

FEDS ISSUE NEW GUIDE ON TESTIMONIALS

By Lori Lindley, Assistant Attorney General

If you use endorsements or testimonials in your clinic advertising, you should pay special attention to the Federal Trade Commission Act. The FTC recently updated its Guides Concerning the Use of Endorsements and Testimonials in Advertising, as they were last updated in 1980.¹ The Guides are administrative interpretations of the law intended to help advertisers comply with the federal law.

What is covered? Any advertisement using endorsements and testimonials for a product, service, company or industry. *Under the revised guidelines, advertisements that feature a consumer and convey his or her experience with a service as typical,*

when that is not the case, will be required to clearly disclose the results that consumers can generally expect. This contrasts from the disclaimer such as “results not typical” that was permissible prior to these changes.

If an advertiser refers to findings of a research organization that conducted research sponsored by that advertiser, the advertisement must disclose the connection between the advertiser and the research organization. And a paid endorsement; like any other advertisement, is deceptive if it makes false or misleading claims.

Examples given in the materials provided by the FTC are an ad for an acne treatment which features a dermatologist who claims that the product is “clinically proven” to work. Before giving the endorsement, the dermatologist received a write up of the clinical study in question, which indicates flaws in the design and conduct of the study that are so serious that they preclude any

CONTINUED ON PAGE 8



New OBCE Board members, Daniel Cote DC, Huma Pierce DC

New OBCE Board Members

Drs. Daniel Cote and Huma Pierce joined the Board in March 2010 replacing Drs. Steve Koc from Salem and Michael Megehee from Pendleton.

Dr. Cote has practiced in Silverton since 1997 after graduating from Parker College of Chiropractic. He has served on the Patient Safety Seed Panel and assisted with writing exam questions for the Ethics & Jurisprudence test. In his application he stated,

CONTINUED ON PAGE 3

What's Inside BackTalk

President's Report.....	2
Pre-Paid Treatment Plan Rule	3
Device & Procedure Update	5
Policy & Practice Questions	7
Mentoring Experiences.....	9
Ca Initial Training Update	10
Public Protection Update.....	11
Newly Licensed DCs	14



President's Report

Joyce McClure DC

Along with the changes in our economy, there have been subtle and overt shifts in the healthcare arena. Many are noticing the demographics of their practices shift, and some among us may feel pressed to make uncomfortable choices. Others weather the storm with more aplomb. Choices made by some in our midst, while seeming to affect only the individual practice, may have a greater reach than anticipated. When one falls, we all, ever so slightly, feel the sting of rebuke, the loss of a morsel of credibility that we have worked so very hard, together, to build.

Consider this: Over 43% of the OBCE's budgetary resources are consumed by complaints, subsequent investigation and legal costs. When economic pressures are high, some may turn to less honorable avenues in an attempt to ease the stress. This might be by upcoding, crossing an ethical boundary, or simply failing to perform or provide adequate documentation related to patient encounters.

What if we, as a profession, chose to band together? What if we chose to support one another, to help each other build our practices ethically? What if we offered to teach a colleague a more efficient way to keep better chart notes so that they could see more patients per day? What if we could get together in small groups and review tough cases together, consider alternative treatment approaches, or help network referrals to providers in other disciplines? What if we could cover another doctor's practice for a day apiece when they were out of work due to injury or family emergency?

In my opinion, our profession is one of the best known for the ability to connect with patients in a positive, healing manner, and yet, paradoxically, is one in which the individual practitioners may be truly the most isolated. The isolation, I suppose, is borne of a fear of being found wanting in some particular way, or more basely, the loss of competitive edge that we might sustain if we lent our colleague and neighbor a helping hand. Can we really be quite so insular?

CONTINUED ON PAGE 3

The mission of the Oregon Board of Chiropractic Examiners is to serve the public, regulate the practice of chiropractic, promote quality, and ensure competent ethical health care.

BackTalk is the official newsletter of the Oregon Board of Chiropractic Examiners. The Board's next two meetings are July 15, 2010 in Astoria and September 23, 2010 in Salem. For information go to the OBCE web site at www.oregon.gov/obce or call the Board office.

