

Klamath Falls Herald News

State board files injunction against Klamath Falls health practitioner

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[State board files injunction against Klamath Falls health practitioner](#) By ANDREW CREASEY H&N Staff Reporter |

The State Board of Chiropractic Examiners is seeking an injunction against a Klamath Falls health practitioner, alleging that he is not licensed to practice his primary procedure and that the aggressive pulls on the neck it features could result in spinal damage.

Christopher McCutcheon, owner of Balanced Wellness Health Center, was named in the injunction, which seeks to permanently bar McCutcheon from practicing any form of spinal manipulation. The injunction was filed in Klamath County Circuit Court May 21.

It is not McCutcheon's first run-in with the chiropractic board. In June 2010, he was fined \$10,000 for practicing chiropractic medicine without a license.

In the latest filing, the chiropractic board is alleging that McCutcheon, who is not a licensed chiropractor, is still performing the procedure that provoked the board to action in 2010 — the Alphabiotic Alignment/Chrane condyle lift.

"It looks to us that he's out there doing what he was doing before — fooling with people's necks without a license," said Dave McTeague, executive director of the State Board of Chiropractic Examiners. "You can't yank on people's neck without a license. He could really hurt somebody."

McCutcheon denied the charge, saying his latest practice, which opened in January, uses "different techniques." He would not elaborate, saying that he wanted to take more time to evaluate the details of the board's claim. He also said he has not been served with a notice of the injunction.

Both Alphabiotics and the Chrane condyle lift have had a contentious relationship with the chiropractic community.

A case heard in Washington in 2000 established the neck alignments implemented in the condyle lift as a chiropractic variant. The defendant in the case, former chiropractor John Brown, was ultimately fined \$30,000 for practicing the procedure.

One patient in the case was diagnosed with a stroke caused by dissections of both vertebral arteries, which her physicians believe Brown's procedure caused.

In the 2010 case against McCutcheon, a board investigator who received treatment as part of the 2010 investigation references McCutcheon discussing the benefits of Alphabiotics. Alphabiotics is not part of the literature on McCutcheon's current website. He refers to himself as a neurological balance technician on his business card.

The patients whose complaints were cited in the 2010 case complained about neck pains, dizziness and headaches. According to the case, a health practitioner found indications of severe cervical strain/axial load injury from distraction and rotation of the neck.

The health practitioner said that he had treated one patient for some time prior to McCutcheon's treatments, and that, in his medical opinion, her neck condition was "much worse" due to McCutcheon's adjustments, according to court documents.

McCutcheon, however, said that his practice and methods have changed. He said he was confident that the board's action will not affect his practice.

Currently, McCutcheon still owes \$9,686 in penalties as a result of the 2010 ruling, according to court documents.

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CIRCUIT COURT OF OREGON
KLAMATH COUNTY

STATE OF OREGON, Acting by and through
the State Board of Chiropractic Examiners,

Plaintiff,

v.

Christopher McCutcheon,

Defendant.

I HEREBY CERTIFY that the foregoing is a true, exact and complete copy of the original Summons in the above entitled cause, and that the copy of the Complaint or Amended Complaint attached hereto is a true, exact and complete copy of the original Complaint or Amended Complaint on file therein.

Attorney for Plaintiff

Case No. 1302016CV

SUMMONS

To: Christopher McCutcheon, 2210 Shallock Ave, Klamath Falls OR 97601

IN THE NAME OF THE STATE OF OREGON, You are hereby required to appear and defend the Complaint filed against you in this case within 30 days from the date of the service of this summons upon you. If you fail to appear and defend, the plaintiff will apply to the court for the relief demanded in the Complaint.

NOTICE TO DEFENDANT:
READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion," or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

/S/GRETCHEN GUNN MERRILL

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Trial Attorney for Plaintiff

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH

STATE OF OREGON, Acting by and through
the State Board of Chiropractic Examiners,

Plaintiff,

v.

Christopher McCutcheon,

Defendant.

Case No. 1302016CV

COMPLAINT FOR STATUTORY
INJUNCTION (ORS 684.155(3))

[CLAIM NOT SUBJECT TO MANDATORY
ARBITRATION]

Plaintiff not required to pay filing fees in
advance – exempt per ORS 20.140

(Non-Monetary Relief Requested)

Plaintiff alleges for its claim for relief:

1.

Plaintiff, State of Oregon, by and through the State Board of Chiropractic Examiners
(OBCE), is qualified to bring an action for a statutory injunctive relief.

2.

On June 22, 2010, plaintiff issued, and defendant was duly served with a Final Agency
Order in administrative hearing Case No. 2009-3017, finding the defendant to be in violation of
ORS 684.015(1), ORS 684.020(1), ORS 684.100(1)(f)(A), (i), and (p), OAR 811-035-
0015(6),(12),(14), and (22), in that defendant practiced chiropractic care without a license and
engaged in unprofessional conduct as well as exposing Oregonians to great harm. This order also
resulted in a civil penalty in the amount of \$10,000. The Final Agency Order is attached as
Exhibit 1 and incorporated herein.

