

BEFORE THE OKLAHOMA BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of)	
)	
BERNARD FUH, D.C.)	Complaint No. 15-2017
License No. 3705,)	
)	
Respondent.)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUMMARY ORDER

This matter came before the Oklahoma Board of Chiropractic Examiners (the “Board”) on **June 1, 2017**. The State appeared by and through Assistant Attorney General Martha R. Kulmacz. The Board advisor was Assistant Attorney General Grant Moak. The Board members participating were: **Dr. Christopher Waddell, Dr. Amanda Miller, Dr. Heath Travis, Dr. Matt Aguilar, Dr. Troy Sturgill.**

After reviewing the Advisory Committee Report regarding consumer-filed complaint No. 15-2017, and hearing argument of counsel, the Board hereby makes the following findings, conclusions and summary order pursuant to OAC 140:3-3-6.

FINDINGS OF FACT

1. Respondent is a chiropractic physician holding license no. 3705.
2. Respondent holds Injectable Certification No. 517.
3. Complaint No. 15-2017 was filed by a patient’s wife who alleges that Respondent prescribed and injected various drugs and chemicals for and/or into her husband’s body. The husband is a cancer patient. Respondent had led the patient to believe the injections were being conducted in a safe and sterile manner and that Respondent was authorized to administer them. However, an injection site became necrotic and the patient was placed in the hospital on or about

May 16, 2017. It appears from the complaint that the patient did not understand the nature and quality of the drugs and chemicals being administered.

3. The Advisory Committee member assigned to investigate conducted an onsite review of Respondent's office on May 24, 2017, and spoke with Respondent. The member found very unsanitary conditions in the area where injectables were being mixed and administered. There was no Laminar Flow Hood, no sterile preparation area, and the flooring was carpet. OSHA rules require chiropractic clinics to be maintained in a clean and sanitary condition.

4. Certain drugs and chemicals identified in the complaint as being prescribed or administered to the patient by Respondent do not fall within the category of vitamins, minerals or nutritional supplements. The legend drugs included azulfadine, metformin and prednisone, which were ordered by the chiropractic clinic using the DEA license of an osteopathic physician ("DO"). The patient contends he was never seen by the DO. The DO states the DO never met or examined the patient. The patient's wife states that on or about May 18, 2017, the DO contacted her and told her that the DO did not see the patient, did not review the patient's chart, did not authorize the patient's prescriptions, and had not worked at the chiropractic clinic in 3 months. Respondent has not yet filed a written response, but verbally stated that the DO's last paycheck was picked up on May 22, 2017.

5. It was the unanimous opinion of the Advisory Committee that there is sufficient evidence and reasonable cause to support the allegations in the complaint, and that public health, safety, and welfare imperatively requires emergency action.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter under the Oklahoma Chiropractic Practice Act ("Act") (59 O.S. § 161.1 *et seq.*) Applicable provisions of the Act and Board rules include the following:

59 O.S. § 161.12 - Grounds for Imposing Penalties.

* * *

B. 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:

* * *

7. Unlawfully possessing, prescribing or administering any drug, medicine, serum or vaccine. This section shall not prevent a chiropractic physician from possessing, prescribing or administering, by a needle or otherwise, vitamins, minerals or nutritional supplements, or from practicing within the scope of the science and art of chiropractic as defined in Section 161.2 of this title;

* * *

12. Violating any provision of the Oklahoma Chiropractic Practice Act; or

13. Violating any of the rules of the Board.

OAC 140:15-7-5. Code of Ethics

There is hereby created the "Oklahoma Chiropractic Code of Ethics". This Code of Ethics is based upon the fundamental principle that the ultimate end and objective of the chiropractic physician's professional services and effort should be: "The greatest good for the patient."

* * *

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

(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;