Board Members

Joyce McClure DC
President, Portland

Michael Vissers DC
Vice-President, Canby

Estelle Parker-Kent
Secretary (and Public Member)

Ann Goldeen DC
Astoria

Huma Pierce DC
Beaverton

Daniel Cote DC
Silverton

Douglas Dick
Public member

Staff Directory

Telephone: (503) 378-5816

Email: oregon.obce@state.or.us

Dave McTeague (503) 373-1620
Executive Director
Administration • Legal questions
Board issues • Practice questions

Kelly Beringer (503) 373-1573
Administrative Assistant
DC license renewal & information
CA certification, renewal & information
Continuing education • Practice questions

Donna Dougan (503) 373-1579
Administrative Assistant
DC applicants • Examinations
Peer Review • Contracts

Thomas Rozinski (503) 373-1615
Investigator/Compliance • Complaints
Investigations • Probation monitoring

Katie Hambelton (503) 373-1614
Office Specialist I
DC lists, Record requests • Meeting coordinator • License verifications

President's Report

CONTINUED FROM PAGE 2

There are many important issues facing our great profession in the years ahead, but to my mind, there is none so important as the need to continue to work together, personally and professionally, to keep our profession strong from the inside out. *Innately.*

Board notes: We welcome new board members Drs. Daniel Cote and Huma Pierce, and we thank Drs. Michael Megehee and Steve Koc for their years on the OBCE. Service on the OBCE requires a significant time commitment and a lot of patience with difficult cases and challenging issues. Any doctor or public person wishing to serve on the OBCE is encouraged to contact us about first serving with a board committee or activity. ■

New Board Members

CONTINUED FROM PAGE 1

"I would like to be part of the process of regulating and improving the chiropractic profession in Oregon as well as protecting the public from substandard practitioners."

Dr. Pierce has practiced since 2001 with clinics in Beaverton and SE Portland. She is a New York Chiropractic College graduate and earned a Fellowship of Clinical Biomechanics of Posture (CBP) in 2006. In her application she stated, "I believe through good governance, progressive policy development and collaborative leadership, the OBCE can be instrumental in developing a well-rounded, inclusive and holistic health care system for all Oregonians." ■

New Administrative Rules

Pre Paid Treatment Plans

Pre-paid treatment plans must now meet basic criteria for clinical and contract documentation and refunds. The OBCE adopted this new rule at their May 27, 2010 meeting after encountering these issues over the years.

All chiropractic clinics are advised to bring existing pre-paid treatment plans into compliance with the new rule. Special review should be given to any plans that cover Medicare or other federally funded health care programs as the Stark laws prohibiting discounts and other inducements may apply. Chiropractic clinics may wish to seek legal advice to ensure all such pre-paid plans are compliant with this rule and other state or federal laws.

CONTINUED ON PAGE 4



Mike Smith AAL (center) makes a point at the Rules Advisory Committee meeting. On the left are Donna Dougan, OBCE staff, and Christopher Pierce DC; on the right is Jim Aungst DC.

New Administrative Rules

CONTINUED FROM PAGE 3

811-015-0002 Pre-Paid Treatment Plans

- 1) Chiropractic physicians may accept pre-payment for services planned but not yet delivered only if they do so in such a way that it does not constitute the practice of insurance.
- 2) The patients file must contain: the proposed treatment plan, the diagnosis or condition being treated, and the duration of the pre-payment plan.
 - a) If nutritional products or other hard goods including braces, supports or patient aids are to be used during the proposed treatment plan, the patient documents must state whether these items are included in the gross treatment costs or if they constitute a separate and distinct service and fee. Any additional fees must be explained to the patient in advance and noted in the chart notes.
 - b) The pre-payment plan must include a written explanation on how the unused portion of funds are calculated or prorated should the patient complete care early or discontinue care due to the patient's choice, doctor's choice, moving, or new injury.
- 3) A contract for services outlining the pre-payment plan and consent for treatment must be maintained in the patient's file.
- 4) Any discounts provided as part of a pre-paid treatment plan must be compliant with other applicable state or federal laws. Adopted 5-27-10 ■



Past Board President Michael Vissers presented the OBCE Plaque of Appreciation to Dr. Steve Koc (left) and Dr. Mike Megehee (above) for their service on the OBCE.

BackTalk



The Rules Advisory Committee met February 16th to review proposed rules on pre-paid plans and CA initial training hours. Clockwise (from right): Drs. James Aungst, Neil McMahon, Sharron Fuchs, Larry Novick, Craig Johnson, Michael Vissers, Jason Young, John Collins, Lisa Kouzes, Michelle Waggoner, OCA Co-President David Duemling, Michael Miller & OCA Co-President Don Ferrante; and Ivonne Feinauer CA.

