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O.O.J., GENERAL COUNSEL
SALEM, OREGON

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

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In the Matter of)
William Thoens, D.C.) STIPULATED FINAL
) ORDER
)
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)
 Licensee.) Cases # 2010-2003 and
) 2010-2004

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

Findings of Fact

1.

In response to two separate complaints, the Oregon Board of Chiropractic Examiners directed the Peer Review Committee to review the two separate complaints in regards to Licensees patient files, billing practices, inappropriate examinations, no changes in treatment plans of patients, inaccurate chart notes, and clinical decision making.

2.

Licensee was interviewed by the Peer Review Committee during their meeting on January 13, 2011. The Peer Review Committee had 444 pages of records in case number 2010-2003 and 441 pages of records in case number 2010-2004 which they reviewed. They also reviewed Licensee's response to the complaints.

3.

After review of the information provided as stated in paragraph 2, the peer review found that Licensee had issues in the following areas: The chart notes were often inaccurate. There were several instances in the chart notes where information from a single encounter is repeated in several subsequent encounters. There were also issues regarding treatment provided to patients without appropriate clinical justification. The allegations of the Proposed Notice of Disciplinary Action issued on April 1, 2011, are hereby incorporated by reference by the Board.

4.

Licensee filed an Answer to the Proposed Notice of Disciplinary Action denying the allegations of the Peer Review Committee and the Board. Licensee contends that the allegation

1 of the Proposed Notice of Disciplinary Action and the Peer Review Committee are neither
2 accurate nor factual in all respects, except specifically mentioned in paragraph 5 below.

3
4 5.

5 Licensee agrees and stipulates that he used a chart noting computer system that he was
6 not sufficiently trained to operate. In his use of this system, Licensee states he carried over
7 subjective statements of patients from prior visits to current examinations. Licensee states he did
8 not discover these errors in his chart noting prior to allowing these inaccurate records to be
9 released to third parties.

10
11 Conclusions of Law

12 6.

13 If the Board's notice were to proceed to hearing and the allegations found to be valid, the
14 Board finds that it would be a violation of ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR
15 811-015-0010(1) and (2) and OAR 811-015-0010(1), (2) and (3) and (4).

16
17 Stipulations

18 7.

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

- 20
21 1. The parties have agreed to enter this stipulated final order. Licensee agrees to the
22 entering of this final order. Licensee agrees that he is aware of his right to a hearing with
23 his attorney present to contest the charges and hereby waives that right and agrees to entry
24 of this order. The signature of this order also waives any right to appeal. The parties
25 wish to settle and resolve the above matter without further proceedings.
- 26
27 2. Licensee agrees to have and will complete a mentoring plan with a board approved
28 mentor for a period of at least one year during which time Licensee is in active practice.
29 At any time that Licensee ceases active practice, his license lapses or he changes to
30 inactive status, this will not count towards completion of the mentoring plan period. The
31 mentor will be a licensed Oregon Chiropractic physician chosen by the OBCE who will
32 sign a personal services contract with the Licensee for this service. The calculation of
33 time for the plan will begin on the date of the initial visit with the mentor. The mentoring
34 plan will have a focus on improved record keeping procedures, examination procedures,
35 and appropriate clinical justification for treatments rendered and will ensure compliance
36 with statutes and rules and address all issues identified in the notice of discipline.

37
38 The Mentor will be responsible to review charts and report any findings to the Board that
39 are appropriate. The Mentor will perform file reviews of records and billings of
40 Licensee's case work and report to the board on his progress at meeting minimum
41 standards of chiropractic health care. Licensee agrees to cooperate with the Mentoring
42 agreement and must allow the Mentoring Doctor to enter Licensee's business premises to
43 examine, and review Licensee's patient or other records to determine compliance with the

