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

6 In the Matter of )  
7 )  
8 James Olshove, D.C. ) FINAL ORDER BY DEFAULT  
9 License No.: 2764 ) DISCIPLINARY ACTION  
10 )  
11 Licensee. ) Case # 2006-5001  
12

14 The Board of Chiropractic Examiners (Board) is the state agency responsible for  
15 licensing, regulating and disciplining chiropractic physicians in the State of Oregon. James  
16 Olshove, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in the  
17 State of Oregon.

18 Findings of Fact

19  
20 1.

21 The Board received results of an investigation by the Oregon Board of Massage  
22 Therapists (OBMT) in which their staff called Licensee's office and made a massage  
23 appointment. Their investigator then presented as Client # 1, and without being examined by  
24 Licensee, was provided a full body massage by Licensee's CCA that was slightly under one hour  
25 in length. After the massage Client # 1 paid the CCA \$50 in cash. At no time did Client # 1 see  
26 Licensee in a patient/doctor manner. Nor did the CCA ever indicate he was going to discuss  
27 Client # 1's care with Licensee before the massage.  
28

29 2.

30 In response to an OBMT subpoena Licensee provided a copy of Client # 1's patient file.  
31 This file included an examination form signed by Licensee and dated Thursday, December 15,  
32 2005. This examination form details subjective complaints following by "General Physical  
33 Examination" and "Objective Evaluation" with postural evaluation findings, and "palpation  
34 evaluation" with the following entry:  
35

36 Trigger Point Studies: The left trapezius muscle group disclosed moderate  
37 muscle spasms. The right trapezius muscle group elicited moderate muscle spasms. The  
38 left rhomboid muscle group revealed moderate muscle spasms. The right rhomboid  
39 muscle group disclosed moderate muscle spasms. Palpating the left mid scapular muscles  
40 revealed moderate muscle spasms. The right mid scapular muscles disclosed moderate  
41 muscle spasms.  
42

1 The examination form goes on to say "Client #1 was diagnosed with the following:  
2 Spasm of muscle (728.85)" and outlined her "Future Treatment Plan."  
3

4 3.

5 Patient information in the aforementioned examination form is contradicted by the daily  
6 typed chart note entry in SOAP format, which states, "S: Patient presents with soreness in the  
7 upper back and neck and is looking to have massage therapy. O: Bilateral moderate spasms of  
8 the Trapezius, Teres and Rhomboid groups. A: Low clinical decision making, visual exam no  
9 charge – Wellness massage 60 min. P: patient to return next week for another session on upper  
10 back and neck if needed."  
11

12 4.

13 Therapy (CCA) typed chart notes for SOAP, indicate under "A: 20 minutes BL Trapezius,  
14 20 minutes BL Teres, 20 minutes BL Rhomboids – Per doctor's orders" Client #1 stated she  
15 received a full body wellness massage, which is not indicated in the therapy chart notes. In a  
16 letter to the Board, Licensee states, "It was not a massage, it was muscle work. However, my  
17 billing program states massage as the term 'muscle work therapy' is too long and does not fit."  
18

19 5.

20 On April 3, 2006, Licensee spoke with OBCE Executive Director Dave McTeague  
21 regarding the OBMT investigation and at one point Licensee said, "She's not a patient of mine,  
22 but that's OK." McTeague then told him that might be a problem, and Licensee said he "had  
23 paperwork on her, and that she was a patient." Licensee's statements are contradictory and  
24 diminish their credibility.  
25

26 6.