ETSDP Device & Procedure Update

Zerona cold laser treatments for fat reduction. Is this “cosmetic” or “therapeutic”? Until this review is completed chiropractic physicians may not use or advertise this device as current policy prohibits use of lasers for cosmetic purposes, except the four clinics with these expensive devices may continue to treat existing patients in this interim period. The ETSDP Committee recommended this be accepted as investigational with moderate risk, along with advertising standards and informed consent. However, the OBCE is still concerned that this is more “cosmetic” than therapeutic. A full discussion of this issue will occur at the Board’s July 15, 2010 meeting in public session. The OBCE web site has more information on this issue.

Breast Thermography Standards

On March 18, 2010, the OBCE adopted standards for use of breast thermography by chiropractic physicians. This followed review by the ETSDP Committee and lengthy discussions at board meetings. The Board approved this as an investigational procedure with moderate risk and determined this is an adjunctive procedure to mammography, MRI and clinical exam. A specific and comprehensive informed consent is required. The standards and the informed consent document are found as Appendix C in the Guide to Policy and Practice Questions. Currently two Oregon chiropractic physicians are actively providing breast thermography services.

CONTINUED ON PAGE 6

ETSDP

CONTINUED FROM PAGE 5

Dry needling. The OBCE has received pro and con testimony as to whether dry needling could be used by chiropractic physicians as a physiotherapy modality. Advocates say this is distinct from acupuncture since the needle application is to trigger points and not to traditional acupuncture points. At their March meeting, the OBCE heard from representatives of the Medical Board's Acupuncture Committee and the Acupuncture state association in strong opposition saying this is all acupuncture. The Oregon Physical Therapy Board has said dry needling is an advanced physical therapy technique, but would require additional training and certification. Currently no U.S. chiropractic college teaches dry needling as part of their core curriculum, though one or two sponsor a CE course. The OBCE's current position is this should be taught in chiropractic college core curriculum prior to being accepted in the Oregon scope of practice.

Zyto (& other EFPX-SCIO type devices)

The OBCE receives periodic inquiries regarding so-called "energy" medicine devices which purport to use: "quantum mechanics" or "quantum biofeedback" or "nano-technology" or claims in any way to have thousands of "preprogrammed scenarios and library references organized into defined groups, which create quick and manageable patient assessments."

These are presumed to be outside the Oregon chiropractic scope of practice until such time the specific device is reviewed by the OBCE under the provisions of OAR 811-015-0070 (ETSDP rule) and determined to be either standard or investigational.

This includes the "Zyto" device, Quantum QXCI Bio-Resonance Device, and any other devices which are similar in operation to the EFPX-SCIO device (which was previously evaluated and found to be unacceptable).

Cryoprobe

This device uses compressed nitrous oxide gas to freeze to a depth of 5mm on the human skin. On March 18, 2010, the OBCE approved this (and similar devices) as standard in a minor surgery procedure.

Ellman SS Pelleve (or similar units)

This is a high frequency low temperature radiowave unit, "utilized to tighten collagen within the skin non invasively." Although this is not a laser procedure, it may be similar to the laser treatments for cosmetic purposes. On March 18, 2010, the OBCE referred this issue to the ETSDP committee for review, pending an application from proponents. Previously in September 2009, the OBCE determined a similar device, Lam Probe 4000, was not to be used.

Contact Reflex Analysis (CRA)

CRA was reviewed in 2009 and its current position as standard was not changed. It was noted the CRA manual said this was an "adjunctive" procedure. The Board also said that any technique is not a stand-alone procedure.

.....

NOTE: ETSDP stands for Examinations, Treatments, Substances, Devices and Procedures, see Oregon Administrative Rule 811-015-0070. The OBCE evaluates ETSDPs to determine if they are standard, investigational or may not be used. The ETSDP application is found on the OBCE web page as Appendix A of the Policy & Practice Question Guide. ■

Policy & Practice Questions

Question: *Is it legal for a Doctor of Chiropractic to place on business cards or other advertising that he/she performs “physical therapy” or could one use the term “physiotherapeutics”?*

Answer: Yes to both, but DCs may not say they are a “physical therapist.”

Question: *May a DC supervise a licensed physical therapy assistant (PTA)?*

Answer: No. ORS 688.010 (2), (3) and (4) defines “Physical therapist,” “physical therapist assistant” and who is allowed to supervise the PTAs. Only a physical therapist may supervise a physical therapist assistant.

