

**BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel.)
 BOARD OF CHIROPRACTIC EXAMINERS,)
)
 Plaintiff,)
)
 Vs.)
)
 Tracy Ellis, D.C. License #3509)
)
 Respondent.)

Case No. 041-2004,046-2004
 038-2005,045-2005,046-2005
 005-2006,012-2006,016-2006,
 018-2006,024-2006,031-2006,
 032-2006,033-2006.

FINAL ORDER

On the 28th day of November, 2006, the Oklahoma State Board of Chiropractic Examiners (hereinafter the "Board") by and through its legal counsel, P. Kay Floyd, and Respondent, being present and represented by legal counsel, Frank Gatewood, do hereby submit the following Consent Agreement, Findings of Fact, Conclusions of Law, and Final Order (collectively the "Final Order") to the Board and request the acceptance of same pursuant to 75 O.S. Section 308(a) *et seq.*, 59 O.S. Section 161 *et seq.* and OAC 140: 1-1-1 *et seq.*

CONSENT AGREEMENT

Respondent understands and agrees that:

1. This Final Order is subject to the Board's approval and will be effective only when the Board accepts it. Should the Board, in its discretion, not approve this Final Order, the Final Order is withdrawn and shall be of no evidentiary value, nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except that Respondent agrees that should the Board reject the Final Order and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.
2. Respondent has the right to a formal administrative hearing at which time he may present evidence and cross examine the Board's witnesses. Respondent hereby irrevocably waives his right to such formal hearing concerning these allegations and irrevocably waives his right to any rehearing or judicial review relating to the allegations contained in this Final Order.
3. Respondent has the right to consult an attorney prior to entering into this Final Order and Respondent has done

sq.

4. Any record prepared in this matter, all investigative materials prepared or received by the Board concerning the allegations, and all related materials and exhibits may be retained in the Board's file.
5. Respondent understands that once the Board approves and adopts this Final Order, it shall constitute a public record that may be disseminated as a formal action of the Board.

FINDINGS OF FACT

1. REGARDING COMPLAINT 041-2004: The Board finds that in November, 2004, Respondent treated patient Robert F. who came to Respondent's office after reading a newspaper advertisement. The advertisement was misleading, false, deceptive and incorrect and created unjust expectations of results. Patient was assured and promised his low back pain would be cured and that his pain would not return, when, in fact, his low back pain was never relieved. Patient was assured and given a personal promise of "100% money back guarantee if not satisfied or the pain was not relieved." At the time of his initial visit or thereafter there were no written or verbal stipulations applied or explained to Patient. In addition, when Patient requested copies of his records, such records were not produced by Respondent. Lastly, records later obtained from the Respondent indicate poor and incomplete health documentation of examination procedures and treatments.

2. REGARDING COMPLAINT 045-2005: The Board finds that in November 2003, Respondent began seeing a Patient Adelma T. who continued treatment through April 2004. During the time of her treatment, Patient signed a "Service Agreement" which guaranteed her money back and stating that the patient was to receive a \$1,100.00 courteous discount, which Patient did not receive. In June 2004, Patient provided a letter to Respondent and requested a refund from Respondent, which was refused. A review of Patient records indicates said records are extremely deficient and contains no physical examination records. Billing statements reviewed indicate 30 minutes of therapeutic exercises, but no records justify the charges or state what service was provided. Lastly, during the five months that the Patient went to Respondent, Patient was actually treated by office staff. Respondent was not present before or during any of her treatments.

3. REGARDING COMPLAINT 046-2005: The Board finds that in September, 2005, Respondent saw

Patient Shirley S. performing mechanical traction and thirty minutes of therapeutic exercise on the Patient. Medical records of this Patient shows that Respondent was not present during the treatment and that Patient was put on the machine by office staff then left alone. The process took ten minutes, however, Respondent billed for thirty minutes of rehabilitation. In addition, Respondent misleads Patient into believing that he accepted Blue Cross Blue Shield insurance when in fact Respondent is not an "in network" provider. Respondent mislead Patient into thinking Patient's insurance would pay for all \$4,820.00 which was financed at a rate of 27.99% interest. Lastly, a review of Patient's medical records shows that the records are extremely deficient and incomplete with no daily notes, examination or x-ray findings.

