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

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In the Matter of)	
Joseph Shields, D.C.)	FINAL ORDER BY DEFAULT
)	DISCIPLINARY ACTION
)	
Licensee.)	Case # 2005-1057

The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Joseph Shields, D.C. (Licensee), is licensed by the Board to practice as a chiropractic physician in the State of Oregon. The Board proposes to discipline Licensee for the following reasons.

Statement of Facts

1.

In response to a complaint, the Oregon Board of Chiropractic Examiners directed the Peer Review Committee to review the complaint in regards to Licensees treatment of Patient 1. The review included review of patient files, correspondence, and the Licensees response. Licensee was interviewed by the Peer Review Committee on October 12, 2006.

2.

The complaint stated that Licensee failed to call for emergency medical care after Patient 1 was adjusted and started suffering some specific symptoms (stiff neck, dizziness and weakness) which were cerebrovascular symptoms in the treatment room. During the examination, Licensee made Patient 1 turn her head to the left and the right and then performed a rotary adjustment to the cervical spine. Immediately after, Patient 1 indicated that it hurt at the back of her neck and inability to turn her neck in either direction without pain. Licensee informed Patient 1 that would only be temporary, but Patient 1 couldn't accomplish any task, and her efforts were slow and labored. She then began to experience dizziness, weakness and anxiety due to the neck pain and she couldn't tie her shoes. When Patient 1 tried to stand, her right side was not functioning and her right leg couldn't bear weight.

3.

When Patient 1 told Licensee of her symptoms, he told her it would be temporary and left the office for a bit, hoping it would resolve. When he returned, Patient 1 told Licensee to contact her husband which he did. Licensee did not contact emergency medical services but

1 relied on the husband to come to the office. When the husband arrived, he contacted 911. A
2 vertebral artery dissection was discovered the following day at the hospital.

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4 4.

5 After review of the information provided as stated in paragraphs 2 and 3, the peer review
6 found the following: Licensee did not obtain from informed consent from Patient 1 for the
7 treatment that was provided including informing her of the procedures, the risks and alternatives,
8 and answer any questions with respect to treatment. This is in violation of ORS 684.100(1)(A)
9 and OAR 811-035-0005.

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11 5.

12 After providing the treatment, Licensee's responses to the events following the
13 adjustment were inappropriate and unprofessional. Licensee did not follow the standard of care
14 after the onset of Patient 1's Cerebral Vascular Accident. Instead, he left the treatment room for
15 several minutes, failed to contact emergency medical care even though Patient 1 was suffering
16 from potentially life threatening condition. Licensee failed to correctly assess the situation and
17 showed careless disregard for the welfare of this patient. This falls below the minimal standards
18 of acceptable chiropractic practice. This is in violation of ORS 684.100(1)(A) and OAR 811-
19 035-0015 and OAR 811-015-0010(1) and (2).

20
21 6.

22 Chart notes provided did not meet minimal competency. The chart notes provided by
23 Licensee were copies of notes that were transcribed onto notebook paper by Licensee were not
24 the originals. A second set of chart notes were also provided in the Peer Review interview. The
25 notes are incomplete and somewhat illegible. The notes were not in soap format and showed no
26 documentation of orthopedic examinations other than the normal range of motion findings on the
27 exam of June 22, 2005. These notes were found by the Peer Review Committee to be below the
28 standard expected of a chiropractic physician practicing in Oregon. This is violation of ORS
29 684.100(1)(A) and OAR 811-015-0005(1) and is unprofessional conduct in not keeping accurate
30 records on all patients, including but not limited to legible notes, and updated treatment plans.

31
32 7.

33 Licensee did not obtain an adequate history of Patient 1 prior to performing the cervical
34 spine manipulative procedures on June 22, 2005. There is a description of a "wry neck" in the
35 charts but there is no history of onset, location, duration, intensity, radiculopathy, exacerbation or
36 timing included in the chart notes. This information would be the standard of care for a patient
37 who hadn't presented in the past eleven months such as Patient 1. This is in violation of
38 ORS 684.100(1)(A) and OAR 811-015-0005(1) and is unprofessional conduct in not keeping
39 accurate records on all patients, including but not limited to legible notes, and updated treatment
40 plans.

41 8.

42 Licensee was disciplined in 1989 for chart note issues for which he was put on probation
43 and ordered to take classes on chart notes. In review of these chart notes by the Peer Review

1 Committee the committee could find no difference between the chart notes recorded prior to
2 1989 of Patient 1 which were included in their file review, and the chart notes recorded after
3 1989.

4 On November 21, 2006, Licensee was served with a Proposed Notice for Disciplinary
5 Action. In that notice, it stated that if he failed to request a hearing, that for purposes of default
6 the order will rely on the Board Record. By December 28, 2006, Licensee had failed to request a
7 hearing in writing, thus, he is in default.

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9 Conclusion of Law

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11 9.

12 Licensee has committed the following violations: ORS 684.100(1)(A) and OAR 811-035-0005,
13 OAR 811-035-0015, OAR 811-015-0010(1) and (2), OAR 811-015-0005(1).