Question: *May a chiropractic physician enter into a partnership (50/50 ownership) with a naturopathic physicians?*

Answer: Yes, this is allowed under the provisions of OAR 811-010-0120 (8), Chiropractic Professional Corporation and Business Entity Majority Ownership rule.

Question: *May a chiropractic physician sign a Certificate of Disability so a patient may obtain a DMV Disabled Parking Permit?*

Answer: Yes, The instructions and form may be found under Forms on the OBCE’s web page. http://www.oregon.gov/OBCE/forms/DMV_Disabled_Permit.pdf.

Question: *Does the OBCE have a statute limiting the use of designations by a chiropractor certified by an outside specialty board? The American Board of Quality Assurance and Utilization Review Physicians, Inc. (ABQAURP) certifies health care professionals in Health Care Quality and Management (CHCQM). We have recently discovered some boards*

are disallowing the use of this designation by Diplomates unless approved specifically by the state board.

Answer: The Oregon Board of Chiropractic Examiners doesn’t have an administrative rule regulating the use of certificate or diplomate designation. However any untruthful or deceptive information or advertising would be a violation of our advertising rule. The OBCE Guide to Policy and Practice Questions includes the following statement:

DIPLOMATE STATUS

Chiropractors in Oregon may claim a diplomate status if, in fact, they have earned that credential, otherwise they would be in violation of the Board’s advertising rule. (10/25/00)

Question: *Could we bring out of state DCs to Oregon for a public wellness charity benefit event where people will get checked and adjusted by a group of chiropractors practicing a unique approach. We will be educating the public about the wellness opportunity of chiropractic and delivering care for donations for a charity like Haiti relief. The doctors will be actively licensed in their states.*

CONTINUED ON PAGE 8



Board President Joyce McClure leads a board discussion with Eugene area doctors about current issues before the OBCE.

Policy and Practice

CONTINUED FROM PAGE 7

Answer: The event described does not qualify under provisions of ORS 684.107 (Travel to Treat law). Out of state licensed DCs may provide chiropractic care without Oregon licensure only if it is for a single, temporary assignment for a specific sporting, performing arts or educational event not to exceed 15 days.

Question: *Is homeopathy within the Oregon chiropractic scope of practice or are chiropractors specifically excluded from practicing homeopathy?*

Answer: ORS 684.010 excludes homeopathy from the Oregon chiropractic scope of practice. However, formulations that are sold as an over the counter drug/supplement and “prepackaged for consumer use” may be used or prescribed by Oregon DCs. The Hylands brand would be a good example of that. ■

Feds Issue New Guide

CONTINUED FROM PAGE 1

conclusions about the efficacy of the product. The dermatologist is subject to liability for the false statements she made in the advertisement. The advertiser is also liable for misrepresentations made through the endorsement.

Another example is a brochure for a baldness treatment consisting entirely of testimonials from satisfied customers who say that after using the product, they had amazing hair growth and their hair is as thick and strong as it was when they were teenagers. The advertiser must have competent and reliable scientific evidence that its product is effective in producing new hair growth. The ad must communicate that the endorsers’ experiences are representative of what new users of the product can generally expect. Thus, even if the advertiser includes a disclaimer the ad is likely to be deceptive unless the advertiser has adequate substantiation that new users typically will experience results similar to the testimonials.

Chiropractic clinic advertising is often the subject of complaints. If a consumer complains to the Board, the Oregon Board of Chiropractic Examiners statute provides that it is unlawful to

advertise making untruthful, improper, misleading or deceptive statements. It also prohibits the advertising of techniques or modalities to infer or imply superiority of treatment or diagnosis by the use thereof without conclusive proof to the satisfaction of the Board. Further, to advertise claiming superiority to, or a greater skill than, that possessed by other DCs that cannot be proven to the satisfaction of the Board is a violation.²

If a consumer complains to the Oregon Department of Justice, their Financial Fraud/Consumer Protection Section fosters competition in a free and fair marketplace by educating consumers and businesses, and by invoking the Attorney General’s civil enforcement authority to deter, stop, and punish unlawful conduct when education fails. Activities of the section include enforcement of the state’s Unlawful Trade Practices Act, commonly known as Oregon’s consumer protection law. Other direct responsibilities include enforcement of antitrust and telemarketing laws. Violation of the Unlawful Trade Practices Act could result in civil penalties of up to \$25,000 for each violation.³ ■

¹ 16 CFR Part 255 Federal Trade Commission; read the Federal Register Notice at www.ftc.gov/opa/2009/10/endortest.shtm.

