BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of	)	
	)	Case # 2004-1001, 1006
David J. Shipley, N.D.	)	
	)	
	)	STIPULATED FINAL
	)	ORDER
	)	**(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. David J. Shipley (hereafter "Respondent"), is not a licensed chiropractor in the State of Oregon. Respondent is a licensed naturopathic physician in Oregon and is licensed in the State of Washington as a chiropractic physician.

1.

On December 31, 2003, the OBCE received a complaint from Patient 1 alleging unlicensed practice and harm due to an examination procedure. Patient 1 had been directed by Medical Consultant's Northwest (MCN) to an independent chiropractic examination with David Shipley on November 10, 2003 at MCN's offices in Portland. The letter stated specifically: "Speciality: chiropractic." Patient 1 noticed when she arrived that the clinic door stated, "David J. Shipley, D.C., N.D., Chiropractic and Naturopathic Physician."

David J. Shipley's, office is located at 11507-B SW Pacific Hwy., Tigard, Oregon 97223.

In the IME report for Patient 1, there is a section titled "Chiropractic Examination" and the report was electronically by MCN using the designation David J. Shipley, D.C., N.D. with "Chiropractic" typed below the signature. The report issued by MCN (based on Dr. Shipley's report to them) stated on page 9 "Chiropractic management of Patient 1's complaints is within the protocol of standard conservative care of a soft tissue injury." The examination performed was orthopedic, naturopathic and chiropractic in nature and the statements rendered are considered by the board to contain a chiropractic opinion.

2.

Board investigation also found in January 2004, an advertisement on the internet by "Spineuniverse.com" clearly identified David Shipley as a chiropractic physician. The advertisement states "State Board of Chiropractic Certified, University Affiliations – Los Angeles College of Chiropractic (1968)." The statement at the bottom of the advertisement

stated "this information is provided by the chiropractor." Dr. Shipley denies having authorized Spine Universe.com to provide advertising on his behalf.

3.

During August 2003, Respondent contracted with MCN for their chiropractic examiners panel in the Portland, Oregon area. During August 2003, Respondent's correspondence with MCN noted that he represented himself primarily as a chiropractor. In contracting with Respondent for the purpose of examining Oregon chiropractic patients, Dr. Shipley contends that he explained to MCN his understanding that he had the right as a licensed naturopathic physician to perform examinations consistent with all his training, including chiropractic. . From October 10, 2003 through January 2004, Respondent performed approximately 17 IME's for MCN in Oregon. The IME reports issued by Dr. Shipley for MCN contained his standard electronic signature block and were then reissued by MCN with his electronic signature "David J. Shipley, D.C., N.D." with the term "chiropractic" under the signature. Although Respondent was licensed as a chiropractic physician in the State of Washington from 1980 until 1999 when it went inactive until reinstated through November 26, 2004 (currently inactive status) Respondent was never licensed as a chiropractic physician in the State of Oregon.

4.

On March 2, 2004, a complaint from patient 2 stated that she had been sent for an Independent Medical Exam(IME) by Concentra Medical Examinations to occur in Respondent's Portland office. Patient stated that on that exam date of December 19, 2002, Respondent identified himself as "chiropractor and naturopathic physician." Patient 2 had received a letter from Concentra stating "at the request of AIG an appointment for an Independent Medical Exam has been arranged for you with a chiropractor." In the report of December 21, 2002. Respondent states "I believe that chiropractic treatment is palliative at this point and will not improve correction of claimant's physical status." The report is signed "David J. Shipley, D.C., N.D." The IME report for Patient 2 includes a header on pages 2-7 titled, "Independent Chiropractic Examination." Concentra's Regional Manager for Panel Development for Concentra states that Concentra dropped Respondent from their chiropractic panel in August 2003, following revelation that Respondent was not a licensed Oregon chiropractic physician. Respondent had a longstanding contractual arrangement with Concentra to provide IME's. Respondent now asserts that he stopped working for Concentra based on concerns that Concentra issued reports with his electronic signature without his authorization in July 2003.

