

BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF OREGON

In the Matter of

Robert Sainz

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Case # 2005-3009

FINAL ORDER ON DEFAULT

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. Robert Sainz D.C., (hereafter "Respondent"), was formerly licensed in the State of Oregon. Respondent has an active chiropractic license in the State of Washington. The Board issued the following notice of discipline for unlicensed practice and to issue a civil penalty to the above Respondent on the following basis:

Findings of Fact

1.

On or about 8-6-04, (initial examination & treatment), 9-16-04 and 12-31-05, Respondent provided chiropractic adjustments to Patient 1. Respondent's adjustment was witnessed by Witness 1, Patient 1's girlfriend. Witness 1 in an interview said "Thing is when he was visiting Dr. Rose (Martin ND & clinic co-owner), (Respondent) pushed Patient 1 against wall and smash him, and push him on floor, crush him with pain, suddenly without warning." Witness 1 also said she witnessed Respondent do a second adjustment to Patient 1, date unknown, but said the adjustment was harsh.

In an interview with Patient 2, she indicates she was adjusted by Respondent in Dr. Martin's clinic approximately 10 times and denies knowing Respondent was not a licensed Oregon chiropractor. Patient 2 stated that about half the time Dr. Martin was present when Respondent did the adjustments and the other half Dr. Martin was with other patients. Patient 2 described that Respondent would "do like a back adjustment and push. He had a system; he did the same things every time."

In an interview with Patient 3, she indicated that Respondent adjusted her and at the time she was not aware he was not a licensed Oregon chiropractor. Patient 3 said she witnessed Respondent adjust Patients 4 & 5, who were clinic staff in the di Medici Natural Family Medicine Clinic. Patient 3 stated that Respondent "...comes into the clinic just to hang and

offers to adjust everybody in the clinic. He's a rack em and crack em hard guy...." Patient 3 indicated Respondent brought his own adjusting table to the clinic.

2.

In an October 24, 2005 interview, Respondent admitted to performing adjustments on clinic staff (Patients 3, 4 & 5). Respondent stated he did show Drs. Martin and Zieman how to do setups and adjustments on patients, but denied performing the actual adjustments on them himself. In a March 1, 2006, interview Respondent admits "he probably did (adjust folks in the clinic), I was showing them setups, is that illegal? I thought it pertained to whether you were remunerated for it or not, is that not the issue?"

3.

The Oregon Board of Chiropractic Examiners issued an Order Denying License to Respondent on January 31, 1994, for unlicensed practice between June 1, 1992 and February 24, 1993, and for borrowing over \$20,000 from a patient.

4.

On June 5, 2005, Respondent agreed to discipline by the State of Washington Chiropractic Quality Assurance Commission for failure to report his 1994 Oregon disciplinary action on his application to reactivate his expired chiropractic license in that state. That discipline consisted of a \$5,000 fine, passage of the National Board of Chiropractic Examiners Special Purpose Examination for Competency, six hours of continued education in ethics, and five years probation.

5.

On March 24, 2006, the Board issued the Notice of Proposed Civil Penalty. In that notice, it stated that if a request for hearing was not requested, a final notice of default would be issued and the board's record would be the record for purposes of default. On April 20, 2006, Licensee wrote the Board and stated he did not want to request a hearing.

#### Conclusions of Law

6.

The Board finds that the acts and conduct of Licensee is evidence of unlicensed practice which constitutes a violation of:

ORS 684.020 (1) "except as provided in ORS 684.107 it is unlawful for any person to practice chiropractic in this state unless the person first obtains and maintains an active license, as provided in this chapter."

OAR 811-010-0005(4) defines Patient to mean any person who is examined, treated, or otherwise provided chiropractic services whether or not the person has entered into a physician/patient relationship or has agreed to pay a fee for services.

OAR 811-035-0015(14) unprofessional conduct shall include practicing chiropractic without a current Oregon license.

In addition, the conduct of Licensee violates ORS 684.100 which states the Chiropractic Examiners Board may discipline a person upon the following grounds:

(1) (g) unprofessional or dishonorable conduct

(9) In disciplining a person as authorized by this section, the board may (f) impose a civil penalty not to exceed \$10,000.

Order

7.

The Board finds that Licensee violated ORS 684.100(1)(g), 684.020 and OAR 811-035-0015(14) and issues a \$1000 civil penalty be issued to Licensee pursuant to ORS 684.100(9).

The civil penalty is due and payable within 21 days of the effective date of this Final Order.

DATED this 22nd of May, 2006.

