

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
) Case # 2014-1010
Kevin Plummer, D.C.,)
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)
) STIPULATED FINAL
Licensee.) ORDER
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_____)

The Oregon Board of Chiropractic Examiners (hereafter "Board") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Kevin Plummer, D.C. (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

Findings of Fact

1.

On August 28, 2013, Licensee entered into a Final Stipulated Order with the Board in cases 2012-3014, 2012-1051, 2013-1004, 2013-1010, 2013-1011, 2013-1012 and 2013-1013. Licensee was disciplined for failing to give notice to patients of his office closure, failure to provide records and inadequate chart notes.

In the Final Stipulated Order Licensee agreed to do the following:

1. Licensee agrees to a suspension of 90 days, but the suspension will be stayed if Licensee abides by the terms of this agreement and completes the requirements herein.
2. Licensee agrees to take and complete 8 hours of board-approved continuing education on charting and documentation.
3. Licensee agrees to complete 20 hours of community service by providing board-approved pro bono chiropractic care in the community. Licensee agrees to provide proof of providing the care via written verification.
4. Licensee agrees to allow the Board or their representative to obtain random files through file pulls in his office and agrees to cooperate in the random file pulls.

5. Licensee agrees to find a chiropractic mentor, approved by the Board, to assist him in his current practice and report to the Board his progress, subject to the following provisions;

Mentor Provisions:

- A) Licensee will be in a Board-Approved plan of supervision with a licensed Chiropractor for a period of one year from the date of their first in-person meeting. This meeting must occur within 120 days of the effective date of the Final Order.
- B) Licensee must participate in and successfully complete a mentoring plan of as part of the Plan of Supervision with a board-approved Mentor for a period of at least one year. The mentor will sign a personal services contract with the OBCE for the provision of this service. The mentoring plan will have a focus on development of acceptable examination, clinical justification, informed consent, billing practices and procedures, charting and risk management practices to ensure compliance with statutes and rules and, in particular, addressing all issues identified in this order. The Mentor will be responsible to review charts and report any findings to the Board that are appropriate.
- C) At any time that the Licensee ceases active practice, his license lapses or he changes to inactive status, this will not count towards completing of the mentoring period. The Mentor will perform file reviews of records and billings of Licensee's case work and report to the board on his progress at meeting minimum standards of chiropractic health care. Licensee must allow the Mentoring Doctor to enter Licensee's business premises to examine, and review Licensee's patient or other records to determine compliance with the terms of this order, for the duration of this Mentoring plan. If the Mentor requests, and with the patient's agreement, Licensee will allow the Mentor to observe a patient encounter.
- D) Licensee agrees that at any time the Mentor or Board representative may pull, retrieve patient files & billing records for the Board's review for up to two years. Licensee is required to allow the OBCE or its representative to periodically review Licensee's patient records and chart notes. This includes review and photocopy of licensee's patient records to ensure licensee complies with the requirements of ORS 684 and OAR 811.
- E) The Mentor will make quarterly reports to the OBCE regarding Licensee's progress.
- F) The financial compensation for the mentoring doctor will be at Licensee's expense which will be due and payable to the OBCE. The Mentor will provide OBCE with periodic billings for services and in turn the OBCE will bill the Licensee. The hourly rate will be determined by the Mentoring Doctor in

agreement with the OBCE plus mileage at the state rate. Successful completion of the mentoring plan also requires that this financial obligation be met; however the OBCE will be reasonable in setting up a payment plan if Licensee makes a request.

G) Failure of Licensee to fully cooperate with the Mentor and the mentoring plan will be grounds for future disciplinary action.

6. The Board waives all costs and fees incurred.

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

2.

During his probation period the Board found that Licensee was not fulfilling his agreed order in several areas. A file pull was prearranged for June 5, 2014 and Licensee indicated that someone had broken into his office and stolen the patient files. Licensee reported the theft to law enforcement and offered that information to the investigator. Licensee showed the investigator computer versions of his charts. The records did not contain histories or examination notes, or consent forms signed by the patients. They also did not contain billing information.

The investigator's inquiries with issues Licensee was supposed to have improved in his records didn't lead to a large amount of supportive documentation from Licensee. Licensee indicated he was having some personal issues that were effecting his practice.

In terms of completing his mentor requirement, Licensee did find Dr. Muhr and had three sessions with him. However, the stipulated order required that he obtain a mentor in 120 days which would have passed in December 2013. Licensee found Dr. Muhr in February 2014.

Licensee was requested by the Board staff to provide verification of his continuing education and his community service. Licensee did not have written verification of the community service but only explained what he had done. Licensee did not provide dates that the community service occurred on or the names of the patients.