4. REGARDING COMPLAINT 046-2004: The Board finds that Respondent saw Patient Brint G. during the months of September and October 2004. Thereafter, Respondent submitted billing and insurance claims to Patient's insurance company for treatment to Patient, which was not rendered. A review of Patient's records indicate poor and incomplete documentation of health records regarding individual examination intake, daily treatment, service records, and re-examination documents. Lastly, Respondent refused to provide Patient with his medical records in a timely manner.

5. REGARDING COMPLAINT 038-2005: The Board finds that Respondent treated Patient Dorothy D. in August 2005. Respondent and his staff told patient that her insurance would not cover chiropractic services when, in fact, her insurance policy would have covered chiropractic care. Respondent further failed to communicate the outcome assessment of her condition with the patient and led her to believe that the only way she could be treated was if she prepaid \$5,900.00 for Respondent's "special" decompression program. Respondent also charged Patient twice for the same treatment. Lastly, a review of Patient's records shows Respondent failed to keep proper documentation of patient's examinations and inadequately diagnosed her presenting condition during the initial evaluation.

6. REGARDING COMPLAINT 005-2006: The Board finds that Respondent treated Patient Lois B. in November 2005. Patient, who had seen Respondent's advertisement in the newspaper, was given misleading and false information regarding reimbursement by her insurance company. In addition, Respondent told Patient that her insurance company would reimburse her for out of pocket expenses, than failed to properly file the necessary claims for Patient to be reimbursed. Lastly, Respondent saw Patient only one time during the first treatment and thereafter,

all treatments were administered by Respondent's staff.

7. REGARDING COMPLAINT 012-2006: The Board finds that Patient Claude H. received treatment from Respondent in September, 2005 after seeing Respondent's advertisement in the newspaper. Respondent did not attend to Patient, but rather staff members at Respondent's clinic treated the Patient. Respondent gave misleading and false information to Patient regarding reimbursement by his insurance company. In addition, a review of Patient's medical records shows poor and incomplete documentation of the initial examination, intake, daily treatment and service records and re-examination documents.

8. REGARDING COMPLAINT 016-2006: The Board finds that after seeing Respondent's advertisement in the newspaper, Patient George P. went to Respondent in August, 2005. Respondent purposely misrepresented that he was an "in network provider" for Patient's health insurance. Respondent filed medical reports and insurance forms claiming manipulation therapy when in fact Respondent performed laser therapy on the Patient. Respondent failed to send the appropriate insurance information regarding treatments to Patient's insurance company in a timely manner resulting in delay of reimbursement to Patient. Respondent was never present during treatments for assessment or evaluation of Patient and during the course of being treated with a "tens" machine, Patient was treated with electrodes from the same package as used on other patients.

9. REGARDING COMPLAINT 018-2006: The Board finds that Patient Bobbie C. saw Respondent's advertisement in the newspaper and began going to Respondent for treatments in July, 2005. Respondent submitted inappropriate charges to the insurance company for services not actually performed to cover costs of non-covered services. Respondent failed to release itemized statements of billing charges or therapy's and treatments to Patient. Respondent billed for services and submitted said billings to an insurance company for dates not corresponding with actual dates of service to the Patient. Respondent gave misleading and false information in his advertisement. Respondent failed to attend to his patient, but rather allowed staff to do treatments on patients.

10. REGARDING COMPLAINT 024-2006: The Board finds that after seeing Respondent's newspaper advertisement, Patient Raymond W. began treatment with Respondent in January, 2006. Respondent "guaranteed" that the Patient would be pain free after twenty treatments. Respondent submitted inappropriate billing codes to the insurance company for services not actually performed in order to cover cost of non-covered therapy. Respondent delayed in itemizing a list of therapy services rendered and failed to respond to Patient's request for production of

records and documents. A review of Patient's medical records also shows poor documentation of examination records and poor and incomplete health records of examination, procedures and daily treatments.