**BOARD OF CHIROPRACTIC EXAMINERS**  
State of Oregon

Original signatures on file  
at the OBCE office.

By:

\_\_\_\_\_  
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.

\* \* \* \* \*

State of Oregon ) Case # 2005-3009  
County of Marion ) Robert Sainz

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 signatures on file  
at the OBCE office.

Dave McTeague, Executive Director  
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me

this 22nd day of May, 2006

Original signatures on file  
at the OBCE office.

NOTARY PUBLIC FOR OREGON

My Commission Expires: 10/7/07



**CERTIFICATE OF SERVICE**

I, Dave McTeague, certify that on May 22, 2006, I served the foregoing Final Order by Default upon Robert Sainz, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Robert Sainz  
P.O. Box 316  
Gresham, Oregon 97019

Original signatures on file at  
the OBCE office.

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Dave McTeague  
Executive Director  
Oregon Board of Chiropractic Examiners

**CERTIFICATE OF SERVICE**

I, Dave McTeague, certify that on May 22, 2006, I served the foregoing Final Order by Default upon Robert Sainz, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Robert Sainz  
5150 SE Littlepage Road  
Corbett, Oregon 97019

Original signatures on file at  
the OBCE office.

Dave McTeague  
Executive Director  
Oregon Board of Chiropractic Examiners

BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF OREGON

In the Matter of )  
 ) Case # 2005-3009  
Robert Sainz )  
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 ) **NOTICE OF PROPOSED**  
 ) **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. Robert Sainz D.C., (hereafter "Respondent"), was formerly licensed in the State of Oregon. Respondent has an active chiropractic license in the State of Washington. The Board proposes to issue the following notice of discipline for unlicensed practice and to issue a civil penalty to the above Respondent on the following basis:

1.

On or about 8-6-04, (initial examination & treatment), 9-16-04 and 12-31-05, Respondent provided chiropractic adjustments to Patient 1. Respondent's adjustment was witnessed by Witness 1, Patient 1's girlfriend. Witness 1 in an interview said "Thing is when he was visiting Dr. Rose (Martin ND & clinic co-owner), (Respondent) pushed Patient 1 against wall and smash him, and push him on floor, crush him with pain, suddenly without warning." Witness 1 also said she witnessed Respondent do a second adjustment to Patient 1, date unknown, but said the adjustment was harsh.

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2.

In an October 24, 2005 interview, Respondent admitted to performing adjustments on clinic staff (Patients 3, 4 & 5). Respondent stated he did show Drs. Martin and Zieman how to do setups and adjustments on patients, but denied performing the actual adjustments on them himself. In a March 1, 2006, interview Respondent admits "he probably did (adjust folks in the clinic), I was showing them setups, is that illegal? I thought it pertained to whether you were remunerated for it or not, is that not the issue?"

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5.

The Board finds that the acts and conduct of Licensee is evidence of unlicensed practice which constitutes a violation of:

ORS 684.020 (1) "except as provided in ORS 684.107 it is unlawful for any person to practice chiropractic in this state unless the person first obtains and maintains an active license, as provided in this chapter."

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In addition, the conduct of Licensee violates ORS 684.100 which states the Chiropractic Examiners Board may discipline a person upon the following grounds:

(1) (g) unprofessional or dishonorable conduct

(9) In disciplining a person as authorized by this section, the board may (f) impose a civil penalty not to exceed \$10,000.



6.

The Board finds that Licensee violated ORS 684.100(1)(g), 684.020 and OAR 811-035-0015(14) and proposes a \$1,000 civil penalty be issued to Licensee pursuant to ORS 684.100(9).

The civil penalty is due and payable within 21 days of the effective date of any Final Order.

7.

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.

8.

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.

9.

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.

10.

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 24<sup>th</sup> of March, 2005.

**BOARD OF CHIROPRACTIC EXAMINERS**  
State of Oregon

By: 

Original signatures on file at  
the OBCE office.

\_\_\_\_\_  
Dave McTeague, Executive Director

State of Oregon ) Case # 2005-3009  
County of Marion ) Robert Sainz

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 Notice of Proposed Civil Penalty 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 24th day of March, 2006

Original signatures on file  
at the OBCE office.

NOTARY PUBLIC FOR OREGON

My Commission Expires: 10/7/07



**CERTIFICATE OF SERVICE**

I, Dave McTeague, certify that on March 24, 2006, I served the foregoing Notice upon Robert Sainz, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Robert Sainz  
P.O. Box 316  
Gresham, Oregon 97019

Original signatures on file  
at the OBCE office.

Dave McTeague  
Executive Director  
Oregon Board of Chiropractic Examiners