

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	Case # 2007-3007
Kris Pollack, D.C.)	
)	
)	FINAL ORDER ON DEFAULT
Licensee.)	CIVIL PENALTY
)	
)	

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

FINDINGS OF FACT

1.

In January 2007, the Board received a complaint indicating Licensee was advertising on the television on KATU channel 2, and in that advertisement was making a claim that for people who want to avoid surgery, he had over a 75% success rate. When the Board received that complaint, they notified Licensee that that type of advertisement was not in accordance with their rules and he should make some changes. The Board provided Licensee with a compilation of all the Board's advertising laws, rules and policies at that time. On January 20, 2007, Licensee wrote to the board indicating he had pulled that advertising and provided alternative advertising copy which satisfied the board's concerns. Based on that information from the Licensee, the Board decided to close that matter with a finding of insufficient evidence and notified Licensee of that.

Since then, during October 2007, the Board received a further complaint that the Licensee was still advertising in a 30 minute infomercial on television that included a 75% success claim in the advertisement similar as above. In addition, the advertisement states a specific device was "FDA Approved." This claim is misleading as per the OBCE's determination of May 17, 2007 which is published on the Board's Web page. The advertisement also only identified the clinic as the Neck and Back Center and it wasn't until the end of the advertisement that it referred to "Oswego Chiropractic Clinic" and no doctor's name was ever mentioned, nor that this is a chiropractic physician.

2.

Licensee has continued to advertise a claim of statistical success after the initial complaint and the Board relied on him making changes to his advertising. In the current advertisement, Licensee has failed to identify himself by name in the advertisement and has indicated the device is

FDA Approved. It is misleading to potential patients to advertise in way which does not make it sufficiently clear this is a chiropractic clinic

3.

On November 19, 2007, a Proposed Notice of Discipline was sent to Licensee. Licensee acknowledged receipt of it and returned a \$500 payment on November 26, 2007. He also indicated he did not request a hearing on this matter. Thus, a default order is issued.

CONCLUSIONS OF LAW

4.

Continual advertising of a purported statistical success of treatment is in violation of OAR 811-015-0045(1)(b). Saying that a specific device is FDA approved is misleading and constitutes misbranding in violation of OAR 811-015-0045(1)(a).

Advertising as the "the Neck and Back Center " and not sufficiently identifying the advertising as originating from a chiropractic clinic until the end of the ad is misleading in violation of OAR 811-015-0045 (3) and the the Oregon Doctors' Title Act, ORS, 676.110 , and OAR 811-015-0045 (3).

ORDER

5.

The Board orders \$500 Civil Penalty due to the previously mentioned violations. The Board acknowledges that on November 26, 2007, Licensee paid the \$500 civil penalty in full.

DATED this 29th day of November, 2007

BOARD OF CHIROPRACTIC EXAMINERS

State of Oregon

By: Original signature on file
at the OBCE office.

Dave McTeague, Executive Director

A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court of Appeals pursuant to the provisions of ORS 183.482. Judicial review may be obtained by filing a petition for review with the Office of State Court Administrator, Supreme Court Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is requested by filing a petition in the Court of Appeals within 60 days following the date the order upon which the petition is based is served.

* * * * *

VERIFICATION

State of Oregon)
County of Marion) Case # 2007-3007

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Board of Chiropractic Examiners of the State of Oregon, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice is true to the best of my knowledge as I verily believe.

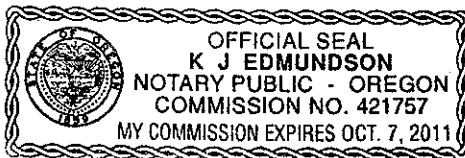
Original signature on file
at the OBCE office.

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 29th day of November 2007.

Original signature on file
at the OBCE office.

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/7/11



CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on November 19, 2007, I served the foregoing Final Order by Default upon Kris Pollack DC, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Kris Pollack DC
Oswego Chiropractic Clinic
17 South State St.
Lake Oswego, OR 97034



Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

3.

Continual advertising of a statistical success of treatment is in violation of OAR 811-015-0045(1)(b). Saying that a specific device is FDA approved is misleading and constitutes misbranding in violation of OAR 811-015-0045(1)(a).

4.

Advertising as the "the Neck and Back Center" and not sufficiently identifying the advertising as originating from a chiropractic clinic until the end of the ad is misleading in violation of OAR 811-015-0045 (3) and the Oregon Doctors' Title Act, ORS, 676.110, and OAR 811-015-0045 (3).

5.

The Board proposes \$500 Civil Penalty due to the previously mentioned violations.

6.

Licensee shall pay costs of this disciplinary proceeding, which may include investigative costs and attorney fees pursuant to ORS 684.100(9)(g). This cost recovery may also include collection of non-sufficient funds fees, interest, hearing panel and contested case related expenses. The statutory rate of interest applies to an amount not paid when due. This amount is immediately due and payable unless the OBCE agrees to a payment plan.

NOTICE OF HEARING RIGHTS

7.

Licensee has the right, if Licensee requests, to have a formal contested case hearing before the OBCE or its hearings officer to contest the matter set out above. At the hearing, Licensee may be represented by an attorney and subpoena and cross-examine witnesses. That request for hearing must be made in writing to the OBCE, must be received by the OBCE within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and must be accompanied by a written answer to the charges contained in this notice.

8.

The answer shall be made in writing to the OBCE and shall include an admission or denial of each factual matter alleged in this notice, and a short plain statement of each relevant affirmative defense Licensee may have. Except for good cause, factual matters alleged in this notice and not denied in the answer will be considered a waiver of such defense; new matters alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on any issue not raised in the notice and answer.

9.

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.

10.

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 19th day of November, 2007

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: _____
Original signature on file
at the OBCE office.
Dave McTeague, Executive Director

VERIFICATION

State of Oregon) Kris Pollack DC
County of Marion) Case # 2007-3007

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Board of Chiropractic Examiners of the State of Oregon, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice is true to the best of my knowledge as I verily believe.

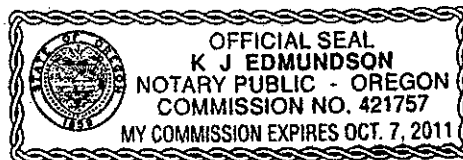
**Original signatures on file
at the OBCE office.**

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 19th day of November 2007.

**Original signature on file
at the OBCE office.**

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/7/2011



CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on November 19, 2007, I served the foregoing Notice upon Kris Pollack DC, the party hereto, by mailing, certified mail, postage prepaid, and a true, exact and full copy thereof to:

Kris Pollack DC
Oswego Chiropractic Clinic
17 South State St.
Lake Oswego, OR 97034

Original signature on file
at the OBCE office.

Dave McTeague ✓
Executive Director
Oregon Board of Chiropractic Examiners