Patient records reviewed by the Board showed that they were not in compliance with ORS 684 or QAR 811 in that they lacked intake information, medical history and specific information regarding presenting complaints. There is no documentation of informed consent for treatment. The Board found that there were questions as to the appropriateness of the physical examinations, specifically in one patient who had a roll-over accident. Some of the chart notes did not provide the minimum necessary information to allow another treating doctor to know the status of the patient.

When Board staff requested full file information from Licensee they were not given full and complete Patient records by Licensee. These Patient records were often missing the billing information.

Conclusions of Law

3.

If the matter were to proceed to contested case the Board alleges they would be able to prove the acts and conduct of Licensee described above are in violation of:

a) ORS 684.100(1)(f)(A) any conduct or practice contrary to recognized standards of ethics of the chiropractic profession or any conduct that might constitute a danger to the health of safety of a patient or the public;

b) OAR 811-035-0015(23) disobeying a final order of the Board;

c) OAR 811-035-0015(20) failing to fully cooperate with the Board during the course of an investigation, and

d) OAR 811-015-0005(1) it will be considered unprofessional conduct not to keep complete and accurate records on all patients, including but not limited to case histories, examinations, diagnostic and therapeutic services, treatment plan, instructions in home treatment and supplements, work status information and referral recommendations.

Stipulations

4.

Therefore, pursuant to ORS 183.417(3) and ORS 684.100(9)(g) the OBCE orders:

1. The parties wish to settle and resolve this matter without further proceedings and have agreed to enter this stipulated final order in regards to the allegations in the notice. Licensee 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 final order. The signature of this order also waives any right to appeal.

2. Licensee agrees that the prior order suspension of 90 days will continued to be stayed if Licensee abides by the terms of this agreement and completes the requirements herein.

3. Licensee agrees that he will complete the previous stipulated order; specifically to complete the 8 hours of continuing education on documentation and patient charting.

4. Licensee agrees to allow the Board or their representative to obtain random patient records through file pulls in his office and agrees to cooperate in the random file pulls for the same period of mentorship; one year.
5. Licensee agrees to make a Board appearance in the next year after signing this agreement.
6. Licensee agrees to find a chiropractic mentor, approved by the Board, to assist him in his current practice and report to the Board his progress, subject to the following provisions;

Mentor Provisions:

- a. Licensee will be in a Board-Approved plan of supervision with a licensed Chiropractor for a period of 12 additional months from the signing of this order. This meeting must occur within 120 days of the effective date of the Final Order.
- b. Licensee must participate in and successfully complete a mentoring plan of as part of the Plan of Supervision with a board-approved Mentor for a period of at least one year. The mentor will sign a personal services contract with the OBCE for the provision of this service. The mentoring plan will have a focus on development of acceptable examination, clinical justification, informed consent, billing practices and procedures, charting and risk management practices to ensure compliance with statutes and rules and, in particular, addressing all issues identified in this order. The Mentor will be responsible to review charts and report any findings to the Board that are appropriate.
- c. At any time that the Licensee ceases active practice, his license lapses or he changes to inactive status, this will not count towards completing of the mentoring period. The Mentor will perform file reviews of records and billings of Licensee's case work and report to the board on his progress at meeting minimum standards of chiropractic health care. Licensee must allow the Mentoring Doctor to enter Licensee's business premises to examine, and review Licensee's patient or other records to determine compliance with the terms of this order, for the duration of this Mentoring plan. If the Mentor requests and with the patient's agreement, Licensee will allow the Mentor to observe a patient encounter.
- d. Licensee agrees that at any time the Mentor or Board representative may pull, retrieve patient files & billing records for the Board's review for up to two years. Licensee is required to allow the OBCE or its representative to periodically review Licensee's patient records and chart notes. This includes review and photocopy of licensee's patient records to ensure licensee complies with the requirements of ORS 684 and OAR 811.
- e. The Mentor will make quarterly reports to the OBCE regarding Licensee's progress.
- f. The financial compensation for the mentoring doctor will be at Licensee's expense which will be due and payable to the OBCE. The Mentor will provide OBCE with periodic billings for services and in turn the OBCE will bill the Licensee. The hourly rate will be determined by the Mentoring Doctor in agreement with the OBCE plus mileage at the state rate. Successful completion of the mentoring plan also requires that this financial obligation be met; however the OBCE will be reasonable in setting up a payment plan if Licensee makes a request.

g. Failure of Licensee to fully cooperate with the Mentor and the mentoring plan will be grounds for future disciplinary action.

6. The Board waives all costs and fees incurred.

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

IT IS SO STIPULATED AND AGREED TO:

DATED this 2nd day of February 2015. / /

By:

Kevin Plummer, DC

DATED this 4th day of February 2015.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By:

Cassandra C. Skinner J.D., Executive Director