Vick, attorney at law, and the Board was represented by Paul J. Sundermier, Assistant Attorney General.

NOW, THEREFORE, after fully considering the evidence presented, the Board enters the following order:

LEGAL ISSUES

Did licensee violate ORS 684.100 (1)(g)(A), unprofessional or dishonorable conduct and ORS 684.100 (1)(s), practicing chiropractic while his license was suspended.

FINDINGS OF FACT

(1) On or about September 10, 1990, Dr. Nickila put his hands on patient hips to position her for the X-ray, (2) At that same time, Dr. Nickila loaded the X-ray cassette holder and put it into position in the machine, (3) Dr. Nickila directed the patient to take a deep breath prior to taking the X-ray, (4) Dr. Nickila placed a gonadal shield around the patients waist, (5) Dr. Nickila set the exposure technique on the X-ray panel, (6) On or about August 14, 20 and 29, 1990, Dr. Nickila attended staff meetings and presented a plan for treatment of patients to the associate doctors. (7) On several occasions in August, 1990, but after August 13, 1990, Dr. Nickila gave specific directions to associate doctors concerning spinal manipulation.

ULTIMATE FINDINGS OF FACT

Between August 14, 1990 and September 12, 1990 Dr. Nickila practiced chiropractic in that he did more than show another chiropractor how to use the X-ray machine, but instead performed functions regularly performed by a licensed chiropractor or a licensed radiologic technician acting under a license chiropractor's supervision which, in either case, would constitute the practice of chiropractic.

Between August 14, 1990 and September 12, 1990, Dr. Nickila did more than manage a chiropractic clinic's business affairs when he designated a treatment plan for other chiropractors to use and he gave specific directions to associate doctors regarding the treatment of patients. Such conduct constitutes the practice of chiropractic.

CONCLUSIONS OF LAW

By a preponderance of the evidence, Dr. Floyd Harold Nickila has repeatedly engaged in actions which constitute the practice of chiropractic while he was suspended from practice. Respondent has violated ORS 684.100 (1)(g)(A), unprofessional and dishonorable conduct, by practicing his profession without a license, and has violated ORS 684.100 (1)(s), practicing chiropractic without a license. Either violation supports the sanctions imposed herein.

ORDER

1. Dr. Floyd Harold Nickila's license to practice chiropractic in Oregon is suspended for a period of 12 months. During this period of suspension, Dr. Nickila may own his clinic but may not be present during business hours or when patients are present. ORS 684.100 (1).

2. Dr. Nickila must enroll in and successfully complete the next available course entitled Jurisprudence and Reporting, Module VII, Session 22 of the Diplomate Program in Chiropractic Orthopedics taught by Dr. Richard D. Stonebrink at Western States Chiropractic College, or its equivalent. This course is to be in addition to the continuing education required in ORS 684.092 and OAR 811-15-025.

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3. Dr. Nickila is assessed \$1000 civil penalty and \$250 administrative costs and fees. ORS 684.100 (1).

4. Dr, Nickila will send to the Board of Chiropractic Examiners an annual list of all those individuals who use his X-ray machine for the next 24 months, commencing with the date of this Order.

5. The six months immediately following the suspension period is to be a probationary period which Dr. Nickila is to complete without further violation of chiropractic statutes or administrative rules. If Dr. Nickila violates ORS ch 684 or OAR ch 811, such violation will result in revocation of his license to practice chiropractic in Oregon.

Date May 20, 1991

Original signatures on file
at the OBCE office.

Steven L. Gardner, DC
President, Oregon Board of
Chiropractic Examiners

NOTICE

You are entitled to judicial review of the Order. Judicial review may be obtained by filing a petition for review within 60 days from the service of the Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.

