

**BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel.)	
BOARD OF CHIROPRACTIC EXAMINERS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 024-2008
)	
C. NICHOLAS GRAY, D.C.)	
)	
Respondent.)	

FINAL ORDER

Hearing on this matter was held August 11, 2009, before the Oklahoma Board of Chiropractic Examiners (hereinafter "the Board") in room 419A and B of the State Capitol building, Oklahoma City, Oklahoma. Present at the hearing was Respondent who appeared *pro se*. Prosecuting for the Plaintiff was P. Kay Floyd, Attorney at Law. Present as legal representative for the Plaintiff was Assistant Attorney General, Grant Moak.

Respondent was charged with two allegations: 1. Practicing after his license had been suspended and, 2. Practicing animal chiropractic without being certified by the Board.

The specifics of the allegations were: Respondent was licensed to practice chiropractic in the State of Oklahoma prior to the year 2005. Thereafter, Respondent's chiropractic license was suspended for the period of March 1, 2005 through December 5, 2008 due to Respondent's failure to come into compliance with requirements of the Oklahoma Tax Commission. During the period of March 1, 2005 through December 5, 2008, Respondent continued to practice chiropractic in Oklahoma, including conducting chiropractic treatments on animals even though Respondent was not certified by the Board in animal chiropractic.

Whereupon the hearing began and the sworn testimony of witnesses for Plaintiff and Respondent was presented, along with exhibits, which were admitted and are incorporated herein and made a part hereof. For Plaintiff: exhibits 1 through 17. For Respondent: exhibits 1 through 9.

Findings of Fact

1. Respondent holds license number 1653 issued by the Oklahoma Board of Chiropractic Examiners.

2. On December 22, 2004, the Executive Director for the Board, Beth Carter, sent a letter to Respondent stating that Board records indicated Respondent was not in compliance with the Oklahoma Tax Commission (hereinafter "OTC") regarding his state income tax. Respondent was notified that once he came into compliance, his licensed to practice chiropractic in Oklahoma would be reinstated to active status. Respondent did not reply to the Executive Directors letter.

3. On January 13, 2005, Executive Director Carter send another letter to Respondent again informing him that he was required to be in compliance with state income tax laws in order to retain his license to practice chiropractic. The letter further stated that the OTC had notified the Board that they were unable to verify that Respondent was in compliance with state income tax laws. Respondent was told that effective January 1, 2005, his license had been placed in lapsed status, he was informed that he was unable to continue practicing chiropractic, and he was ordered to cease and desist from practicing immediately. Respondent did not reply to the Executive Directors letter.

4. On January 24, 2005, Respondent signed a United States Postal Service green card indicating that he received the January 13, 2005 letter from Executive Director Carter.

5. On January 24, 2007, Executive Director Carter sent a letter to Respondent stating his license was lapsed and he was not in good standing as a result of not being in compliance with OTC laws. Respondent was informed that the Board was unable to renew his license and he was ordered to cease and desist from the practice of chiropractic until he came into compliance. Respondent did not reply to the Executive Directors letter.

6. On November 19, 2007, Respondent filed an Annual Chiropractic Renewal Form stating that he was in active practice in the State of Oklahoma. Respondent also verified his mailing address had not changed. Respondent was not sent a renewal license and did not contact the Board regarding his license.

7. On August 12, 2008, Respondent filed an Annual Chiropractic Renewal Form stating that he was in active practice in the State of Oklahoma. Respondent also verified his mailing address had not changed. Respondent was not sent a renewal license and did not contact the Board regarding his license.

8. On October 20, 2008, Executive Director Carter sent a letter to Respondent stating his license was lapsed and he was not in good standing as a result of not being in compliance with OTC laws. Respondent was informed that the Board was unable to renew his license and he was ordered to cease and desist from the practice of chiropractic until he came into compliance. Respondent did not reply to the Executive Directors letter.

9. On October 20, 2008, an official complaint form was filed with the Board alleging Respondent was practicing chiropractic without a valid license. Thereafter an investigation was conducted and it was found that Respondent had practiced chiropractic and animal chiropractic in 2005, 2006, 2007, and 2008.

10. At no time prior to this hearing did Respondent file with the Board information and/or documentation verifying that he was certified to practice animal chiropractic within the State of Oklahoma or that he treated animals while under the supervision of a licensed veterinarian.

11. On December 5, 2008, the Board received notification from the OTC verifying that Respondent had come into compliance with OTC law.

12. Information submitted by Darla Nordstrom, Revenue Unit Manager for the compliance/audit division of the OTC, establishes that the OTC sent a letter to Respondent on March 31, 2004 detailing his compliance issues. Respondent then contacted the OTC on June 28, 2006, October 24, 2007, and in October, 2008.

13. On July 16, 2009, Respondent was issued a Notice of Hearing and Statement of Complaint setting this matter for hearing on August 11, 2009. The notice was sent by United States Postal Service and by FedEx. The notice which was sent by United States Postal Service was unclaimed by Respondent after three attempts. The notice which was sent by FedEx service was delivered to Respondent's office on July 21, 2009.

14. At this hearing on August 11, 2009, Respondent appeared and admitted he received notification from the Board that he was not to practice chiropractic until he was in compliance with the OTC. He admitted he had continued to practice chiropractic in the year 2005, 2006, 2007, and 2008 and that he also practiced animal chiropractic without being certified by the Board to do so.

15. At this hearing, Respondent produced less than eight referrals from veterinarians to treat animals. Evidence established that while Respondents license was lapsed, he treated no less than 126 animals.

16. Evidence presented at the hearing established that while the Respondent continued to practice chiropractic for four years in violation of state laws, Board rules, and Board orders, he treated no fewer than 12,800 patients and 120 animals. The evidence further established that Respondent generated income in the amount \$722,680.79. Respondent did not dispute that he treated this number of patients or animals or that he generated this amount of income over the four-year period.

Conclusions of Law

1. The Board has jurisdiction over the parties and the subject matter of this action pursuant to 59 O.S., Sections 161.12 and 161.14.

2. Any Finding of Fact which is properly a Conclusion of Law is so incorporated herein as a Conclusion of Law.

3. Respondent has violated 59 O.S. sections 161.12 and 161.14 by practicing chiropractic without a valid license as set forth in the first allegation of the Notice of Hearing and Statement of Complaint.

4. Respondent has violated 59 O.S. section 161.2 and OAC 140:15-8-1 by practicing animal chiropractic without being certified by the Board as set forth in the second allegation of the Notice of Hearing and Statement of Complaint.

5. The Board has the authority as set forth in 59 OS section 161.12 to impose an administrative fine not to exceed One Thousand Dollars (\$1000.00) for each count or separate violation. Accordingly, the Board has the authority to fine Respondent up to One Thousand Dollars (\$1000.00) for each one of the 12,800 patients and 120 animals Respondent treated in 2005, 2006, 2007, and 2008.

ORDER

1. Respondent is guilty of practicing chiropractic in Oklahoma after his original license to practice chiropractic was suspended in violation of Title 59 O.S., Section 161.14 (A) and Title 59 O.S., Section 161.12 (B) (12) and (B)(13).

2. Respondent is guilty of practicing animal chiropractic without being certified by the Board or under the supervision of a licensed veterinarian in violation of Title 59 O.S., Section 161.2 and OAC 140:15-8-1.

3. Respondent is hereby ordered to pay Seventy-Five Thousand Dollars (\$75,000.00) over the next five years. Respondent is to pay a monthly payment of \$1250.00 due on the 11th day of each month beginning September 11, 2009 and ending September 11, 2014. Such payment is to be made payable to the "Oklahoma Board of Chiropractic Examiners" and is to be received in the Board office by the 11th day of each month. In the event the Board does not receive a payment due and owing, the fine shall become immediately due and payable in full upon written notice by the Board to Respondent stating that payment has not been received. Nothing in this Final Order shall be deemed to prohibit Respondent from paying the total amount due before September 11, 2014.

4. Respondent is hereby placed on probation for five years, until August 11, 2014.

5. Respondent is to cease and desist any type of animal chiropractic until such time as he receives certification from the Board in animal chiropractic or unless the animal has been referred to Respondent by a licensed veterinarian and Respondent has written documentation of that referral. Respondent must have a written referral for each treatment of the animal.

6. Respondents license to practice chiropractic in the State of Oklahoma is hereby suspended for the period of Monday, August 17, 2009 at 8 a.m. until Monday, August 24, 2009 at 8 a.m.

Dated this the _____ day of _____, 2009.


Ronald Tripp, D.C. Chairman.
Oklahoma Board of Chiropractic Examiners