

BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS
OF THE STATE OF OREGON

In the Matter of the)
Chiropractic License)
of DONALD C. WALKER, D.C.) ORDER OF SUSPENSION

This was a proceeding to consider whether the State Board of Chiropractic Examiners (Board) should take disciplinary action against Donald C. Walker, D.C. (licensee). This matter was heard by the Board on the 22nd day of February, 1973, and continued until the 19th day of April, 1973. The Board was represented by Arnold B. Silver, Assistant Attorney General, and licensee was prepresented by Burton H. Bennett, Attorney at Law. Licensee was present at the hearings at all times. The Board having heard witnesses under oath, having received exhibits and considering the evidence in this matter, does enter the following Findings of Fact:

FINDINGS OF FACT

1. Donald C. Walker, D.C. (licensee) is a licensed chiropractor in this State. Licensee has been in active practice in this state for over 15 years as a chiropractor. Licensee is not a licensed medical physician, dentist, podiatrist or veterinarian.
2. Mary Igel is and was a patient of licensee. She has been treated by licensee intermittently since at least July, 1963 for various ailments and illnesses, including a swollen leg.
3. On or about October 26, 1972, licensee furnished to Mary Igel for her use, five or six tablets known by the

Michigan. Benzthiazide is a "drug" recognized in Volume 13, Page 83, Official National Formulary (1970).

6. The drug was purchased from "Pacific Pharmacal", wholesale and retail distributors of pharmaceuticals, Portland, Oregon. Licensee was carried on the books of said distributor as "Dr. A".

7. Aquatag (benzthiazide) must be labelled "Caution: Federal law prohibits dispensing without prescription".

8. Aquatag (benzthiazide) is a potent, orally active diuretic. It is effective in producing diuresis in edema states.

9. The drug has contradictions, including non-administration for patients in anuria and patients with hypersensitivity to sulfonamide derivatives. Warnings include non-use for patients, at least two weeks prior to elective surgery. Emergency surgery requires reduced dosage of anesetics and anesthetic agents. The drug should also be used with caution for patients with liver disease. There are other warnings, all requiring medical knowledge, and not necessarily chiropractic education. Licensee is not trained as a chiropractor to recognize many of these dangers.

10. Mary Igel was suffering from a "swollen" leg. The swelling is the edema, which is ordinarily amounts of fluid in the intercellular tissue spaces of the body. She was furnished a diuretic which increases the secretion of urine and relieves swelling. Mary Igel was furnished "benzthiazide" as a diuretic to relieve swelling in her leg, edema.

11. Drugs recognized by various pharmacopoeia and the National Formulary may not be administered or dispensed by licensed chiropractors for either diagnostic or theoruptic purposes.

minimum educational requirements to enable persons to practice chiropractic in this state. The Board has not at any time required additional subjects such as pharmacology and pharmacognosy to be taught in chiropractic colleges. These subjects are not part of any nationally administered chiropractic examination. The foregoing subjects are not within the basic science examination required of chiropractic applicants.

(ORS 684.050(4)).

13. Chiropractic physicians are not trained, educated or versed in the use of drugs nor their effects on human beings. Licensee is not trained, educated or versed in the use of drugs nor their effects on human beings by formal education.

(ORS 676.030).

14. This Board has in the past had occasion to discuss informally with licensee his administration and dispensing of drugs to patients; January 24, 1957, October 13, 1959, February 11, 1965 and October 2, 1969.

15. A chiropractor who administers or dispenses "benzthiazide" is administering and dispensing a drug recognized by the National Formulary and is acting contrary to his licenses. It is immaterial that it may be administered for a diagnostic purpose.

16. Licensee knew or should have known that at the time he administered and dispensed "benzthiazide" to Mary Igel, his conduct was contrary to law, Board policy and decision and Board rules of professional conduct of long standing duration.

From the foregoing Findings of Fact, we enter the following Conclusions of Law:

CONCLUSIONS OF LAW

1. "Benzthiazide" is a drug recognized by the official

3. A chiropractor is prohibited by the theory and practice of his profession from administering or dispensing drugs; Rule 10-090, Chapter 811, Oregon Administrative Rules. This is a rule of professional conduct for chiropractors.

4. Licensee is prohibited by law from writing prescriptions for or dispensing or administering drugs, including benzthiazide. Licensee is not a "licensed medical practitioner" within ORS 689.160, as defined by ORS 689.010(10).