11. REGARDING COMPLAINT 032-2006: The Board finds that after reading an advertisement in the newspaper, Patient James A. began treatment with Respondent in June, 2006. Respondent's staff treated Patient five times on June 15, 2006 and five times on June 16, 2006 without Respondent being present. In addition, Respondent maintained poor and incomplete health documentation and records of examination procedures and treatments of Patient. Lastly, Respondent misrepresented to Patient the extent to which treatments could assist Patient and misrepresented to Patient the cost of such treatments and insurance reimbursement.

12. REGARDING COMPLAINT 031-2006: The Board finds that after seeing Respondent's advertisement in the newspaper, Patient Ronald E. began treatment with Respondent in April, 2006. Respondent's staff treated Patient four times each day Patient went in for treatment. Staff at the clinic told Patient each time he asked for the Respondent that Respondent was not in the clinic. Respondent misrepresented the benefits of the decompression therapy, which he offered in his advertisement, failed to attend his patient, and allowed unnecessary and excessive treatments of his patient.

13. REGARDING COMPLAINT 033-2006: The Board finds that after seeing an advertisement placed in the paper by Respondent, Patient Daniel H. began treatment with Respondent in November, 2005. Respondent misrepresented to Patient the total cost of the treatments and overcharged Patient. Respondent also told Patient that Patient's insurance would reimburse 80% of treatment costs, which was false. Respondent failed to provide records to Patient even though Patient requested records (in writing) three times from Respondent. When records were provided consultation history was illegible, x-rays were not included, copies of billings to Patient's insurer were not included and official descriptions of CPT services were not included. Lastly, Respondent submitted to insurer claims for service of treatment, which was not actually provided to the Patient.

CONCLUSIONS OF LAW

14. The conduct and circumstances described in paragraph 1 of the Findings of Fact regarding Complaint 041-2004 constitutes violations by Respondent of the following:

Violation of the Code of Ethics OAC 140:15-7-5 (8):

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules and judicial decisions in connection with professional advertising.

Violation of 59 O.S. § 161.12(B)(3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section (B)(3): Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B)(13):

Section (B)(13): Violating any of the rules of the Board.

Violation of the Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation or deception.

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

15. The conduct and circumstances described in paragraph 2 of the Findings of Fact regarding Complaint 045-2005 constitutes violations by Respondent of the following:

Violation of the Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules and judicial decisions in connection with professional advertising.

Violation of the Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception.

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12(B)(3): Advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain highest standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possess enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment

Violation of 59 OS 161.12 (B)(4)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4): Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

16. The conduct and circumstances described in paragraph 3 of the Findings of Fact regarding Complaint 046-2005 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules, and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception.

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section (B)(3) Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

Violation of Code of Ethics, OAC 140:15-7-5(12) (F)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes... (F)
Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so.

Violation of Code of Ethics, OAC 140:15-7-5(12) (G)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception, which includes.... (G)
Submitting to any patient, insurer or third party payer a claim for a service or treatment, which was not actually provided to a patient.

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well being of their patients, but should avoid unnecessary treatments.

Violation of 59 O.S. § 161.12(B)(3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4) :
Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

17. The conduct and circumstances described in paragraph 4 of the Findings of Fact regarding
Complaint 046-2004 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possess enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such

treatment.

Violation of Code of Ethics, OAC 140:15-7-5(12) (F)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes... (F)
Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so...

Violation of Code of Ethics, OAC 140:15-7-5(12)(G)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (G)
Submitting to any patient, insurer or third party payer a claim for service or treatment which was not actually provided to a patient.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

18. The conduct and circumstances described in paragraph 5 of the Findings of Fact regarding Complaint 038-2005 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such

treatment.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

19. The conduct and circumstances described in paragraph 6 of the Findings of Fact regarding Complaint 005-2006 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possess enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectation of results. Chiropractic physicians shall conform to all applicable state laws, rules, and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(120)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of 59 O.S. § 161.12(B) 93)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section (B)(3): Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B)(4)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4) : Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

20. The conduct and circumstances described in paragraph 7 of the Findings of Fact regarding Complaint 012-2006 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal and morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of the Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the

penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12(B)(3):

Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B) (13)

Section (B) (13): Violating any of the rules of the Board.

Violation of the Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of 59 O.S. § 161.12(B)(4)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4) : Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

21. The conduct and circumstances described in paragraph 8 of the Findings of Fact regarding Complaint 016-2006 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:150-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest of standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regards to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to applicable state laws, rules and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of Code of Ethics, OAC 140:15-7-5(12) (F)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (F)
Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so...

