

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

State of Oklahoma, ex rel. Oklahoma
Board of Chiropractic Examiners,
Plaintiff,

v.

David Dick, D.C.,
Respondent.

Case No. 031-2007 and 004-2010

FINAL ORDER

On this 24 day of August, 2010, the Oklahoma State Board of Chiropractic Examiners (hereinafter "the Board") by and through its legal counsel, P. Kay Floyd, and Respondent, by and through his legal counsel, James Secrest, 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 the same pursuant to 75 O.S. Section 208(a) *et seq.*, 59 O.S. Section 161 *et seq.* and OAC 140:1-1-1 *et seq.*

CONSENT AGREEMENT

Respondent, David Dick, D.C., a licensed chiropractic physician in the State of Oklahoma understands and agrees that:

1. Respondent has the right to a formal administrative hearing at which time he can present evidence and cross examine the Board's witnesses. Respondent hereby irrevocably waives his right to such a 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. Respondent does not waive his right to formal hearing, rehearing, or judicial review with regard to any allegations not made in this Final Order.

2. Respondent has the right to consult with an attorney prior to entering into this Final Order and Respondent has done so.

3. The findings contained in the Findings of Fact portion of this Final Order are conclusive evidence of the facts stated herein and may be used for the purposes of determining sanctions in any future disciplinary matter.

4. Respondent understands that following the Board's approval of this Final Order on August 24, 2010, this Final Order constituted a public record that may be disseminated as a formal action of the Board.

5. Any record prepared in the 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.

FINDINGS OF FACT

1. Respondent is licensed to practice chiropractic in the State of Oklahoma.

2. Chiropractors in the State of Oklahoma are required to provide medical records to patients within twenty-one (21) days of patient's request for records.

3. Respondent failed to provide records to Patient R.P. within twenty-one (21) days of patient's request for records.

4. Respondent failed to provide records to former Patient E.Y.'s new chiropractic physician within twenty-one (21) days of receiving the patient's authorized certification to provide those records to the new chiropractic physician.

5. The parties acknowledge that the following records/x-rays were lost by UPS and are no longer in possession of the respondent:

a. Patient E.Y. records/x-rays of October 5, 2009 -- (A) 3-view cervical -- A-P open mouth; A-P lower cervical; Neutral lateral cervical; (B) 2-view thoracic -- A-P thoracic; Lateral thoracic; and, (C) 2-view lumbar -- A-P lumbar; Lateral lumbar.

b. Patient E.Y. records/x-rays of November 30, 2009 -- 5-view Davis -- A-P open mouth; A-P lower cervical; Neutral lateral cervical; Lateral flexion cervical; Lateral extension cervical.

6. The parties further acknowledge that no further action by the Board will be taken with regard to requests made for the following records:

a. Patient E.Y. records/x-rays of October 5, 2009 -- (A) 3-view cervical -- A-P open mouth; A-P lower cervical; Neutral lateral cervical; (B) 2-view thoracic -- A-P thoracic; Lateral thoracic; and, (C) 2-view lumbar -- A-P lumbar; Lateral lumbar.

b. Patient E.Y. records/x-rays of November 30, 2009 -- 5-view Davis -- A-P open mouth; A-P lower cervical; Neutral lateral cervical; Lateral flexion cervical; Lateral extension cervical.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the parties and the subject matter of this action pursuant to 59 O.S. 2005, §161.1 *et seq.*

2. Any findings of fact which is properly a conclusion of law is hereby incorporated herein as a conclusion of law.

3. Failure to provide medical records is a violation of OAC 140:15-7-5(3) which states in part that chiropractic physicians shall comply with twenty-one (21) calendar days of a patient's authorization certification of provide records to those persons whom the patient designates as authorized to receive such records.

4. Respondent has violated OAC 140:15-7-5(3) by failing to provide records to Patient R.P. and to the new chiropractic physician of former Patient E.Y.

5. Based on the above findings of fact, the Board has the authority to take action against the Respondent pursuant to OAC 140:15-7-5(3) and 59 O.S. 2005, §161.12.

ORDER

Based on the Findings of Fact and Conclusions of Law, the following Order is issued:

Respondent is hereby ordered to pay \$8,500.00 in fines and costs. Such payment is to be made in full to the Board by September 24, 2010. In the event the Respondent fails to pay the \$8,500.00, the Board, after conducting a formal administrative hearing, may take further disciplinary action as authorized by law.

Respondent is on probation for eighteen (18) months beginning August 24, 2010. If during the probationary period Respondent fails to provide medical records pursuant to a request originating after August 24, 2010, in violation of a Board rule or State statute, Respondent will be in violation of this Order and after conducting a formal administrative hearing, the Board may take further disciplinary action as authorized by law.

Dated _____, 2010.

By: 

Dr. Ronald Tripp, D.C.
President, Oklahoma Board of Chiropractic Examiners


P. Kay Floyd, Attorney for the Board



Benjamin Oxford
James K. Secrest, II,
Attorneys for David Dick



David Dick, *DC.*

Dated and entered this 20th day of September, 2010.