5.

Medical Management Online, a Washington company, agreed to a fee schedule with Respondent in June 2003. The fee schedule is signed by Respondent, "David J. Shipley, D.C., N.D. with the identification "Chiropractic/Naturopathic Physician" and is dated June 9, 2003. For licensure it states "Chiropractic Washington #1519 issued March 1980 and renewal November 2003." It does not mention that it is an inactive status license.

6.

Patient 1 took a photograph of Respondent's clinic door on Monday, January 12, 2004 which states, "David J. Shipley, D.C., N.D., Chiropractic and Naturopathic Physician." Dr. Respondent

received the OBCE's letter of notification requesting an explanation and response to Patient 1's allegation on January 28, 2004. As of March 3, 2004, Respondent's clinic door read, "David J. Shipley, D.C., N.D., Naturopathic Physician." It now reads "Dr. David J. Shipley., Naturopathic Physician.

7.

Two persons responsible for panel credentialing who have had conversations with Respondent in regards to his license status have reported to the OBCE that Respondent stated reasons for not seeking a chiropractic license in Oregon as the burden of obtaining the necessary class hours and the costs of license fees. Respondent's attorney contends in a March 15, 2004 letter to the OBCE, "Dr. Shipley did explore in the early 90's the obtaining of an Oregon Chiropractic license. At that time he ran into road blocks in that his chiropractic degree was obtained prior to him attending another college for two years... It would appear that he would qualify to obtain an Oregon Chiropractic license at this time."

8.

Respondent's Curriculum Vitae (C.V.) is prominently titled, "David J. Shipley, D.C., N.D., Natural Family Medicine." The C.V. includes significant references to Respondent's chiropractic education, previous licensure as a chiropractic physician in California, Idaho and Washington, and previous faculty status at the Los Angeles College of Chiropractic. Respondent's C.V. states, "Established chiropractic and independent medical evaluation practice in Seattle, Washington 1993. I relocated to Oregon and established a chiropractic practice continuing independent consulting examinations for colleagues, attorney and insurance carriers in Vancouver, Washington, November 1994." [The OBCE alleges the statements made by Respondent are misleading and vague.] Respondent's C.V. was presented to the above three mentioned IME provider companies for credentialing purposes prior to performing IME examinations in Oregon.

9.

Respondent's acknowledges that his use of the term "D.C." in all of his written communications and advertisements in Oregon, such as the telephone directory, C.V., either singly or in conjunction with his "N.D." designation reinforces his identification as a chiropractic physician in such a way may have "induced the belief" that he is licensed as an actively practicing chiropractic physician in Oregon. On April 13, 2004, the Board issued a notice of discipline to institute a civil penalty.

Conclusions of Law

10.

The Board finds that the acts and conduct of Respondent is overwhelming evidence of unlicensed practice which constitutes a violation of ORS 684.100(j) and 684.015(a), (c) and (d).

Stipulated Final Order

11.

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

1. The parties have agreed to enter this stipulated final order to resolve the above matter. Respondent waives his right to a hearing and any appeals rights. Respondent has been advised of his right to request a hearing in this matter pursuant to ORS 183.415(2)(a) and to be represented at hearing pursuant to ORS 183.415(3).

2. Respondent will pay the Board $7500 for a civil penalty. The payment will be made in monthly payments directly to the Board in the sum of $300 per month until the total amount is paid. The monthly payments are to begin within 30 days of final signature of this order and are due by the 10th of every month. Payments which are over 30 days delinquent may be charged interest at the state determined rate. Payments which are over 90 days delinquent if payments have stopped, may be referred either to the Department of Revenue for collections, or to state contracted private collections firms.

3. If Respondent violates any of the terms of this order, the Board may, after Notice and hearing, enter further disciplinary orders.

4. This order is effective on the date signed by the Board.

IT IS SO ORDERED

BOARD OF CHIROPRACTIC EXAMINERS
State of

Original signatures on file
at the OBCE office.