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3.

Said Order became final by operation of law. Defendant has failed to pay the penalty ordered, and after application of all credit, the amount remaining due and owing is \$9,686.00

4.

Contrary to ORS 684.010(2) and ORS 684.155 and notwithstanding the issuance of the Final Order described in paragraph two, during at least the period January 3, 2013 to present, defendant, without proper licensure, has opened and operated a business and, in the conduct of said business, has performed services specifically prohibited under ORS 684.010(2) unless properly licensed by the OBCE.

5.

According to the records of the Oregon Board of Medical Examiners, defendant is not now, nor has he ever been, licensed to administer acupuncture treatments. According to the records from the Oregon Board of Massage Therapists, defendant is not now, nor has he ever been licensed to provide massage therapy.

6.

Pursuant to ORS 684.155(3), the defendant is subject to being permanently enjoined from practicing chiropractic care and any other form of spinal manipulation or adjusting in violation of ORS 684.015(1)(a) and ORS 684.020.

7.

Pursuant to ORS 684.155(3), plaintiff is entitled to recover from defendant its court costs and reasonable attorney fees.

WHEREFORE, plaintiff prays for judgment against the defendant as follows

1. Permanently enjoining the defendant from practicing chiropractic care and any other form of spinal manipulation or adjusting without a license pursuant to ORS 684.015(1)(a) and ORS 684.020;

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

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In the Matter of)
Chris McCutcheon) FINAL ORDER BY DEFAULT
) (Civil Penalty)
)
Respondent.) Case # 2009-3017

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The Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Chris McCutcheon (Respondent) is not licensed by the Board to practice as a chiropractic physician in the State of Oregon.

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Findings of Fact

I.

In June of 2009, the Board received a complaint that Respondent was practicing chiropractic without a license based on information obtained from patients who had received treatment from him in the Klamath Falls, Oregon area.

On his website (www.balancedwellnesshealth.com), Respondent referred to himself as a "doctor" and advertised his practice as the Balanced Wellness Center. Respondent used almost exclusively the Alphabiotic Alignment/Chrane condyle lift in his practice. The New Life Center in Texas is the institution that specializes in teaching Alphabiotics.

The Board obtained literature from the State of Washington wherein that State Board concluded that Alphabiotics was a chiropractic variant in which the treatment is synonymous with and limited to cervical adjustment using a technique called the Chrane Condyle Lift. That conclusion was upheld by a ruling by the Washington State Court of Appeals entitled John Brown D.C. v. State of Washington Department of Health.

Investigation into the New Life Center and Alphabiotics International showed that it was not an accredited degree granting institution in Oregon and anyone practicing under their certification was in violation of ORS 348.609; a Class B misdemeanor and possible consumer fraud.

The Board investigation showed that Respondent was practicing for approximately 1 year and possibly several additional years while not licensed. Respondent was actively treating patients and using potentially risky chiropractic techniques without a chiropractic license. Other

1 practitioners in the same location as respondent noticed several patients coming and going during
2 the day and evening, sometimes as high as 20 patients.

3
4 Two of Respondent's former patients also believed that they were injured by his
5 treatment and believed that he was a doctor and/or chiropractor when they received treatment.
6 There was no indication that Respondent was keeping patient files on patients. These two
7 patients of Respondents sought treatment from another health practitioner and had complained to
8 that practitioner about receiving treatment from Respondent. Specifically, they complained
9 about neck pain, headaches and dizziness. The health practitioner found indications of severe
10 cervical strain/axial load injury from distraction and rotation of the neck. The health practitioner
11 said that he had treated one patient for quite some time prior to Respondents treatment and in his
12 medical opinion; her neck condition was much worse due to the adjustments provided by
13 Respondent. Interviews with these patients supported those allegations of harm and described
14 how Respondent put his hands on the side of their head, jerking it aggressively with both hands
15 and arms and then doing it on the other side. During the adjustment the patients described it as
16 very painful at the moment of adjustment with the treatment lasting only a couple of minutes.
17 When the patients sat up they became dizzy and it continued to become more intense forming
18 into a headache. Patients described the dizziness and headache lasting the entire day. One patient
19 felt a burning sensation in her neck one day post treatment. When the patients asked what the
20 pain was from, Respondent would tell them that toxins were in their bodies and this is the way
21 they worked themselves out.