² See ORS 684.100(1)(i)(j) and OAR 811-015-0045.

³ See ORS 646.632 and ORS 646.642.

Mentoring Experiences

Dan G. Winslow, DC

I'm Dan Winslow and have been a practicing chiropractor for over 25 years. I graduated from WSCC in the early 80's. I'm currently out in Clackamas. I also assist in giving the National Board Part IV Examination every six months. I completed my post graduate Orthopedic course work taught by Dr. Stonebrink at Western States in the late 80's and I also do IMEs on a semi-regular basis.

In 2006 Dave McTeague from OBCE contacted me and asked if I'd be part of "Oregon's Chiropractic Mentoring Program." (Mentoring may be a requirement of a disciplinary or voluntary agreement final order.) Frankly, I don't know what he was thinking when he decided to contact me. However, I agreed and I took on my first of four mentoring assignments and found out much to my surprise that I really enjoyed it!

Mentoring is an interesting combination of counseling, one on one tutoring, lecture format teaching, written format teaching....(Yes, with assignments!), and exchange of ideas for clinical assessment, treatment and record keeping with the doctor being mentored. It is extremely gratifying to observe growth and change for the better in a colleague who was essentially on the brink of being unable to practice and losing his or her license--to becoming a more competent and confident physician.

There is the inevitable 1st visit with the provider where I am received like a policeman knocking on the door. I inform them that "I am here to help" and then be patient with initial resistance, denial and frustration. My early background in working the hot lines at a crisis intervention clinic and working customer service at Smith's Home Furnishing with people going ballistic over washer machines comes in handy during these early sessions.

Eventually the doctor realizes that I really am there to help, and at times, I'm their last chance. They come to understand I take my mentoring



Dan Winslow DC

work seriously and if I cannot help with this particular physician's issues or clinical deficits, tend to take it personally. So at times I am hard nosed, but the doctor is usually aware that I am doing it for their benefit. I let them know that I am in their corner as much as I can be but I am also going to be taking a long critical look at their work and reflect my findings to the Board.

Last week one of the doctors that I work with told me that he not only hasn't received anymore IMEs since we started working on his documentation, but he also has not received any request for reports from insurance carriers and his billing is being paid in a more timely fashion from insurance carriers. This is music to my ears..... and it's why I do it! It's been a genuine honor and privilege to be part of this and I thank the Board for the opportunity.

If you're interested in assisting the OBCE with mentoring, please contact OBCE staff or myself. I know they need a few more mentors and it helps our profession too. ■

DC and CA Licensing, and Continuing Education

By Kelly Beringer



*Hello Doctors
and Chiropractic
Assistants,*

CA Initial Training. Beginning January 1, 2011, twelve hours of initial training will be required for chiropractic assistant certification (still less than the twenty proposed by the Federation of Chiropractic Licensing Boards). The OBCE adopted these new requirements at their May 27 meeting.

1) Eight hours will be didactic (book/lecture). The Board's goal is to standardize training for this portion. Online courses will also be allowed.

2) Four hours will be practical hands on training- taught by health professionals whose scope of practice allows them to independently perform the therapies. Doctors can still provide the practical training, but this must be direct and unfettered contact time.

This is changing for the following reasons:

- a. First and foremost, is the OBCE's concern that training be thorough (It was determined six hours is no longer sufficient) and is provided by qualified trainers, and that
- b. The rule needed to be clarified whether the training was practical or book training,
- c. On the national level, there is active discussion about creating clear national standards for chiropractic assistants, and
- d. In the future, insurance companies may deny payment for care provided

by "unqualified or unlicensed" providers (only nine states currently have CA licensure), hence the proposals to increase licensure and training.

Until January 1, 2011 a minimum of six hours training is required, and that four of those six hours must cover hydro-, physio- and electro- therapies. Please visit our home page or CA applicants page for any CA initial training updates: www.oregon.gov/obce or http://www.oregon.gov/OBCE/CCA_Applicants.shtml.

Online License Renewal. The OBCE is working to provide ONLINE License Renewals in the near future, working with the State Treasury and our IT professionals to develop a secure website to manage the payments and renewal information. In addition to renewing your license, and confirming your CE compliance, you will also be able to submit any contact changes (address or phone, clinic or home, etc.).