Violation of Code of Ethics, OAC 140:15-7-5(12) (G)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (G)
Submitting to any patient, insurer or third party payer a claim for a service or treatment which was not actually provided to a patient.

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalty specified in subsection A of this section may be imposed by order of the Board: Section (B)(3): Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B)(4)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4) :
Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

22. The conduct and circumstances described in paragraph 9 of the Findings of Fact regarding Complaint 018-2006 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules, and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of Code of Ethics, OAC 140:15-7-5(12) (F)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (F)

Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so...

Violation of Code of Ethics, OAC 140:15-7-5(12) (G)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (G)

Submitting to any patient, insurer or third party payer a claim for a service or treatment which was not actually provided to a patient.

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalty specified subsection A of this section may be imposed by order of the Board: Section 161.12(B)(3): Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B)(4)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4) : Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

23. The conduct and circumstances described in paragraph 10 of the Findings of Fact regarding Complaint 024-2006 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false, or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules, and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of Code of Ethics, OAC 140:15-7-5(12) (F)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (F)
Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so...

Violation of Code of Ethics, OAC 140:15-7-5(12) (G)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (G)
Submitting to any patient, insurer or third party payer a claim for a service or treatment which was not actually provided to a patient.

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal and morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalty specified in subsection A of this section may be imposed by order of the Board: Section 161.12(B)(3): Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violation of any of the rules of the Board.

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

24. The conduct and circumstances described in paragraph 11 of the Findings of Fact regarding Complaint 032-2006 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence.

Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest of standards of professional and personal conduct and shall refrain from all illegal or morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend to their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of 59 O.S. § 161.12(B)(3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalty specified in subsection A of this section may be imposed by order of the Board: Section 161.12(B)(3): Using

advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B)(4)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4) : Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

Violation of 59 O.S. § 161.12(B)(13)

Section 161.12(B) (13): Violating any of the rules of the Board.

25. The conduct and circumstances described in paragraph 12 of the Findings of Fact regarding Complaint 031-2006 constitutes violations by Respondent of the following:

Violation of Code , OAC 140:15-7-5(1)

Chiropractic physicians shall attend to their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal and morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(12) (F)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (F)
 Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so...

Violation of Code of Ethics, OAC 140:15-7-5(12) (G)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (G)
 Submitting to any patient, insurer or third party payer a claim for a service or treatment which was not actually provided to a patient.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalty specified in subsection A of this section may be imposed by order of the Board: Section 161.12(B)(3): Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

Violation of 59 O.S. § 161.12(B)(4)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalties specified in subsection A of this section may be imposed by order of the Board: Section 161.12 (B)(4) : Aiding or abetting any person not licensed to practice chiropractic in the state to practice chiropractic, except students who are regularly enrolled in an accredited chiropractic college.

26. The conduct and circumstances described in paragraph 13 of the Findings of Fact regarding Complaint 033-2006 constitutes violations by Respondent of the following:

Violation of Code of Ethics, OAC 140:15-7-5(1)

Chiropractic physicians shall attend to their patients as often as they consider necessary to ensure the well-being of their patients, but should avoid unnecessary treatments.

Violation of Code of Ethics, OAC 140:15-7-5(3)

Chiropractic physicians shall comply with the patient's authorization to provide records, or copies of such

records, to those persons whom the patient designates as authorized to inspect or receive all or part of such records.

Violation of Code of Ethics, OAC 140:15-7-5(5)

Chiropractic physicians shall maintain the highest standards of professional and personal conduct and shall refrain from all illegal and morally reprehensible conduct.

Violation of Code of Ethics, OAC 140:15-7-5(6)

Chiropractic physicians shall assure that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient shall make his or her own determination on such treatment.

Violation of Code of Ethics, OAC 140:15-7-5(8)

Chiropractic physicians may advertise but shall exercise utmost care that such advertising is relevant to the selection of a chiropractic physician, is accurate, truthful, not misleading, false or deceptive, and is scrupulously correct in representing the chiropractic physician's professional status and area of special competence. Communications to the public shall not appeal primarily to an individual's anxiety or create unjustified expectations of results. Chiropractic physicians shall conform to all applicable state laws, rules and judicial decisions in connection with professional advertising.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of Code of Ethics, OAC 140:15-7-5(12) (F)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (F)
Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so...