5. The administration and dispensing of drugs to a patient by a chiropractor are acts which are deemed to be unprofessional and dishonorable conduct, ORS 684.100(1)(9), in that these acts are in clear violation of the law and of the history, theory and practice of the profession.

6. Licensee (Donald C. Walker), by administering and dispensing drugs to Mary Igel, has committed acts of unprofessional and dishonorable conduct, in violation of ORS 684.100(1)(9).

RULINGS ON MOTIONS

Respondent interposed the following oral motions at hearing:

1. The District Attorney, rather than the Attorney General, must prosecute this matter. This motion was based on ORS 684.190. The motion is denied.

a. The "office" of the attorney presenting the matter to the Board is not determinative of its jurisdiction to hear the matter.

b. ORS 684.190 relates to criminal proceedings, the Attorney General represent the Board in civil matters. ORS 180.060 et seq.

2. The rules of the Naturopathic Board of Examiners authorize the use of drugs. We do not believe these rules so authorize its licensees to administer drugs. However, the

for "diagnosis" and not a "therapeutic" purpose and drugs administered for diagnosis are authorized by the chiropractic law. The motion is denied.

a. ORS 684.010(3) defines "drugs" as those substances used for diagnosis, cure, treatment, mitigation or prevention of diseases. ORS 684.015(3) prevents a chiropractor from using such drugs in his practice.

b. It is immaterial whether licensee administered or dispensed the drug for "diagnosis" or treatment.

4. The dispensing of drugs by licensee is not unprofessional or dishonorable conduct. The motion is denied. The use of drugs by a chiropractor is so far removed from his practice and so totally and absolutely absent from his license to practice that it constitutes unprofessional or dishonorable conduct. It is in effect "malum in se" for a chiropractor to dispense drugs. It is in violation of Rule 10-090, a rule of professional conduct for chiropractors.

OPINION

Licensee has been before this Board in the past for informal discussions regarding the administration of drugs to his patients. Rather than deny the charges, he attempted to justify the use of drugs on the theory that he administered them as a naturopath (license ORS Chapter 685) and not as a chiropractor. While we do not share licensee's belief that naturopaths are legally authorized to dispense drugs, the issue is immaterial at this time since licensee admits dispensing the drug as a chiropractor.

First of all, ORS 684.010(3) defines drugs as drugs used for diagnosis as well as treatment. Their use is prohibited by ORS 684.015(3). Second, we can perceive of no practical, legal, medical or chiropractic reason to permit a chiropractor to dispense drugs for diagnosis, but not therapeutic reasons. "Therapeutic" is merely the science and art of healing and treatment of disease, while "diagnosis" is the recognition of disease to institute the necessary treatment. Chiropractors both diagnose and treat; but the theory and practice of the profession prohibits the use of drugs in either instance.

We consider licensee's position a shallow attempt to justify his conduct. We are also not satisfied as to licensee's explanation that he was carried as "Dr. A" on Pacific Pharmacal's records because of a lawsuit between the owners. We deem it a "cover-up" for illegal use and sale of drugs.

Finally, licensee attempted to show he taught in college the use of drugs for diagnosis, especially for edema, and this is a standard chiropractic procedure. It was urged that the Attorney General supports this position. This argument is sheer nonsense for the following reasons:

1. Licensee's own syllabus of notes and lecture material do not refer to "drugs" as defined by ORS 684.015(3) as a diagnostic tool for chiropractors.

2. The president of Western States College testified drugs, as prohibited by law, were not a standard chiropractic tool and should not be used for diagnosis. Further, if he knew before hand that licensee intended to offer this "theory" as part of his course, he would not have been allowed to do so.

4. Merely because a chiropractic college decides to teach the use of drugs in college does not make this course acceptable to the practice of chiropractic. The college cannot change the law. If it were otherwise, the college could teach "open-heart surgery" and licensee would then argue he could perform this operation in his practice.

5. Lastly, licensee admits to administering drugs, even prior to knowledge of the advice to this agency, so we fail to see how his erroneous interpretation of our letter dated December 18, 1972, could influence him.

ORDER

1. The license and certificate of Donald C. Walker, D.C. is suspended effective June 1, 1973, for a period of eighteen (18) months, ending November 30, 1974.

2. During the period of this suspension, licensee shall not practice chiropractic nor advertise nor hold himself out as a chiropractic physician by any means whatsoever, including but not limited to signs, letterhead, office statements and office advertising.

Dated this 17th day of May, 1973.

FOR THE STATE BOARD OF
CHIROPRACTIC EXAMINERS

Original signature on file
at the OBCE office.

PRESIDENT