We expect that going to secure online licensing will be much more convenient to the licensees, and greatly increase the OBCE's efficiency in processing your licenses. Watch for more news about this change.

Unlicensed Practice. If you are a CA applicant and you have finished your initial training, but have not yet applied; you may NOT provide any therapies until you do apply and have your CA certificate in hand. The board is seeing more complaints in this regard. Do not be a statistic.

Thanks. Oh, in closing, I want to thank the Board for presenting me with a wonderful plaque for my 20 years service. I'm sure I'll be here for at least another ten! It continues to be a wonderful experience working with, and for, all of you. Thank you. ■

OBCE Public Protection Update

October 14, 2009 to June 10, 2010

Final Actions

Christopher McCutcheon. Final Order by Default. for \$10,000 civil penalty for unlicensed practice of chiropractic (Alphabiotic/Crane Condyle Lift) in Klamath Falls, Oregon. Violations of ORS 684.015 and OAR 811-010-0120. (6/22/10)

Jesse Hickerson CA applicant. Final Order. Application denied due to a history of drug convictions and probation violations. The amount of criminal convictions warrants refusal for certificate as a conviction of misdemeanor involving moral turpitude or a felony conviction in violation of OAR 811-010-0110(14)(c). (6/4/2010)

Heidi Walter CA, Final Order by Default. Revocation of CA certificate for taking patient information from Clinic 1 where she worked until she left that position in 2007. The information was taken without the authority of the patients or clinic owner and was found in Licensee's workspace in Clinic 2 after her departure from that clinic. Violations of OAR 811-010-0110 (14)(a) (unlawful disclosure of patient information) and (15)(k) (practice that is harmful to the public), OAR 811-035-0015(11) and ORS 684.100(1)(f)(A). (5/27/2010)

Thomas F. Miller DC, Stipulated Final Order. \$2,000 Civil Penalty & Letter of Reprimand (also includes separate Assurance of Voluntary Compliance with Oregon Department of Justice). Licensee's advertising claims for spinal decompression were not accurate and not conclusively proven to the satisfaction of the Board. Licensee failed to include the designation "chiropractor," "chiropractic physician" or "chiropractic" in his August 24, 2009 advertisement in The Oregonian. Violations of ORS 684.100 (1)(i),(L) and OAR 811-015-0045 (3). (4/28/2010)

Timothy Goulart DC, Final Order by Default. \$500 civil penalty, Licensee failed to identify his profession on this advertisement in both oral or written formats. By referring to himself as Dr. (only), Licensee is not fulfilling the requirements

of the Oregon Doctor's Title Act which requires use of the terms, "chiropractor," "chiropractic physician," or presumably "chiropractic" in reference to a clinic in connection with all advertising. Violations of OAR 811-015-0045 (2), (3) and the Oregon Doctors' Title Act, ORS 676.110 (4/16/2010)

Jennifer Molinar, CA applicant. Consent Agreement. Conditions on Chiropractic Assistant certificate to inform current and prospective chiropractic employers of her 2007 conviction for Theft 1. (3/22/2010)

Brent Warner DC, Final Order. 120 day suspension, three year probation, PROBE ethics program, \$5,000 civil penalty, and \$9532 cost recovery; for sexual relations with a patient, failure to keep chart notes and failure to cooperate with a board investigation. Violations of ORS 684.100 (1)(g)(A), OAR 811-035-0015(1)(b)-(e), OAR 811-015-0005(1), 811-035-0015(19) and (20). (3/24/2010)

Michael Hopkins DC, Stipulated Final Order. 120 day license suspension, three year probation with chaperone requirement when treating female patients, PROBE ethics program and \$5,000 civil penalty. Violations of ORS 684.100 (1)(f)(A), OAR 811-035-0015(1)(a)-(e), OAR 811-010-0005(4), OAR 811-015-0005 (1) and OAR 811-035-0015(11). (2/3/2010)

Jarl D. Tuffli DC, Suspension of License for failure to pay child support. Violations of ORS 25.750 to ORS 25.783. (2/1/2010)

Randall Ojua, CA applicant, Final Order by Default. Denial of CA application due to previous disciplinary order as a massage therapist for boundary violations and untruthful response to a question regarding his history on his application. Violations of OAR 811-010-0110(15)(p), OAR 811-010-0110(14)(a) and (15). (1/26/2010)