27 On June 1, 2006, the Notice of Disciplinary Action was served on Licensee. The notice  
28 indicated he needed to respond within 30 days. It also indicated if Licensee failed to request a  
29 hearing, that a default order would be taken and the record of the board would be relied on for  
30 evidence in the default order. By July 1, 2006, Licensee did not request a hearing. On July 7,  
31 2006 the Board received written communication from Licensee requesting a hearing.  
32

33 Conclusions of Law

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35 The Board finds that conduct described above is a violation of the clinical justification  
36 rule OAR 811-015-0010 (3) and ORS 684.100(1)(g)(A) in that Licensee failed to perform a  
37 minimally acceptable chiropractic examination and specifically did not perform a PARTS  
38 examination; OAR 811-010-0095 (2)(a) for failing to take a minimally acceptable history; ORS  
39 684.100(1)(g)(A) OAR 811-035-0015(12) "perpetrating fraud upon patients...relating to the  
40 practice of chiropractic" for falsified patient chart notes; and OAR 811-010-0110 (15) "The  
41 service of the Certified Chiropractic Assistant is the direct responsibility of the licensed  
42 Chiropractic Physician."  
43

2 In determining the final action in this case the Board considered Licensee's claim that he  
3 did not think or did not know the Clinical Justification Rule applied to wellness care. The plain  
4 language of OAR 811-015-0010 (3) states, "*All initial examinations (emphasis added)* and  
5 subsequent re-examinations performed by a chiropractor to determine the need for chiropractic  
6 treatment of neuro-musculoskeletal conditions shall include a functional chiropractic analysis.  
7 Some combination of the following PARTS exam constitutes a functional chiropractic analysis.."  
8 The recent public discussions regarding the Clinical Justification Rule centered on Section (4)  
9 requirements for "curative" chiropractic care which does not include wellness care. Sections 1-3  
10 of OAR 811-015-0010 apply to all types of chiropractic care, while Section 4 includes language  
11 specific to "curative" chiropractic care. The Board reiterates that a functional chiropractic analysis  
12 including some combination of the PARTS exam is required as part of all initial examinations  
13 and subsequent reexaminations.

14  
15 The Board further finds that Licensee failed to timely request a hearing and pursuant to  
16 ORS 183.415 it is appropriate to enter a default order.

17  
18  
19 **Disciplinary Action**  
20 **8.**

21 Due to the aforementioned violations, the OBCE issues a Letter of Reprimand to the  
22 Licensee and require him to pay a civil penalty in the sum of \$1500 to the Board within 30 days  
23 of this final order. Licensee must take and achieve a passing score on the NBCE Ethics and  
24 Boundary Examination at the earliest opportunity.

25  
26 **IT IS SO ORDERED**

27  
28 **DATED this 2nd day of August 2006.**

29  
30 **BOARD OF CHIROPRACTIC EXAMINERS**  
31 **State of Oregon**

32  
33 **Original signature on file**  
34 **at the OBCE office.**  
35 **By: Dave McTeague, Executive Director**

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38  
39 A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court of Appeals pursuant  
40 to the provisions of ORS 183.482. Judicial review may be obtained by filing a petition for review with the Office of  
41 State Court Administrator, Supreme Court Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is  
42 requested by filing a petition in the Court of Appeals within 60 days following the date the order upon which the  
43 petition is based is served.  
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State of Oregon ) Case # 2006-5001  
County of Marion ) James Olshove DC

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 Final Order by Default is true to the best of my knowledge as I verily believe.

Original signature on file  
at the OBCE office.

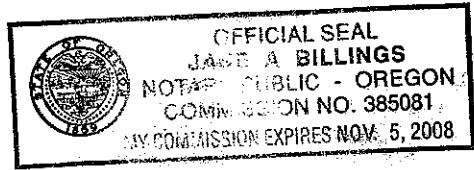
Dave McTeague, Executive Director  
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me

this 2 day of August, 2006

Original signature on file  
at the OBCE office.

NOTARY PUBLIC FOR OREGON  
My Commission Expires: 11-5-08



Certificate of Service

I, Dave McTeague, certify that on August 2, 2006 I served the foregoing Final Order by Default upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

James Olshove, DC  
6035 SW 185th Ave  
Beaverton, Oregon 97007-6338

Original signature on file  
at the OBCE office.

Dave McTeague  
Executive Director  
Oregon Board of Chiropractic Examiners