By:

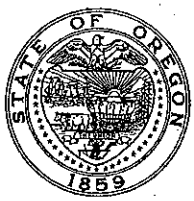
David McTeague
Executive Director
Oregon Board of Chiropractic Examiners
Date Jan. 6, 2005

Original signatures on file
at the OBCE office.

By

David Shipley, N.D.
Date 1-6-05

HARDY MYERS
Attorney General



Peter Shepherd
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

April 12, 2004

David J. Shipley
11507 B SW Pacific Hwy
Tigard OR 97223

RE: Case No.: 2004-1006

Dear Mr. Shipley:

The Oregon Department of Justice recently received information alleging that you may have committed a violation of Oregon's Unlawful Trade Practices Act (UTPA), ORS 646.605 et seq., by holding yourself out as a Chiropractor when you are not in fact licensed by the Oregon Board of Chiropractic Examiners. The allegations are based upon the following:

1. Your name on the web site entitled "Spineuniverse.com" clearly identified you as a chiropractic physician.
2. Your sign at the office indicated "David J. Shipley, D.C., N.D., Chiropractic and Naturopathic Physician" as of January 12, 2004.
3. IME reports of patients have a portion of the report titled "Chiropractic Examination" and the report is signed David J. Shipley, D.C., N.D. with Chiropractic typed below the signature.
4. On a fee schedule with Medical Consultants Network, you signed a fee schedule as "David Shipley, D.C., and Chiropractor" and that was effective August 14, 2003.
5. An examination report requested by AIG is entitled "Independent Chiropractic Examination" and an opinion is rendered by you in a patient IME report as to the chiropractic treatment rendered and continuation of that treatment.
6. A Medical Management Online fee schedule is signed by David J. Shipley, D.C., N.D. with identification "Chiropractic/Naturopathic Physician."
7. You represented yourself to a patient as a "chiropractic and naturopathic physician" during a December 19, 2003 exam.
8. You consistently use your D.C. N.D. designation in your Oregon advertising without clarifying your actual license status.

Your identification of yourself as a chiropractic physician and/or chiropractor violates ORS 684.015(c), prohibiting a person without complying the provisions of the licensing chapter to use the title "chiropractic," "D.C," "Chiropractic D.C.," or any word or title to induce belief that the person is engaged in the practice of chiropractic.

In addition, the Department of Justice has other concerns that your actions may have been willful, as you either knew or should have known that your conduct violated the law.

1162 Court Street NE, Salem, OR 97310 Telephone: (503) 378-6003 Fax: (503) 378-6424 TTY: (503) 378-5938

The Oregon Department of Justice is not taking any enforcement action at this time because we understand the Oregon Board of Chiropractic Examiners is investigating your actions. **PLEASE TAKE NOTICE** however, that if we receive any indication that you are misrepresenting your professional status in the future, the Department of Justice will conduct a full investigation. Any violation of the UTPA may result in civil penalties up to $25,000 per violation, restitution, attorney fees, and injunctive relief from the court to limit or prohibit you from conducting business in the state.

Because we prefer to resolve this matter without litigation, we will close this matter provided we receive within ten days of your receipt of this notice, your acknowledgement of receipt in the form of your signature at the bottom of this page.

The Department of Justice's decision to limit current enforcement action does not constitute approval or imply authorization for any past, present or future business practices, nor does it constitute a waiver of the Oregon Board of Chiropractic Examiner's right to enforce the laws related to the practice of chiropractic.

Should you wish to discuss this matter, please feel free to contact me.

Original signatures on file
at the OBCE office.

Assistant Attorney General
Business Activities Section

I have read and understand the foregoing

Original signatures on file at
the OBCE office.

David J.Shipley

Original signatures on file at
the OBCE office.

Print Name

11527-B, SW Pacific Hwy
Address

Tigard, OR 97223

SUBSCRIBED AND SWORN to before me this 6 day of January ~~2004~~ 2005