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BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of the License to)
Practice as a Chiropractic Physician of)
HAROLD NICKILA, D.C.)
Licensee.)

STIPULATED FINAL ORDER

1.
2.

The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Harold Nickila, D.C. (Licensee), has been licensed by the Board to practice as a chiropractic physician in Oregon, and is therefore subject to the jurisdiction of the Board.

3.

On November 8, 1996, the Board served Licensee with a Notice of Proposed Suspension of Chiropractic License, for violations of ORS 684.100(1)(g)(A), OAR 811-015-0005(1) and the Practice and Utilization Guidelines, for failing to chart to the standard of care, including substandard chart notes, history-taking, and treatment plans. The Notice of Proposed Suspension of Chiropractic License marked Exhibit A, is attached hereto and made a part hereof.

4.

On December 2, 1996, Licensee filed an Answer to the Notice and requested a formal hearing in this matter. A copy of Licensee's Answer to the Notice marked Exhibit B, is attached

1 hereto and made a part hereof. Prior to the hearing, Licensee and
2 the Board reached a settlement agreement.

3 4.

4 The Board, by and through its Executive Director, Dave McTeague,
5 and Licensee, stipulate and agree that they are willing to
6 informally dispose of and settle this matter on the basis of
7 settlement and compromise. This stipulation sets forth the
8 following facts upon which the parties have agreed:

9 4.1 Licensee agrees that there are sufficient grounds to
10 support a finding by the Board that Licensee violated
11 ORS 684.100(1)(g)(A), OAR 811-015-0005(1), and the Practice and
12 Utilization Guidelines, and is willing for the Board to enter an
13 order finding that these violations were committed as alleged by
14 the Board in the Notice of Proposed Suspension of Chiropractic
15 License No. 1013-95.

16 **FINAL ORDER**

17 The Board and Licensee understand and agree that this
18 disciplinary action may be concluded by the entry of this order
19 upon the following terms and conditions:

20 1. All investigative materials prepared or received by the
21 Board concerning these violations and all related notices and
22 pleadings shall be retained in the Board's file concerning this
23 matter. The Board retains the ability to present evidence on
24 Licensee's entire Board records, including the subject and content
25 of this procedure.

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1 2. Licensee understands his right to request a hearing in
2 this matter pursuant to ORS 183.415(2)(a), and to be represented
3 by counsel at a hearing pursuant to ORS 183.415(3).

4 3. In lieu of a formal hearing in this matter, Licensee
5 consents to the Board entering a Stipulated Final Order finding
6 that he violated ORS 684.100(1)(g)(A), OAR 811-015-0005(1), and
7 the Practice and Utilization Guidelines of the Board in that
8 Licensee failed to keep patient charts, history-taking and
9 treatment plans to the standard of care required for Patient A and
10 Patient B as identified in the Board's Confidential Patient
11 Identification key. Licensee waives all rights to a hearing,
12 rehearing, appeal or judicial review relating to this Stipulated
13 Final Order.

14 4. The license of Licensee is suspended and said suspension
15 is immediately stayed.

16 5. Licensee shall be placed on probation for a period of 24
17 months from the execution of this Stipulated Final Order. Said
18 probation shall remain effective in the event Licensee retains a
19 full practice license or a limited active license, pursuant to
20 ORS 684.070.

21 6. The Board shall have the ability to periodically make
22 unannounced visits to the business premises of Licensee as follows:

- 23 a. For the express purpose of examining, reviewing and
24 photocopying Licensee's patient records and chart keeping
25 notations.
- b. Such examinations and requests for photocopies of file
entries may not be refused by Licensee.

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- 1 c. The examinations and requests for photocopies shall be for
2 the sole purpose of examining the records and determining
3 Licensee's compliance with Board standards of care, and to
4 review Licensee's charting methods to ascertain that
5 Licensee is charting the requisite standard of care,
6 standard of history-taking and recording of treatment plans.
- 7 d. The Board retains the exclusive ability to designate a duly
8 qualified individual (visitor) to make said review of
9 Licensee's chart notes and records.
- 10 e. The visitor shall be allowed full access to all patient
11 files to review recordkeeping processes without refusal by
12 Licensee.
- 13 f. The records review shall be conducted in a professional
14 manner keeping in mind the preservation of the
15 confidentiality of patient information and shall be
16 performed with as little interruption and inconvenience to
17 the operation of Licensee's office procedures as possible.
- 18 g. Said visits shall be conducted as often as is necessary to
19 conform to the terms of this agreement.
- 20 h. All information reviewed or obtained by the visitor shall
21 remain confidential other than to report any noncompliance
22 matters to the Board.
- 23 i. Licensee is entitled to written notice of any improper
24 recordkeeping or violations found by the visitor.
- 25 j. As to all information and photocopies obtained or reviewed
26 by the on-site visitor, the Board reserves the right to
review said documents and copies and reserves the right to
forward said documents or copies to the Peer Review
Committee for additional review and examination. In the
event the Board has concerns relating to any diagnostic or
prescribed treatment contained within Licensee's records,
the Board further reserves the right to review and copy said
documents and to refer such documents to the Peer Review
Committee for examination.
7. Licensee shall pay a monetary sanction in the form of a fine
in the amount of \$500, pursuant to ORS 684.100(9)(f).
8. Licensee shall pay costs of this disciplinary proceeding,
including investigative costs in the sum of \$500 and attorney fees in
the amount of \$532.90, pursuant to ORS 684.100(9)(g).

1 9. The Board shall retain the ability to revisit this matter
2 and, should future violations or proposed notices of suspension
3 occur, and as appropriate, initiate proceedings to suspend Licensee's
4 chiropractic license based on the new complaint or violation. In the
5 event of any subsequent complaint or cause for Board review, Licensee
6 shall retain the ability to request a hearing on the new violation
7 before any suspension becomes effective. If the Board finds, after a
8 contested case hearing, that Licensee has violated any of the terms
9 of this Stipulated Final order, that violation shall constitute
10 grounds for disciplinary action, including revocation of Licensee's
11 license.

12 10. No failure by the Board or Licensee to strictly enforce the
13 terms of this agreement and no waiver of any term or provision of the
14 agreement by the Board or Licensee shall be construed as a waiver of
15 any succeeding breach of any such term or provision, or as a waiver
16 of the provision itself.

17 This Stipulated Final Order sets forth the entire agreement and
18 stipulation of the parties to resolve this matter.

19 IT IS SO STIPULATED this 19 day of JUNE, 1997.

20 Harold Nickila
21 HAROLD NICKILA, D.C.

22 IT IS SO STIPULATED AND ORDERED this 9 day of
23 July, 1997.

24 BOARD OF CHIROPRACTIC EXAMINERS
25 STATE OF OREGON
By: Dave McTeague
Dave McTeague, Executive Director

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