Violation of Code of Ethics, OAC 140:15-7-5(12) (G)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception which includes.... (G)
Submitting to any patient, insurer or third party payer a claim for a service or treatment which was not actually provided to a patient.

Violation of Code of Ethics, OAC 140:15-7-5(12)

Chiropractic physicians shall not commit fraud, misrepresentation, or deception...

Violation of 59 O.S. § 161.12(B) (3)

The following acts or occurrences by a chiropractic physician shall constitute grounds for which the penalty specified in subsection A of this section may be imposed by order of the Board: Section 161.12(B)(3): Using advertising in which statements are made that are fraudulent, deceitful, or misleading to the public.

Violation of 59 O.S. § 161.12(B) (13)

Section 161.12(B) (13): Violating any of the rules of the Board.

27. The Board has jurisdiction of the parties and subject matter of this action pursuant to 59 O.S. section 161.12.

28. Any finding of fact which is properly a conclusion of law is incorporated herein as a conclusion of law.

ORDER

Based upon the above Consent Agreement, Findings of Fact and Conclusions of Law, the following Order is issued:

1. The Respondent's Oklahoma License 3509 is hereby revoked. Respondent will not be eligible for reinstatement of his license for a period of three (3) years from the date of this Order.
2. Respondent agrees that during the three (3) year revocation period, he will continue to complete the sixteen (16) hours of mandatory continuing education required of all licensed chiropractors pursuant to 59 O.S. section 161. *et seq* and OAC 140: 1-1-1 *et seq*.
3. Respondent agrees to take an additional twelve (12) hours of continuing education each year of the three (3) year revocation period. Respondent must submit the course information for each course Respondent will take to complete the additional twelve (12) hours to the Board for approval prior to attending the course. All costs of attending the courses will be the responsibility of the Respondent and will be paid for by the Respondent. Attending the additional twelve (12) of continuing education will not count toward fulfillment of the sixteen (16) hours of mandatory continuing education required pursuant to 59 O.S. section 161. *et seq* and OAC 140 1-1-1 *et seq*.
4. If at the end of the three-year revocation period referenced above, Respondent request reinstatement of his license, such reinstatement agreement will include the condition that Respondent be placed on probation for a period of two (2) years. During that probation, Respondent shall submit to random audits of his patient and billing records at such times as the Board, in its sole discretion, shall deem appropriate. If the audits are ordered by the Board to be

conducted by an auditor, such auditor shall be approved by the Board prior to being hired by Respondent to conduct the audit. The auditor shall submit a report of his/her findings directly to the Board within fourteen (14) days of the conclusion of the audit. The costs of the audit will be the responsibility of the Respondent.

5. If, at the end of the three-year revocation period referenced above, Respondent request reinstatement of his license and Respondent has successfully completed all the terms of this Order, including completion of all continuing education requirements, Respondent will not be required to retake parts I, II, III, IV, or physiotherapy as administered by the National Board of Chiropractic Examiners.

6. Respondent is ordered to pay \$30,000.00 in fines and costs as designated by the Board within ¹⁰three (3) days of the issuing of the Order.

7. In the event that Respondent violates any of the terms of this Order or if any of the reports submitted to the Board by the auditor indicate that Respondents conduct is not in compliance with the Act and/ or the Rules of the Board, the Board may take disciplinary action as authorized by law.

8. Respondent shall bear the full costs of complying with the terms and conditions set forth in this Order.

9. This Final Order shall be effective on the date of entry and signature set forth below.

only \$2500.00 for Tracy's work
IT IS SO ORDERED THIS _____ DAY OF NOVEMBER 2006.

Dr. Ronald Tripp, President

Oklahoma Board of Chiropractic Examiners

P. Kay Floyd

P. Kay Floyd, Attorney for the Board

Frank Gatewood

Frank Gatewood, Attorney for Respondent Tracy Ellis

Tracy Ellis

Tracy Ellis, D.C.