



Oregon

Theodore R. Kulongoski, Governor

Oregon Board of Chiropractic Examiners

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www.oregon.gov/OBCE

October 17, 2006

Gail Ott DC
2230 NW Pettigrove St., Ste. 110
Portland, Oregon 97210

Re: OBCE Complaints # 2006-1019, Stipulated Final Order
Letter of Reprimand

Dear Dr. Ott,

The Board of Chiropractic Examiners has voted to issue this Letter of Reprimand for violations of OAR 811-010-0110 (6) and (15) and ORS 684.100(1)(g)(A) in that you allowed your certified chiropractic assistants to provide massage therapy without your immediate supervision and presence in the clinic.

Enclosed is the Stipulated Final Order

Sincerely,

Original Signatures on file
at the OBCE Office

Dave McTeague
Executive Director

Enclosure

Cc: Gregory Chaimov AAL



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5 In the records reviewed, the clinic calendars show times when patients were scheduled to
6 see Ms. Kennedy or another CCA (who was not licensed as an LMT) when the clinic doctors
7 were not indicated as present. Licensee states that either he, or the other clinic doctor, is often in
8 the office when the calendar shows them out or not scheduled. The Peer Review report also says,
9 "Dr. Ott stated that it was not a regular occurrence to have unsupervised CCAs but did say that if
10 a treatment plan was in place he thought the CA could work on the patient."
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12 5.

13 Conclusions of Law

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15 The Board finds that conduct described above is a violation of OAR 811-010-0110 (6)
16 and (15) and ORS 684.100(1)(g)(A) in that Licensee failed to supervise and allowed
17 unsupervised massage from a certified chiropractic assistant. That rule requires "the service of
18 the Certified Chiropractic Assistant is the direct responsibility of the licensed Chiropractic
19 Physician, and a CCA shall be directly supervised by a chiropractor at all times. The supervising
20 chiropractor must be on the premises."
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24 Stipulations

25 Therefore, pursuant to ORS 183.415(5) and ORS 684.100(9)(e) the OBCE orders:

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1. The parties have agreed to enter this stipulated final order. Licensee agrees to the entering of this final order. Licensee agrees that he is aware of his right to a hearing with his attorney present to contest the charges and hereby waives that right and agrees to entry of this order. The parties wish to settle and resolve the above matter without further proceedings.
 2. Licensee will be issued the attached Letter of Reprimand to Licensee and pay a civil penalty in the sum of \$500 to the Board. The civil penalty is due and payable within 30 days of the effective date of any final order.


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I have fully read and fully understand all of the above facts and agree to the above terms:

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
IT IS SO ORDERED DATED this 5th day of October, 2006

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By:  Original Signatures on file
at the OBCE Office

Dave McTeague, Executive Director

10-4-2006

By:  Original Signatures on file
at the OBCE Office

Gail Ott D.C.

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

In the Matter of)
)
Gail Ott, D.C.) NOTICE OF PROPOSED
) DISCIPLINARY ACTION
)
)
Licensee.) Case # 06-1019

The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Gail Ott, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in the State of Oregon. The Board is also responsible for licensing Certified Chiropractic Assistants.

1.

The Board received a complaint regarding a certified chiropractic assistant (CCA) that was working for Licensee performing illegal massage services to clients who were not patients of Licensee.

2.

The Oregon Board of Massage Therapists (OBMT) was investigating this matter and sent an investigator to Licensee's chiropractic clinic on December 2, 2005. The investigator received a massage from Samantha Kennedy, CCA, without first being provided a chiropractic examination by Dr. Ott. When the massage occurred, Licensee was not on site that day and was informed by his staff later of the violation. Ms. Kennedy does not hold a valid massage license.

3.

The Peer Review Committee reviewed this matter along with records from the Oregon Board of Massage Therapists and scheduling records, payroll, and other information provided by Licensee through the OBMT. The Peer Review Committee found that Ms. Kennedy did perform a massage without having a chiropractic physician present and without a massage therapy license on an OBMT investigator who was posing as a client in Licensee's clinic. During the investigation, Ms. Kennedy admitted to four instances where she provided massage in Licensee's clinic without the supervision and the on site presence of a chiropractic physician.