22
23 A Board investigator also received a cervical adjustment using the technique of Chrane
24 Condyle Lift in June 2009. Respondent told him that the Alphabiotics would "reboot your brain
25 and your system, to balance your body, to relax the tense side and strengthen the weak side."
26 Respondent then turned the investigators head 30 degrees and wrapped his hands and arms
27 around his head. Suddenly he gave a very sharp axial jerk, very abrupt and sharp. The
28 investigator said "whoa" and quickly without pause Respondent turned his head the other way
29 and did it again. The investigator felt momentary pain. Respondent then palpated the
30 investigators neck and said "the tenderness feels better doesn't it?" Respondent took cash for
31 the adjustment and did not have the investigator fill out any paperwork or take any form of a
32 medical history of the patient. In addition, respondent did not have the investigator sign
33 anything, inform him of any issues that might affect or be affected by the treatment, inform him
34 of any risks associated, or discuss post treatment expectations with the investigator.

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36 On July 2, 2009, the Board served via certified mail, a cease and desist letter to
37 Respondent requesting that he immediately cease this practice and informing him it was
38 practicing chiropractic without a license. Almost a month later, on August 1, 2009, Respondent
39 wrote to the Board indicating that he had performed hundreds of thousands of Alphabiotic
40 Alignments and that he was stopping the Alphabiotic Alignment and would be going to
41 Chiropractic School. Since that letter arrived, the Board has additional investigative information
42 that although Respondent had closed his office where these treatments occurred, he was still
43 offering these types of treatments out of his home.

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4 2.

5 Respondent is not a licensed Chiropractor in the State of Oregon. Respondent holds no
6 other health regulatory licenses or certificates in the State of Oregon. Respondent is performing
7 chiropractic techniques as described by ORS 684.010(2) and is performing techniques that are
8 taught in chiropractic schools. Respondent is risking causing harm to the patients that he has
9 provided this treatment to.
10

11 3.

12 On September 24, 2009, a Notice of Proposed Disciplinary Action was served on
13 Respondent. On October 28, 2009 he requested a hearing. A hearing was scheduled for June 15-
14 16, 2010. On June 11, 2010, Respondent withdrew his request for hearing in writing.
15 Respondent is in default pursuant to ORS 183.417. In the Proposed Notice of Disciplinary
16 Action the Board notified Respondent that the record in this matter would be used as the prima
17 facie evidence in this matter.
18

19 Conclusions of Law

20 4.

21 The Board finds that conduct described above is a violation of ORS 684.015(1)(1),
22 684.020(1), ORS 684.100(1)(f) (A), (i) and (p), OAR 811-035-0015(6), (12), (14) and (22) that
23 Respondent practiced chiropractic without a license and engaged in unprofessional conduct. The
24 Board finds that the Respondent's conduct exposed the citizens of Oregon to great harm.
25

26 Order

27 5.

28 Due to the aforementioned violations, the OBCE orders Respondent to pay a civil penalty
29 in the sum of \$10,000 to the Board. This is pursuant to their authority under ORS 684.100(9).
30 Payment of the civil penalty is due within 30 days of this order becoming final.
31

32 IT IS SO ORDERED
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34 DATED this 22nd day of June 2010
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36 BOARD OF CHIROPRACTIC EXAMINERS
37 State of Oregon
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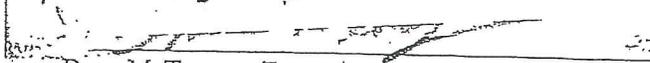
39 Original signature on file at OBCE
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42 Dave McTeague, Executive Director
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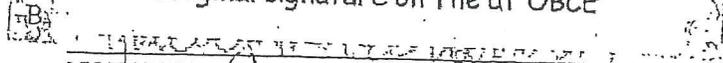
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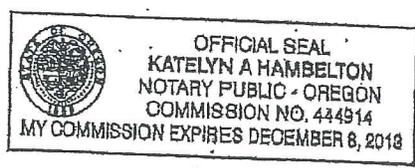
State of Oregon) Case # 2009-3017
County of Marion) Chris McCutcheon

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 signature on file at OBCE

Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

SUBSCRIBED AND SWORN to before me
this 22nd day of June, 2010

Original signature on file at OBCE

NOTARY PUBLIC FOR OREGON
My Commission Expires: 02-8th, 2013



1
2 **Certificate of Service**
3

4 I, Dave McTeague, certify that on June 22, 2010. I served the foregoing Final Order by
5 Default upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full
6 copy thereof to:

7
8 Chris McCutcheon
9 5633 Mason Lane
10 Klamath Falls, Oregon 97601
11

12
13 By Regular Mail to:

14
15 Chris McCutcheon
16 5633 Mason Lane
17 Klamath Falls, Oregon 97601
18

19 James W. Hendry AAL
20 Brownstein, Rask et. al.
21 1200 S.W. Main St.
22 Portland, Oregon 97205
23

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25 Original signature on file at OBCE
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28 _____
29 Dave McTeague
30 Executive Director
31 Oregon Board of Chiropractic Examiners
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