CONTINUED ON PAGE 12

OBCE Update *CONTINUED FROM PAGE 11*

Miranda Acevedo, CA applicant. Consent Agreement. Conditions on Chiropractic Assistant certificate to inform current and prospective chiropractic employers of her 2003 conviction for identity theft, theft in the first degree and forgery. (12/31/2009)

Jonah Buttler CA. Consent Order. Condition on chiropractic assistant certification to disclose his misdemeanor conviction for theft and 2009 probation violation history to any present and future chiropractic employer. (12/23/2009)

Tory Naugle DC. Stipulated Final Order. Three year probation, \$5,000 civil penalty, and 12 hours additional continuing education on ethics and boundaries, and must complete the PROBE ethics program within one year for boundary violations. Violations of ORS 684.100 (1)(f)(A), and OAR 811-035-0015(1)(a)-(e). (12/10/2009)

Esmeralda Salinas, CA Applicant. Consent Agreement. Conditions on Chiropractic Assistant certificate to inform current and prospective chiropractic employers of her 2006 conviction for delivery of a controlled substance and child endangerment. (12/10/2009)

David Bohrer DC. Stipulated Final Order provides licensee may return to practice, a five-year probation with conditions including one-year additional out-patient treatment for substance abuse, NA meetings, random UAs and meetings with the OBCE. This order resolves the previous Notice to Revoke and the Consent Order. (11/23/2009)

New Proposed Actions

Case # 2009-1031, 2009-1032. Proposed Letter of Reprimand, \$5000 civil penalty, and random file reviews for a period of 3 years. Alleged violations of ORS 684.100(g)(A)(B), OAR 811-015-0005(1)(a)(b); OAR 811-015-0010(3); OAR 811-035-0005(4), OAR 811-030-0030(2)(d) and OAR 811-035-0015(12) for upcoding, below standard chart notes and lack of clinical justification. (1/27/2010)

Case # 2010-5002. Proposed conditions on chiropractic assistant certificate to inform current and prospective chiropractic employers (and random UAs) of her misdemeanor conviction for obtaining controlled substances under a false premise. (2/17/2010)

Case 2010-5005. Proposed new conditions on inactive chiropractic license for violating terms of an earlier Consent Order and a recent DUII conviction. Licensee must abide by terms of probation in Arizona and other conditions. (6/10/2010)

Case # 2010-5003. Notice of Proposed Conditions on CA Certificate for chiropractic employer notification and \$250 civil penalty. Applicant failed to answer application questions correctly regarding his arrest and criminal charges. Alleged violations of OAR 811-010-0110(15) (p) and (s). (6/7/2010)

Case 2010-5004. Oregon Department of Revenue requested license suspension for failure to pay state taxes. The OBCE is obligated to issue a Notice of Proposed Suspension pursuant to ORS 305.385(4) (c). (6/4/2010)

Case # 2010-1002. Proposed license revocation for failure to maintain minimally acceptable patient records and release those patient records when provided with a proper request. Licensee was previously disciplined for failure to release records. Alleged violations of OAR 811-015-0006 (1) and ORS 684.100 (1)(t). (3/24/2010)

Case # 2009-2003. Proposed license revocation for untruthful answers to renewal form questions about disciplinary actions against Licensee in Arizona. Alleged violations of ORS 684.100 (1)(a),(s) and OAR 811-035-0015(16). (1/25/2010)

Case # 2009-3024. Proposed Letter of Reprimand, \$5000 civil penalty. Proposed Letter of Reprimand, \$5000 civil penalty, and a permanent condition that prohibits Licensee from providing six hours initial training to any prospective chiropractic assistant. Alleged violations of ORS 684.100 (1)(f) and (n); OAR 811-035-0015(3) and (10), and OAR 811-010-0110 (2) and (16) for unlicensed practice of a chiropractic assistant. (1/25/2010)

CONTINUED ON PAGE 13

OBCE Update *CONTINUED FROM PAGE 12*

Michael B. Currie DC. Case 2009-1029 Proposed license revocation. The allegations include unprofessional conduct towards and inappropriate sexual contact with patients, or acting in a way that could reasonably be interpreted as sexual towards a patient, and habitual use of controlled substances to which causes to incapacitate the person from performance of professional duties. Licensee poses a great threat to the community and his patients in his habitual use of drugs and/or alcohol and his continued escalation of criminal conduct. Licensee has also failed to cooperate with the Board during the investigation of this matter by threatening them and Board staff. Licensee has continued his criminal conduct in that since October 2009; he has been arrested over six separate occasions. Licensee has further endangered the public and his patients by continuing to practice chiropractic while he was on emergency suspension. In addition, he caused injury to a patient during treatment due to acting outside the standard of care. Alleged violations of ORS 684.020, 684.100(1)(f), (g) and (A) and OAR 811-035-0015(1)(a) – (c), (9), (13), (14), (20) and (23). (1/28/2010) An emergency suspension was issued on 12/11/2009.