14
15 Final Order

16 10.

17 Due to the aforementioned violations, the OBCE ORDERS the following sanctions for
18 the purpose of rehabilitation and the goal of ensuring competent practice by Licensee:

- 19
20 a) Licensee's license is suspended for 90 days for three consecutive months to begin when
21 this order becomes final.
22
23 b) Licensee will also be required to attend and complete 12 hours of board approved
24 continuing education classes on the subjects of risk management and documentation/chart
25 noting. A minimum of six hours of course work in each area should be completed. This
26 is above and beyond the required 20 annual hours.
27
28 c) Licensee must participate in and successfully complete a mentoring plan with a board
29 approved Mentor for a period of at least one year. The mentor will be licensed a licensed
30 Oregon chiropractic physician chosen by the OBCE who will sign a personal services
31 contract with the OBCE for the provision of this service. The mentoring plan will have a
32 focus on development of acceptable examination, clinical justification, informed consent,
33 charting and risk management practices to ensure compliance with statutes and rules and
34 addressing all issues identified in this order. The Mentor will be responsible to review
35 charts and report any findings to the Board that are appropriate. At any time that the
36 Licensee ceases active practice, his license lapses or he changes to inactive status, this
37 will not count towards completing of the mentoring period. The mentor will perform file
38 reviews of records and billings of Licensee's case work and report to the board on his
39 progress at meeting minimum standards of chiropractic health care. Licensee must allow
40 the Mentoring Doctor to enter Licensee's business premises to examine, and review
41 Licensee's patient or other records to determine compliance with the terms of this order,
42 for the duration of this Mentoring plan. If the Mentor requests and with the patient's
43 agreement, Licensee will allow the Mentor to observe a patient encounter. The Mentor

1 will make periodic reports to the OBCE regarding Licensee's progress in meeting
2 minimum standards of chiropractic health care. As part of this report, the Mentor may
3 pull one or two of the patient files reviewed with identifiers redacted for the Board's
4 review. The financial compensation for the mentoring doctor will be at Licensee's
5 expense which will be due and payable to the OBCE. The Mentor will provide OBCE
6 with periodic billings for services and in turn the OBCE will bill the Licensee. The
7 hourly rate will be determined by the Mentoring Doctor in agreement with the OBCE plus
8 mileage at the state rate. Successful completion of the mentoring plan also requires that
9 this financial obligation be met; however the OBCE will be reasonable in setting up a
10 payment plan if Licensee makes a request. Failure of Licensee to fully cooperate with the
11 Mentor and the mentoring plan will be grounds for future disciplinary action.

12 IT IS SO ORDERED

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16 DATED this 9thth day of January, 2007.

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18 BOARD OF CHIROPRACTIC EXAMINERS
19 State of Oregon

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21 Original signature on file
22 By: at the OBCE office.
23 Dave McTeague, Executive Director
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25
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27 A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court of Appeals pursuant
28 to the provisions of ORS 183.482. Judicial review may be obtained by filing a petition for review with the Office of
29 State Court Administrator, Supreme Court Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is
30 requested by filing a petition in the Court of Appeals within 60 days following the date the order upon which the
31 petition is based is served.

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Certificate of Service

I, Dave McTeague, certify that on January 9, 2007, 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:

Joseph Shields, DC
5105 Hawthorne Boulevard
Portland, Oregon 97215

Original signature on file
at the OBCE office.

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

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After review of the information provided as stated in paragraphs 2 and 3, the peer review found the following: Licensee did not obtain informed consent from Patient 1 for the treatment that was provided including informing her of the procedures, the risks and alternatives, and answer any questions with respect to treatment. This is in violation of ORS 684.100(1)(A) and OAR 811-035-0005.

5.

After providing the treatment, Licensee's responses to the events following the adjustment were inappropriate and unprofessional. Licensee did not follow the standard of care after the onset of Patient 1's Cerebral Vascular Accident. Instead, he left the treatment room for several minutes, failed to contact emergency medical care even though Patient 1 was suffering from potentially life threatening condition. Licensee failed to correctly assess the situation and showed careless disregard for the welfare of this patient. This falls below the minimal standards of acceptable chiropractic practice. This is in violation of ORS 684.100(1)(A) and OAR 811-035-0015 and OAR 811-015-0010(1) and (2).

6.

Chart notes provided did not meet minimal competency. The chart notes provided by Licensee were copies of notes that were transcribed onto notebook paper by Licensee were not the originals. A second set of chart notes were also provided in the Peer Review interview. The notes are incomplete and somewhat illegible. The notes were not in soap format and showed no documentation of orthopedic examinations other than the normal range of motion findings on the exam of June 22, 2005. These notes were found by the Peer Review Committee to be below the standard expected of a chiropractic physician practicing in Oregon. This is violation of ORS 684.100(1)(A) and OAR 811-015-0005(1) and is unprofessional conduct in not keeping accurate records on all patients, including but not limited to legible notes, and updated treatment plans.