1 terms of this order, for the duration of this Mentoring plan. If the Mentor requests and
2 with the patient's agreement, Licensee will allow the Mentor to observe a patient
3 encounter. The Mentor will make periodic reports to the OBCE regarding Licensee's
4 progress in meeting minimum standards of chiropractic health care. As part of this
5 report, the Mentor may pull patient files for the Board's review. In addition, Licensee
6 agrees that the Board, or their representative may pull the files to comply with the
7 mentoring requirements.
8

9 The financial compensation for the mentoring doctor will be at Licensee's expense which
10 will be due and payable to the Mentor directly. The Mentor will provide Licensee with
11 periodic billings for services and in turn the Licensee will pay those. The mentor will
12 send billing directly to Licensee and Licensee will provide the check for those mentor
13 fees directly to the Board, who will in turn, forward those to the Mentor. This will assure
14 that mentoring is occurring. It will be Licensee's responsibility to stay current with his
15 mentor fees. The hourly rate will be determined by the Mentoring Doctor in agreement
16 with the Licensee plus mileage at the state rate. Successful completion of the mentoring
17 plan also requires that this financial obligation be met. Failure of Licensee to fully
18 cooperate with the Mentor and the mentoring plan will be grounds for future disciplinary
19 action.
20

21 At any time the Mentor may pull and retrieve patient files for the Board's review. In
22 addition, Licensee is required to allow the OBCE or its representative to periodically
23 review Licensee's patient records and chart notes. This includes review and photocopy of
24 licensee's patient records to ensure licensee complies with the requirements of ORS 684
25 and OAR 811.
26

- 27 3. Licensee agrees to reimburse the board \$500 as a fee toward the disciplinary costs of this
28 matter. This is to be paid to the Board within 60 days of this order becoming final.
29
30 4. Failure to complete this final stipulated order with the terms so stated, may result in
31 further discipline, up to and including, revocation.
32

33 **IT IS SO STIPULATED AND AGREED TO:**

34 DATED this 16 day of ^{JANUARY 2012} ~~December 2011~~ *Original signatures on file at OBCE office*
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37 By: William Thoens, DC
38 William Thoens, DC
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DATED January 23, 2012

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures on file at OBCE office

By: _____
Dave McTeague, Executive Director

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

6 In the Matter of)
7)
8 William Thoens, D.C.) NOTICE OF PROPOSED
9) DISCIPLINARY ACTION
10)
11)
12 Licensee.) Cases # 2010-2003 and
13) 2010-2004

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

18
19

1.

20 In response to two separate complaints, the Oregon Board of Chiropractic Examiners directed the
21 Peer Review Committee to review the two separate complaints in regards to Licensees patient
22 files, billing practices, inappropriate examinations, no changes in treatment plans of patients,
23 inaccurate chart notes, and clinical decision making.

24
25

2.

26 Licensee was interviewed by the Peer Review Committee during their meeting on January 13,
27 2011. The Peer Review Committee had 444 pages of records in case number 2010-2003 and 441
28 pages of records in case number 2010-2004 which they reviewed. They also reviewed Licensee's
29 response to the complaints.

30
31

3.

32 After review of the information provided as stated in paragraph 2, the Peer Review Committee
33 found the following:

34
35 *The chart notes were often inaccurate. There were several instances in the chart notes
36 where information from a single encounter is repeated in several subsequent encounters. For
37 Patient 1 (Case 2010-2003) a notation states "just came from Dr. Brett's office told her she has
38 torn injured ligaments that could take 6 months to a year to heal." This notation is in the
39 subjective area of the daily chart notes for seven consecutive treatment visits from 4/5/10 through
40 5/3/10. For Patient 2 the notation stated is "Went to the ER MD Rx'd muscle relaxants and pain
41 medication, X ray and MRI normal." This notation occurs in the subjective areas of the daily
42 chart notes for twelve consecutive visits from 1/17/10 to 2/4/10. The statement "X ray and MRI

1 normal” is inaccurate. Radiology reports from 1/15/10 included by Licensee in the patient file
2 for Patient 2 indicate cervical spine pathology with a potentially traumatic etiology.
3

4 There are several other examples of repeated statements in single encounters as follows:
5

6 *For Patient 1 the following statements repeatedly occur in the records from 1/11/10 to
7 2/4/10. The Statement “has complained of bad headaches and blurred vision since the accident
8 eye Dr. found damage to the inner eye caused by the accident”, the statement “also Dx’d with
9 glaucoma” the statement “had a CT scan and MRI yesterday waiting for the results” and the
10 statement “just came from Dr. Grimm’s office testing today very dizzy”.
11

12 *As to Patient 2 the statement “Cervical MRI revealed C4-C5 herniated disc ordered by
13 Dr. Brett” occur repeatedly from 2/1/10 to 4/22/10.
14

15 *The initial treatment of Patient 2 was not clinically justified without additional imaging
16 studies.
17

18 *Patient 2’s chart notes do not have the same entries for the same date. For Patient 2 on
19 March 4, 2010, one assessment is clearly different than another. One states “the patient has
20 returned pre injury status” while the other states “The patient has improved since the last visit.”
21

22 *In Patient 2’s record, there are entries that indicate “normal” radiographic and MRI
23 studies, when in fact they showed significant degeneration and IVD herniations.
24

25 For the above reasons, the Peer Review Committee felt that Licensee’s files did not
26 accurately reflect the patient’s condition or the treatment rendered. The above is a violation of
27 ORS 684.100(1)(f)(A), OAR 811-015-0005(1), OAR 811-015-0010(1) and (2).
28

29 4.

30 On Patient 2 who presented with constant cervical pain rated at 10 of 10 on a visual analog scale,
31 hyperesthesia corresponding to the C4 and C5 dermatomes in the left extremity and severe
32 cervical pain with both compression and distraction of the cervical spine, the differential
33 diagnosis in this case should have included potential cervical vertebral fracture and/or disc injury
34 as well as Licensee’s diagnosis of cervical hyperextension/flexion injury. The Peer Review
35 committee felt that Licensee’s treatment of this patient’s cervical spine with diversified
36 adjustments was not clinically justified prior to obtaining further imaging studies of the patient’s
37 cervical spine. This is in violation of ORS 684.100(1)(f)(A) and OAR 811-015-0010(1), (2) and
38 (3) and (4).
39

40 5.

41 The Peer Review Committee felt after review of these cases, that Licensee continually exhibited
42 a pattern of chart notes below minimal competency and lack of clinical justification in the notes,
past history, and examinations not meeting minimal competency. Due to the repeat patterns the

1 Board and Peer Review Committee have concerns about the ability of Licensee to effectively
2 practice and propose the following:

3
4 a) Licensee will receive a Letter of Reprimand.

5 b) Licensee will complete 12 hours than license requirements of continuing education in
6 the area of chart notes and record keeping and will provide verification to the Board within six
7 months. These hours are in addition to the annual 20 hour requirement and,

8 c) Licensee must cooperate with, participate in and successfully complete a mentoring
9 plan with a board approved Mentor for a period of at least one year. The Mentor will be a
10 licensed Oregon chiropractic physician chosen by the OBCE who will sign a personal services
11 contract with the OBCE for the provision of this service. The mentoring plan will have a focus
12 on improved record keeping procedures, examination procedures, and appropriate clinical
13 justification for treatments rendered; and to ensure compliance with statutes and rules and
14 addressing all issues identified in this order.

15
16 The Mentor will be responsible to review charts and report any findings to the Board that
17 are appropriate. At any time that the Licensee ceases active practice, his license lapses or he
18 changes to inactive status, this will not count towards completing of the mentoring period. The
19 Mentor will perform file reviews of records and billings of Licensee's case work and report to the
20 board on his progress at meeting minimum standards of chiropractic health care. Licensee must
21 allow the Mentoring Doctor to enter Licensee's business premises to examine, and review
22 Licensee's patient or other records to determine compliance with the terms of this order, for the
23 duration of this Mentoring plan. If the Mentor requests and with the patient's agreement,
24 Licensee will allow the Mentor to observe patient encounters. The Mentor will make periodic
25 reports to the OBCE regarding Licensee's progress in meeting minimum standards of
26 chiropractic health care. As part of this report, the Mentor may pull patient files reviewed with
27 identifiers redacted for the Board's review.