Case # 2009-3010. Proposed Letter of Reprimand and six hours CE relating to x-ray equipment, use and procedures, and patient file reviews for one year. Alleged violations for insufficient or lack of collimation for X-ray views (ORS 684.100(1)(g)(A), OAR 811-030-0020 and OAR 811-030-0030, lack of breast shielding on 12 year old female patient (violates ORS 684.100(1)(g)(A) and (B) and OAR 811-030-0030), and lack of understanding of the clinical justification for radiographic examinations (684.100(1)(g)(A) and (B), OAR 811-035-0005(1), OAR 811-035-0015), and allowing chiropractic assistants or other office staff to take initial patient histories (ORS 684.100(1)(g)(B) and OAR 811-010-0110(7)). (12/7/2009)

Gregory Moll DC, Case # 2009-5007. Amended Proposed Order (18 month suspension, five year probation with chaperone, NBCE Ethics & Boundary Examination; and no dating patients for two years following patient termination, other provisions; boundary violations and unprofessional conduct towards female patients, failure to keep chart notes, other violations. Alleged violations of ORS 684.100 (1)(g)(A), OAR 811-035-0015(1)(a)-(e) and (11), ORS 684.025(3) and OAR 811-015-0005. (9/22/2009, amended 6/14/2010)

(The OBCE's policy is to not publish in the BackTalk respondent names for proposed orders, except for sexual misconduct/boundary issues)

Other Orders

Cascade Success Systems, CE video courses for pain management & evidence based outcomes measures (EBOM) disapproved in part. Vendor's two-hour EBOM video course is approved for one hour only and the remaining hour is disapproved. Vendor's six-hour Pain Management video course is approved for two hours only and the remaining four hours are disapproved. All the hours must be taken for the credit to count. The Board determined much of the course was not on topic. (OAR 811-015-0025). (1/13/2010)

Dismissed Complaints

For this reporting period there were findings of 10 No Statutory Violation (N.S.V.), 7 Case Closed and 2 Insufficient Evidence (I.E.). A total of 38 complaints were closed during this period.

NEW LICENSED DCs

Oct 17 2009 to June 8 2010

Rachel M. Bailey
Karen J. Baranick
Ann-Marie Barter
Mark A. Betsill
Robert D. Bodner
Christopher W. Browne
Maurice N. Cephus II
Thomas A. Cloutier
Nathan M. Cokeley
Jared D. Davis
James K. Davis
Douglas R. deVries
Alan F. Dinehart
Marcus J. Dorsey
Stefanie S. Fuess
Laura E. Gardiner
Travis W. Gerhart
Kara Giaier
Kenneth A. Gough
Joseph J. Hamlin
Heymi Hamlin

Ryan M. Hatch
John R. Hayslip
Nicole L. Holton
Cory A. Imhof
Cameron K. Johnson
James C. Lahoe
Taura M. Lemmon
Leif L. Lensgraf
Jamie M. Lenz
Bari Liebowitz
Daniel A. Lujan
Lori K. Mace
Mark E. Machala
Sabrina J. Marcus
James H. Mayne
Jonathan W. McClaren
Sonjia I. Michaels
Aaron G. Montgomery
Molly S. Ouellette
Joshua S. Pettigrew
William L. Pleau

Brian A. Polvi
Kathryn M. Ross
Alex B. Sandrow
Sean A. Scaramuzzo
Milaka Stringham
Joanna R. Sutton
Gideon M. Tarnasky
Zachary E. Taylor
Kip W. Thompson
Joseph E. Vance
Marcelino M. Vera Ramirez
Eric B. Vermander
Robin L. Voorhees
Megan M. Wagner
Craig N. Walker
Jordan D. Weeda
Devin V. Williams
Joshua R. Wolfram
Theresa J. Ycasas
John M. Zoscak III

Please share BackTalk with your Chiropractic Assistants and Staff.



BackTalk

Oregon Board of
Chiropractic Examiners
3218 Pringle Road SE, Suite 150
Salem, OR 97302-6311
www.oregon.gov/obce