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Licensee did not obtain an adequate history of Patient 1 prior to performing the cervical spine manipulative procedures on June 22, 2005. There is a description of a "wry neck" in the charts but there is no history of onset, location, duration, intensity, radiculopathy, exacerbation or timing included in the chart notes. This information would be the standard of care for a patient who hadn't presented in the past eleven months such as Patient 1. This is in violation of ORS 684.100(1)(A) and OAR 811-015-0005(1) and is unprofessional conduct in not keeping accurate records on all patients, including but not limited to legible notes, and updated treatment plans.

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Licensee was disciplined in 1989 for chart note issues for which he was put on probation and ordered to take classes on chart notes. In review of these chart notes by the Peer Review Committee the committee could find no difference between the chart notes recorded prior to

1 1989 of Patient 1 which were included in their file review, and the chart notes recorded after
2 1989.

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4 9.

5 Due to the aforementioned violations, the OBCE proposes the following sanctions for the
6 purpose of rehabilitation and the goal of ensuring competent practice by Licensee:

- 7
8 a) 90 day suspension for three consecutive months to begin when this order becomes final.
9
10 b) Licensee will also be required to attend and complete 12 hours of board approved continuing
11 education classes on the subjects of risk management and documentation/chart noting. A
12 minimum of six hours of course work in each area should be completed. This is above and
13 beyond the required 20 annual hours.
14
15 c) Licensee must participate in and successfully complete a mentoring plan with a board
16 approved Mentor for a period of at least one year. The Mentor will be a licensed Oregon
17 chiropractic physician chosen by the OBCE who will sign a personal services contract with
18 the OBCE for the provision of this service. The mentoring plan will have a focus on
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20 risk management practices to ensure compliance with statutes and rules and addressing all
21 issues identified in this order. The Mentor will be responsible to review charts and report any
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23 his license lapses or he changes to inactive status, this will not count towards completion of
24 the Mentoring plan period. The Mentor will perform file reviews of records and billings of
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36 be determined by the Mentoring Doctor in agreement with the OBCE plus mileage at the
37 state rate. Successful completion of the mentoring plan also requires that this financial
38 obligation be met; however the OBCE will be reasonable in setting up a payment plan if
39 Licensee makes this request. Failure of Licensee to fully cooperate with the Mentor and the
40 mentoring plan will be grounds for future disciplinary action.
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6 If Licensee does not want to agree to the above, the Board will also offer the option of
7 Licensee to surrender his license rather than proceeding with this discipline, and will allow that
8 to be done via a stipulated order and agreement. Licensee must notify the Board what he wishes
9 to do within the time period allowed for Licensee to request a hearing.
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11 If Licensee does not notify the Board of his intentions, the default order will be issued for
12 the 90 day suspended license and the other requirements noted in this section.
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15 10.
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17 Licensee shall pay costs of this disciplinary proceeding, including investigative costs and
18 attorney fees pursuant to ORS 684.100(9)(g).
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20 11.
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22 Licensee has the right, if Licensee requests, to have a formal contested case hearing
23 before Office of Administrative Hearings by an ALJ to contest the matter set out above. At the
24 hearing, Licensee may be represented by an attorney and subpoena and cross examine witnesses.
25 That request for hearing must be made in writing to the OBCE, must be received by the OBCE
26 within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and
27 must be accompanied by a written answer to the charges contained in this notice.
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29 12.
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31 The answer shall be made in writing to the OBCE and shall include an admission or
32 denial of each factual matter alleged in this notice, and a short plain statement of each relevant
33 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this
34 notice and not denied in the answer will be considered a waiver of such defense; new matters
35 alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and
36 evidence shall not be taken on any issue not raised in the notice and answer.
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38 13.
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40 If Licensee requests a hearing, before commencement of that hearing, Licensee will be
41 given information on the procedures, rights of representation and other rights of the parties
42 relating to the conduct of the hearing as required under ORS 183.413-415.
43

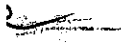
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If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the hearing, the OBCE may issue a final order by default and impose the above sanctions against Licensee. Upon default order of the Board or failure to appear, 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 21st day of November, 2006.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

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

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State of Oregon) Case # 2005-1057
County of Marion) Joseph Shields D.C.

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 Disciplinary Action is true to the best of my knowledge as I verily believe.

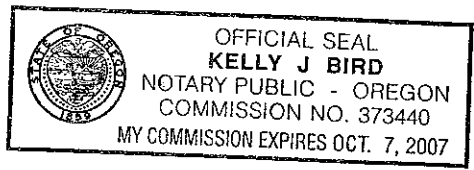
Original signature on file
at the OBCE office.

Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me
this 21ST day of November 2006

Original signature on file
at the OBCE office.

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/7/07



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Certificate of Service

I, Dave McTeague, certify that on November 21, 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:

Joseph Shields, DC
5105 Hawthorne Boulevard
Portland, Oregon 97215

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

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners