

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

<b>STATE OF OKLAHOMA, ex rel.,</b>	)	
<b>OKLAHOMA BOARD OF</b>	)	
<b>CHIROPRACTIC EXAMINERS</b>	)	
	)	
<b>IN THE MATTER OF THE</b>	)	
<b>COMPLAINT AGAINST:</b>	)	<b>Complaint No. 011-2018</b>
	)	
<b>SHAVONDA PANNELL, D.C.</b>	)	
<b>LICENSE NO. 4125</b>	)	
	)	
<b>Respondent.</b>	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND FINAL ORDER**

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This matter came on for hearing before the Oklahoma Board of Chiropractic Examiners (the “Board”) on **September 26, 2019**, regarding the STATEMENT OF COMPLAINT filed against Respondent SHAVONDA PANNELL, D.C., in Complaint No. 011-2018. Members Aguilar, Holman, Housh, Jordan, Rowe, Sturgill, Travis and Van Whye were present. President Housh presided. Member Gallagher recused and left the room. Respondent appeared in person and was not represented by an attorney. The prosecution appeared by and through Assistant Attorney General Martha R. Kulmacz. The Board advisor was Assistant Attorney General Grant Moak. After hearing the testimony of witnesses, reviewing the exhibits and hearing the argument of

the parties and/or counsel the Board makes the following findings, conclusions and orders:

**A. FINDINGS OF FACT**  
**which the Board finds have been established**  
**by clear and convincing evidence:**

1. Respondent SHAVONDA PANNELL (“Dr. Pannell” or “Respondent”), is a licensed chiropractic physician with license number 4125, and was at all times relevant engaged in practice at a clinic at 1717 N. Peoria, Suite 5, Tulsa, OK 74106.

2. The Board exercises jurisdiction over the Respondent pursuant to 59 O.S. Section 161.1 et seq.

3. Respondent on or about July 2, 2017 and continuing through August 30, 2018, failed to renew her 2017-2018 chiropractic license, which renewal was due on or before July 1, 2017. A letter was sent by Board staff to Respondent on July 5, 2017, notifying her that her license had lapsed due to failure to renew on or before July 1, 2017. On September 5, 2017 a certified letter was sent by Board staff to the Respondent at her last known address notifying Respondent that her license was administratively suspended for failure to renew.

4. On or about July 2, 2018, Respondent was verbally notified by Board staff that Respondent’s license had been administratively suspended for

failure to renew and that Respondent had been practicing on a suspended license for a year. Respondent blamed the failure to renew on Respondent's staff, but she took no action at that time with the Board to reinstate her license.

5. On or about July 2, 2018, an investigative complaint against the Respondent was filed by the Executive Director alleging that Respondent failed to comply with license renewal requirements for the 2017-2018 license renewal period, and that Respondent had continued without an active license to practice chiropractic from July 2, 2017, through July 1, 2018. The certified mail to Respondent containing the complaint notification was returned to the Board unclaimed.

6. Board staff then emailed the complaint notification to Respondent on August 1, 2018, together with a 2017-2018 Renewal Form. Receiving no response, another 2017-2018 Renewal Form and complaint notification letter was again emailed by Board staff to Respondent on August 24, 2018. Respondent finally on August 30, 2018, submitted her 2017-2018 Renewal Form, renewal fee and late fee. Respondent at all times prior to October 16, 2018, blamed her failure to timely renew on Respondent's clinic staff.

7. At conclusion of its investigation, the Advisory Committee in consultation with the Board's prosecuting attorney on March 13, 2019,

considered the evidence presented and concluded that there was reasonable cause to believe that Respondent failed to comply with license renewal requirements for the license renewal period of 2017-2018, and had for at least a year engaged in the practice of chiropractic without a current and active chiropractic license, and that this constitutes a violation of the Oklahoma Chiropractic Practice Act and Title 140 of the Oklahoma Administrative Code. The Advisory Committee referred the complaint to the Executive Director for the issuance of a field citation pursuant to OAC 140:3-3-9 and the assessment of an administrative penalty in the amount of \$13,200.00. Written report of this recommendation was made to the Board on March 13, 2019.

8. The Board on April 25, 2019, accepted and approved the Advisory Committee Report. A Field Citation was issued May 29, 2019, and served on Respondent no later than June 5, 2019.

9. On June 18, 2019, pursuant to OAC 140:3-3-9(e) Respondent requested an informal conference with the Advisory Committee, which informal conference took place on July 15, 2019. Pursuant to OAC 140:3-3-9(f), the Executive Director in writing notified Respondent by letter dated July 19, 2019, that the terms of the Field Citation would not be modified, but that the penalty could be paid at the rate of \$500.00 per month on the 10<sup>th</sup> day of

each month, but that the entire balance would become due and owing without further action if a payment was not timely received by the Board.

10. Pursuant to OAC 140:3-3-9(g), Respondent on July 22, 2019, notified Board staff that Respondent requested a formal hearing before the Board regarding the Field Citation. Pursuant to Respondent's request, the Notice of Hearing and Statement of Complaint is issued and served on Respondent on August 19, 2019.

11. There exists clear and convincing evidence that Respondent failed to timely renew her professional license on or before June 30, 2017, by failing to submit a renewal application, the renewal fee, proof of completion of continuing education, and proof of maintenance of malpractice insurance, and that Respondent engaged in the unlicensed practice of chiropractic from July 1, 2017, until August 30, 2018.

## **B. CONCLUSIONS OF LAW**

1. The Board has jurisdiction of this matter under 59 O.S. § 161.1 et seq.

2. Title 59 O.S. 2011, Section 161.11, the statute in effect on June 30, 2017, concerning license renewal for actively practicing chiropractors such as the Respondent, with emphasis added, provided:

A. 1. Beginning January 1, 2005:

a. **a person holding an original license and who is actively engaged in the practice of chiropractic in this state shall pay to the Board of Chiropractic Examiners, on or before July 1 of each year, a renewal license fee of Two Hundred Twenty-five Dollars (\$225.00),**

2. In addition, each licensee shall present to the Board **satisfactory evidence that** during the preceding twelve (12) months the licensee **attended sixteen (16) hours of continuing education** that meets the requirements of Section 161.10a of this title, provided that inactive resident licensees may, at the discretion of the Board, be exempt from this requirement.

3. Beginning January 1, 2006, **every chiropractic physician who is actively engaged in the practice of chiropractic in this state shall submit to the Board documentary evidence that the chiropractor has malpractice insurance and maintains such insurance twelve (12) months of each year when practicing in this state.** Any licensee who is not actively engaged in practice in this state, shall be exempt from providing proof of malpractice insurance.

B. Subject to the laws of this state and rules promulgated pursuant to the Oklahoma Chiropractic Practice Act, **the Board shall, upon determination that a licensee has complied with the requirements of subsection A of this section, issue a renewal license to said licensee.**

C. **The failure of a licensee to properly renew a license or certificate shall be evidence of noncompliance with the Oklahoma Chiropractic Practice Act.**

**1. The license shall automatically be placed in a lapsed status for failure to renew and shall be considered lapsed and not in good standing for purposes of the practice of chiropractic.**

2. If within sixty (60) calendar days after July 1 the licensee pays the renewal fee, and the reinstatement fee set by the Board, the license may be reactivated.

**3. If sixty (60) calendar days elapse and the license is not reinstated, the license shall automatically be suspended for failure to renew.**

**4. The practice of chiropractic is prohibited unless the license is active and in good standing with the Board.**

D. When an original license or renewal license, or both, have been suspended under the provisions of this section, the license or licenses may be reinstated upon:

1. Payment of a reinstatement fee in an amount fixed by the Board not to exceed Four Hundred Dollars (\$400.00);
2. Payment of the renewal license fee for the calendar year in which the original license is reinstated; and
3. Presentation to the Board of satisfactory evidence of compliance with the continuing education requirement of this section for the calendar year in which the original license is reinstated.

3. Because Respondent failed to on or before July 1, 2017, pay a renewal fee of \$225.00, failed to provide proof of attendance at 16 hours of continuing education, failed to provide proof of maintenance of malpractice insurance coverage, and because that failure continued until August 30, 2018, and because Respondent continued to practice chiropractic during that period of time when Respondent's license was not active, Respondent engaged in the unlicensed practice of chiropractic, which is prohibited by 59 O.S. 2011 Section 161.11.

4. Title 59 O.S. 2011, Section 161.12(B)(12) and (13) provide that the Board may discipline a licensee for the following:

- A. The Board of Chiropractic Examiners is authorized, after notice and an opportunity for a hearing pursuant to Article II of the Administrative Procedures Act, to issue an order imposing

one or more of the following penalties whenever the Board finds, by clear and convincing evidence, that a chiropractic physician has committed any of the acts or occurrences set forth in subsection B of this section:

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

13. Violating any of the rules of the Board.

5. Pursuant to 59 O.S. 2011, Section 161.12(B)(12) and (13), the

Board may impose discipline against Respondent for Respondent's violation of the prohibition against unlicensed practice set forth in 59 O.S. 2011 Section 161.11, and which unlicensed practice is also a violation of the Code of Ethics to which chiropractors are subject provides, as follows:

**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."

(7) Chiropractic physicians shall observe the appropriate laws, decisions and rules of state governmental agencies of the United States and the State of Oklahoma and cooperate with the pertinent activities.

**C. POTENTIAL PENALTIES**

6. Title 59 O.S. § 161.12(a), with emphasis added, provides the penalties which may be imposed by the Board, which penalties are as follows:

A. The Board of Chiropractic Examiners is authorized, after notice and an opportunity for a hearing pursuant to Article II of the Administrative Procedures Act, to issue an order imposing



one or more of the following penalties whenever the Board finds, by clear and convincing evidence, that a chiropractic physician has committed any of the acts or occurrences set forth in subsection B of this section:

1. Disapproval of an application for a renewal license;
2. Revocation or suspension of an original license or renewal license, or both;
3. Restriction of the practice of a chiropractic physician under such terms and conditions as deemed appropriate by the Board;
4. **An administrative fine not to exceed One Thousand Dollars (\$1,000.00) for each count or separate violation;**
5. A censure or reprimand; and
6. Placement of a chiropractic physician on probation for a period of time and under such terms and conditions as the Board may specify, including requiring the chiropractic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another chiropractic physician.

7. What constitutes a **“separate violation”** is defined in OAC 140:3-3-9(c) as follows: “Each day such violation continues shall constitute a separate offense.”

8. Regarding past disciplinary proceedings, if any, OAC 140:3-3-4 (k) provides that:

The board shall consider past disciplinary action taken against any accused found guilty in any present proceeding. Such past

conduct shall not be evidence of guilty in the present proceeding but will be considered only in determining appropriate sanctions to be imposed by the Board in the present proceeding.

9. In considering what penalty should be imposed, OAC 140:3-3-5

provides the following considerations:

Whenever the Board finds a chiropractic physician guilty of a violation in an individual proceeding, the Board may consider the following factors in its determination of a penalty to be imposed against said chiropractic physician:

(1) Consequences to the public. If potential or actual damage to the health, safety or welfare of the general public is more likely than not to occur as a result of acts or omissions by the licensee, the Board may impose a more severe punishment than if such damage is less likely to occur.

(2) Consequences to the patient. If potential or actual damage to the health, safety, or welfare of the patient on whose behalf the complaint is brought is more likely than not to occur as a result of acts or omissions by the licensee, the Board may impose a more severe punishment than if such damage is less likely to occur.

(3) Intent. If it is evident from the facts presented that the violation committed by the licensee was intentional, the Board may impose a more severe punishment than if it is not so evident; provided that such violation may be deemed by the Board to be intentional on the part of the licensee if the violation:

(A) occurred as the result of negligence on the part of the licensee; or

(B) was part of a pattern of extreme or ongoing carelessness as to be without regard for the health, safety or welfare of the general public or a patient;

or

(C) violated the principles of the Chiropractic Code of Ethics.

(4) Negligence. If the violation committed by the licensee resulted from negligence on the part of licensee, but was not so gross, or was not the result of such carelessness, as to meet the test of (3) of this subsection, the Board may impose a less severe punishment than would be the case if the negligence met such a test.

10. In reviewing a Field Citation, the Board's obligation is provided in OAC 140:3-3-9(g), with emphasis added, as follows:

(g) Any chiropractic physician who desires to contest a decision made after the informal conference shall inform the Executive Director in writing within thirty (30) calendar days after such chiropractic physician receives the decision resulting from the informal conference. **The Board shall thereafter hold a hearing in accordance with the APA, the Act and the OAC. After the hearing, the Board shall issue an Order affirming, modifying or vacating the citation, or directing other appropriate relief as the Board deems necessary.**

### FINAL ORDER

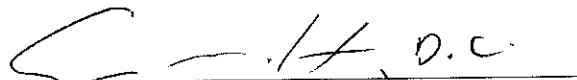
**IT IS THEREFORE ORDERED** by the Oklahoma Board of Chiropractic Examiners as follows:

1. The Board pursuant to OAC 140:3-3-9(g) hereby approves the penalty assessed in the Field Citation. Respondent **SHAVONDA PANELL, D.C.**, License No. 4125, is hereby ordered to pay an administrative penalty (fine) in the amount of **Thirteen Thousand and Two Hundred Dollars (\$13,200.00)** for the violations of law as described above. Payment may be made at the rate of Five Hundred Dollars (\$500.00) per month

with the payments due at the Board's office on the 10<sup>th</sup> day of each month beginning November 10, 2019. If any payment is not received by the Board on or before the 10<sup>th</sup> day of each month pursuant to this Order, the entire balance owed shall immediately become due and owing without need for further action by the Board.

Payment shall be made to the Oklahoma Board of Chiropractic Examiners, 421 N.W. 13<sup>th</sup> Street, Oklahoma City, Oklahoma 73103. The above referenced case number should be written on the check or money order.

On **September 26, 2019**, all participating members of the Board in open session voted "Aye," approving the above *Findings of Fact, Conclusions of Law and Final Order*.

  
Dr. Amanda Housh, President