28
29 The financial compensation for the mentoring doctor will be at Licensee's expense which
30 will be due and payable to the OBCE. The Mentor will provide OBCE with periodic billings for
31 services and in turn the OBCE will bill the Licensee. The hourly rate will be determined by the
32 Mentoring Doctor in agreement with the OBCE plus mileage at the state rate. Successful
33 completion of the mentoring plan also requires that this financial obligation be met; however the
34 OBCE will be reasonable in setting up a payment plan if Licensee makes a request. Failure of
35 Licensee to fully cooperate with the Mentor and the mentoring plan will be grounds for future
36 disciplinary action.

37
38 At any time the Mentor may pull and retrieve patient files for the Board's review. In
39 addition, Licensee is required to allow the OBCE or its representative to periodically review
40 Licensee's patient records and chart notes. This includes review and photocopy of licensee's
41 patient records to ensure licensee complies with the requirements of ORS 684 and OAR 811.

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3 6.

4 Licensee shall pay costs of this disciplinary proceeding, including investigative costs and
5 attorney fees pursuant to ORS 684.100(9)(g).
6

7 7.

8 Licensee has the right, if Licensee requests, to have a formal contested case hearing
9 before the OBCE or the Administrative Law Judge to contest the matter set out above. At the
10 hearing, Licensee may be represented by an attorney and subpoena and cross examine witnesses.
11 That request for hearing must be made in writing to the OBCE, must be received by the OBCE
12 within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and
13 must be accompanied by a written answer to the charges contained in this notice.
14

15 8.

16 The answer shall be made in writing to the OBCE and shall include an admission or
17 denial of each factual matter alleged in this notice, and a short plain statement of each relevant
18 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this
19 notice and not denied in the answer will be considered a waiver of such defense; new matters
20 alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and
21 evidence shall not be taken on any issue not raised in the notice and answer.
22

23 9.

24 If Licensee requests a hearing, before commencement of that hearing, Licensee will be
25 given information on the procedures, rights of representation and other rights of the parties
26 relating to the conduct of the hearing as required under ORS 183.413-415.
27

28 10.

29 If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the
30 hearing, the OBCE may issue a final order by default and impose the above sanctions against
31 Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file
32 regarding the subject of this automatically become part of the evidentiary record of this
33 disciplinary action upon default for the purpose of proving a prima facie case.
34

35 DATED April 1, 2011.
36

37 BOARD OF CHIROPRACTIC EXAMINERS
38 State of Oregon

39 Original signature on file at OBCE

40
41 By:

42 Dave McTeague, Executive Director
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State of Oregon) Case # 2010-2003, 2004
County of Marion) William Thoens DC

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 OBCE

Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

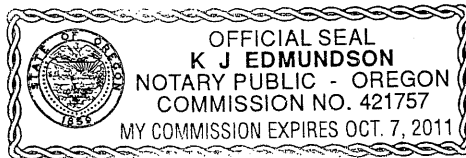
SUBSCRIBED AND SWORN to before me

this 1st day of April, 2011

Original signature on file at OBCE

K J Edmundson
NOTARY PUBLIC FOR OREGON

My Commission Expires: 10-7-2011



1
2 **Certificate of Service**
3

4 I, Dave McTeague, certify that on April 1, 2011, I served the foregoing Notice of
5 Proposed Disciplinary Action upon the party hereto by mailing, certified mail, postage prepaid, a
6 true, exact and full copy thereof to:
7

8
9 William Thoens, DC
10 Mountain Park Chiropractic
11 9045 SW Barbur Blvd. Ste. 108
12 Portland, OR 97219
13
14
15

16 By regular mail to:
17
18

19 **Original signature on file at OBCE**
20

21
22 _____
23 Dave McTeague
24 Executive Director
25 Oregon Board of Chiropractic Examiners
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