4.

In the records reviewed, the clinic calendars show times when patients were scheduled to see Ms. Kennedy or another CCA (who was not licensed as an LMT) when the clinic doctors

2 were not indicated as present. Licensee states that either he, or the other clinic doctor, is often in
3 the office when the calendar shows them out or not scheduled. The Peer Review report also says,
4 "Dr. Ott stated that it was not a regular occurrence to have unsupervised CCAs but did say that if
5 a treatment plan was in place he thought the CA could work on the patient."
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7 5.
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9 The Board finds that conduct described above is a violation of OAR 811-010-0110 (6)
10 and (15) and ORS 684.100(1)(g)(A) in that Licensee failed to supervise and allowed
11 unsupervised massage from a certified chiropractic assistant. That rule requires "the service of
12 the Certified Chiropractic Assistant is the direct responsibility of the licensed Chiropractic
13 Physician, and a CCA shall be directly supervised by a chiropractor at all times. The supervising
14 chiropractor must be on the premises."
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18 Due to the aforementioned violations, the OBCE proposes to issue a Letter of Reprimand
19 to Licensee and require him to pay a civil penalty in the sum of \$500 to the Board. The civil
20 penalty is due and payable within 30 days of the effective date of any final order.
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24 Licensee shall pay costs of this disciplinary proceeding, including investigative costs and
25 attorney fees pursuant to ORS 684.100(9)(g).
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29 Licensee has the right, if Licensee requests, to have a formal contested case hearing
30 before the Office of Administrative Hearings to contest the matter set out above. At the hearing,
31 Licensee may be represented by an attorney and subpoena and cross examine witnesses. That
32 request for hearing must be made in writing to the OBCE, must be received by the OBCE within
33 30 days from the mailing of this notice (or if not mailed, the date of personal service), and must
34 be accompanied by a written answer to the charges contained in this notice.
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38 The answer shall be made in writing to the OBCE and shall include an admission or
39 denial of each factual matter alleged in this notice, and a short plain statement of each relevant
40 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this
41 notice and not denied in the answer will be considered a waiver of such defense; new matters
42 alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and
43 evidence shall not be taken on any issue not raised in the notice and answer.

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

11.

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

DATED this 29th day of September 2006.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original Signatures on file
at the OBCE Office

By: D

Dave McTeague, Executive Director

1 State of Oregon) Case # 06-1019
2 County of Marion) Gail Ott D.C.
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5 I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the
6 Oregon Board of Chiropractic Examiners, and as such, am authorized to verify pleadings in this
7 case: and that the foregoing Notice of Proposed Disciplinary Action is true to the best of my
8 knowledge as I verily believe.

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10 Original Signatures on file
11 at the OBCE Office

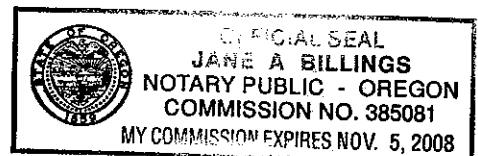
12 Dave McTeague, Executive Director
13 Oregon Board of Chiropractic Examiners
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18 SUBSCRIBED AND SWORN to before me

19 this 29 day of Sept, 2006
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21 Original Signatures on file
22 at the OBCE Office

23 NOTARY PUBLIC FOR OREGON
My Commission Expires: 11-5-2008



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Certificate of Service

I, Dave McTeague, certify that on September 29, 2006, I served the foregoing Notice of Proposed Disciplinary Action upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Gail Ott DC
2230 NW Pettigrove St., Ste. 110
Portland, Oregon 97210

And by regular mail to:

Gregory Chaimov AAL
Davis, Wright, Tremaine LLP
1300 SW Fifth Ave., Suite 2300
Portland, Oregon 97201-5682

Original Signatures on file
at the OBCE Office

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners