



Oregon

Kate Brown, Governor

Oregon Board of Chiropractic Examiners

530 Center Street NE, Suite 620

Salem, OR 97301

Phone: (503) 378-5816

FAX: (503) 362-1260

E-mail: oregon.obce@oregon.gov

www.oregon.gov/obce

September 9, 2020

Press Release

BOARD ISSUES ORDER OF EMERGENCY SUSPENSION

John A. Partmann D.C., License #3286

In a Special Board Meeting called by Board President Franchesca Vermillion, DC, on September 3, 2020, the Oregon Board of Chiropractic Examiners (OBCE) issued an Order of Emergency Suspension and Notice of Rights for Licensee John A. Partmann, DC, effective September 4, 2020.

The OBCE is the state agency responsible for licensing and regulation of the chiropractic profession with a primary mission of public protection. Decisions are made by a seven-member board consisting of five chiropractic physicians and two public members.

Licensee allegedly failed to respond to a potentially life-threatening circumstance for a patient under his care.

The OBCE found that the acts and conduct described above constitute grounds for immediate license suspension and amounts to unprofessional conduct. Licensee's practice constitutes a clear and present danger to the health or safety of his patients and the public if allowed to continue before a hearing may be held. The OBCE, therefore, immediately suspends Licensee's chiropractic license pursuant to ORS 183.430(2) and ORS 684.100(3).

Licensee's license is suspended effective September 4, 2020 and he is not permitted to practice chiropractic in the State of Oregon.

Licensee has 90 days to request a hearing before an administrative law judge to contest the OBCE's order.

Anyone with additional information may contact Frank Prideaux, Healthcare Investigator, at 503-373-1848.

For more information, contact Cassandra C. McLeod-Skinner, Executive Director, at 503-373-1620, or by email cass.mcleod-skinner@oregon.gov

The mission of the Oregon Board of Chiropractic Examiners is to protect and benefit the public health and safety, and promote quality in the chiropractic profession.

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

JOHN A. PARTMANN, D.C.,

)
) Case # 2020-1029

)
) ORDER OF
) EMERGENCY SUSPENSION
) NOTICE OF RIGHTS
)

The Oregon Board of Chiropractic Examiners (Board) is the state agency responsible for licensing, regulating, and disciplining chiropractic physicians in the State of Oregon. John A. Partmann, D.C. (Licensee), is currently licensed by the Board to practice as a chiropractic physician in Oregon and is subject to the jurisdiction of the OBCE. Effective September 4, 2020, Licensee is ordered to immediately stop practicing chiropractic until further order of the Board. The Board finds that Licensee should be emergency suspended based on the following:

1.

The Board received information that on or about August 21, 2020, Licensee provided chiropractic treatment and adjusted patient 1's neck. She felt immediate dizziness and the left side of her body went numb. Patient 1 requested Licensee to call for help and Licensee told her she would have to stay at Licensee's home/office for 3 hours. Soon after the numbness began, Licensee and his staff left the patient treatment room to prepare another room for her to remain in. Patient 1 asked repeatedly for Licensee to call for help and Licensee told to her that he would not call, that she would need to wait for 3 hours. Licensee stated that she "had a demon" in her.

2.

Patient 1 has reported to the Board that Licensee held her against her will and she had to crawl to a phone to call for help herself. Patient 1 contacted a friend and her friend believed she

was drunk because Patient 1's speech was slurred. Someone called for help eventually and Patient 1 was rushed to the hospital and was put in the ICU unit. Patient 1 was diagnosed having a vertebral artery dissection / basilar artery event and is currently receiving medical care.

Licensee prevented Patient 1 from getting appropriate immediate medical attention during a vertebral artery dissection / basilar artery event. Patient 1 is currently in a convalescent hospital and cannot walk or use her left arm. Patient has regained some of her speech. Prior to treatment with Licensee, Patient 1 was a healthy, 33-year-old female.

When a family member and hospital staff inquired why Licensee did not immediately call for help, Licensee stated, "I do not do that."

3.

The allegations as noted above in paragraphs 1 and 2 include unprofessional conduct and gross incompetence or gross negligence in Licensee's professional duties. In addition, failure to recognize and respond appropriately during a potentially life-threatening emergency may constitute a danger to the health and safety of current or future patients. If proven, these would be violations of ORS 684.100(1)(f), (A) and (B) and (1)(q), OAR 811-035-0005(1), and OAR 811-035-0015(6).

4.

At a special September 3, 2020 board meeting, the Board found that the acts and conduct of Licensee described above constitutes grounds for immediate license suspension and amounts to unprofessional conduct. Licensee's practice, as described above, constitutes a clear and present danger to the health or safety of his patients and the public if allowed to continue before a hearing may be held. The above acts are in violation of ORS 684.100(1) (f), (A) and (B) and (1)(q), OAR 811-035-0005(1), and OAR 811-035-0015 (6).

Therefore, the Board is authorized to and does immediately suspend Licensee's chiropractic license pursuant to ORS 183.430(2) and ORS 684.100(3).

5.

Rationale for the suspension is as follows:

The Board has received and investigated an independent, credible complaint concerning Licensee's lack of competence and care for a patient which led to potential irreparable harm to the patient. This complaint alleges acts of unprofessional conduct and gross incompetence or negligence. By allowing Licensee to continue to see patients and offer care, the Board believes Licensee is putting his patients at risk.

In view of the nature of the alleged misconduct, Licensee's conduct at this time in his practice setting, indicate that there is a high probability that continued patient care may result in danger to the health or safety of current and future patients if Licensee is to continue to practice chiropractic prior to any completion of a hearing and/or finalization of this investigation. The Board has grave concerns that Licensee is incompetent and/or is endangering his patients and that is affecting his ability to safely and competently practice chiropractic. The nature of the complaint and the current behaviors of Licensee place great risk of potential harm to individual patients and to the Licensee.

The Board proposes to assess against Licensee all of the Board's costs of this disciplinary process and action, including but not limited to all legal costs from the Department of Justice, all hearing costs from the Office of Administrative hearings, all costs associated with any expert or witness, and all administrative costs specific to this proceeding, in an amount not to exceed \$150,000, pursuant to ORS 684.100(9)(g), in addition to any interest accrued at the legal rate allowed and any and all costs related to collections.

6.

Licensee's license is suspended effective September 4, 2020, and Licensee is not permitted to practice chiropractic in the State of Oregon pending the outcome of further disciplinary action. Licensee is responsible to post his suspension notice pursuant to OAR 811-015-0080.

7.

Licensee has the right, if Licensee requests, to have a formal contested case hearing pursuant to ORS 183.430(2) and OAR 137-003-0560 as soon as practicable to contest this Emergency Suspension Order. Licensee has a right to demand that a hearing be held as soon as practicable to contest the emergency suspension order. Such a request must be made in writing and must be received in the Board's office no more than 90 days after the effective date of this order. If not so received, Licensee's right to a hearing under ORS chapter 183 will be waived. If Licensee timely requests a hearing, the hearing could be consolidated with any other Board proceeding affecting this license. Licensee may elect to be represented by counsel and to respond and present evidence and argument on all issues involved. After the hearing, the Board will issue an order confirming, altering or revoking this suspension order.

8.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS:

Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

IT IS SO ORDERED this 4th day of September, 2020.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By:

Original signatures are on file in OBCE Administrative office.

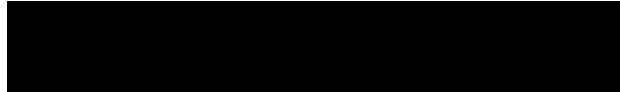
Cassandra C. McLeod-Skinner, J.D.
Executive Director
Oregon Board of Chiropractic Examiners

CERTIFICATE OF SERVICE

I, Cassandra C. McLeod-Skinner, certify that on September 4, 2020, I served the foregoing Order of Emergency Suspension upon the party hereto, by email and by mailing, postage prepaid, a true, exact and full copy thereof to:

John A. Partmann, DC
Lic # 3286
67714 N. Bay Rd.
North Bend, OR 97459

docpartmanndc@yahoo.com



Cassandra C. McLeod-Skinner, J.D.
Executive Director
Oregon Board of Chiropractic Examiners

-

NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

You should read this information to prepare for the hearing

1. **Law that applies.** The matter set for hearing is a contested case. The hearing will be conducted as provided in chapter 183 of the Oregon Revised Statutes and the administrative rules and statutes of the Oregon Board of Chiropractic Examiners (OBCE), OAR chapter 811, ORS chapter 684, and the Attorney General's Office of Administrative Hearing Rules, OAR Chapter 137-003-0501 to 137-003-0700.
2. **Right to attorney.** The OBCE will be represented by an attorney. You are not required to be represented by counsel, unless you are an agency, corporation or association. You have a right to be represented by an attorney at your own expense. If you are not represented at the hearing and determine in the course of the hearing that an attorney is necessary you may request a recess to allow you an opportunity to secure the services of an attorney. The ALJ will decide whether to grant such a request. Legal Aid Organizations may be able to assist you if you have limited financial resources.
3. **Subpoenas.** You may subpoena witnesses. The OBCE will issue subpoenas upon request and upon a showing of good cause and general relevance of the evidence sought. If you are represented by an attorney, your attorney may issue subpoenas. Payment of witness and mileage fees to a witness you subpoena is your responsibility.
4. **Administrative Law Judge.** The person presiding at the hearing will be an Administrative Law Judge from the Office of Administrative Hearings. The ALJ will rule on all matters that arise at the hearing, subject to any agency consideration of matters transmitted for agency decision under OAR 137-003-0635 or matters subject to agency review under OAR 137-003-0640 and 137-003-0570. The ALJ will be assigned by the Chief ALJ from the Office of Administrative Hearings. The Office of Administrative Hearings consists of employees of the Employment Department and independent contractors with the Office of Administrative Hearings. The ALJ does not have the authority to make the final decision in the case. The final determination will be made by the Board.
5. **Discovery.** Discovery is permitted by the parties and requests for discovery should be in writing. Discovery should be requested first by informal means by the parties. You have the right to respond to all issues properly before the ALJ and should present evidence and witnesses. Discovery is provided in OAR 137-003-0570, OAR 137-003-0572 and OAR 137-003-0570(8).
- 6.. **Order of evidence.** A hearing is similar to a court proceeding but is less formal. Its general purpose is to determine the facts and whether the OBCE's actions are appropriate. The order of presentation of evidence is normally as follows:
 - a. Testimony of witnesses and other evidence of the Board in support of its proposed action.
 - b. Testimony of your witnesses and your other evidence.
 - c. Rebuttal evidence by the Board and by you.
6. **Burden of presenting evidence.** The burden of presenting evidence to support a fact or a position rests upon the party who proposes that fact or position. If you have the burden of proof on an issue, or if you intent to present evidence on an issue in which the agency has the burden of proof you should approach the hearing prepared to present the testimony of witnesses,

including yourself, and other evidence that will support your position. All witnesses are subject to cross-examination and also to questioning by the ALJ.

7. **Witnesses.** All witnesses must testify under oath or affirmation to tell the truth. All witnesses, including yourself, are subject to cross-examined by other parties or by the ALJ.
8. **Admissible Evidence.** Evidence that may be admitted at the hearing is that which is commonly relied upon by reasonably prudent persons in the conduct of their serious affairs. Hearsay evidence is not automatically excluded. Rather, the fact that it is hearsay generally affects how much reliance the Board will place on it in reaching a decision.

Four kinds of evidence may be admitted.

- a. Knowledge of the OBCE. The ALJ may take "official notice" of commonly known facts and of facts and conclusions developed from the experience in the specialized field of activity. This includes notice of technical or scientific facts. You will be informed at the hearing if the OBCE takes "official notice" of any fact so that you may contest those facts. The agency may also take "judicial notice" of a fact that is not subject to reasonable dispute in that it is generally known or is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
 - b. Testimony of witnesses. This includes your own testimony.
 - c. Writings. This includes letters, maps, diagrams and other written material offered as evidence.
 - d. Photographs, experiments, demonstrations and similar means to prove a fact.
9. **Objections to evidence.** Evidence may be objected to on any legal grounds; including:
 - a. Irrelevant. The evidence has no tendency to prove or disprove any issue involved in the hearing.
 - b. Immaterial. The evidence is offered to prove a proposition which is not a matter in issue at the hearing.
 - c. Unduly repetitious. The evidence is merely repetitive of what has already been offered and admitted.
 - d. Hearsay, authenticity or foundation. To the extent that such evidence would not commonly be relied upon by reasonably prudent persons in the conduct of their serious affairs.
 10. **Continuances.** Unless allowed by the OBCE or ALJ, there will be no continuance and the record will not be reopened regarding any matters determined at the conference or hearing. However, if you can show that the record should remain open for additional evidence, the ALJ may grant you additional time to submit such evidence.
 11. **Proposed Order and Exceptions to proposed order.** The ALJ will issue a proposed order in the form of findings of fact, conclusions of law and recommended agency action. You will be provided with a copy and you will be given an opportunity to make written objections, called "exceptions" to the ALJ's recommendations. You will be notified when exceptions to the

proposed order must be filed. You will also be notified when you may appear and make oral argument to the Board if applicable

Not later than 10 days after the date of the filing of the proposed order with the Board, you may file and serve on the OBCE and the ALJ, your written exceptions to the proposed order.

- a. The exceptions shall be confined to the factual and legal issues which are essential to the ultimate and just determination of the proceeding, and shall be based only on grounds that:
 - A. A necessary finding of fact is omitted, erroneous, or unsupported by the preponderance of the evidence on the record;
 - B. A necessary legal conclusion is omitted or is contrary to law or the Board's policy; or
 - C. Prejudicial procedural error occurred.
- b. The exceptions shall be numbered and shall specify the disputed findings, opinions or conclusions. The nature of the suggested error shall be specified and the alternative or corrective language provided.

After the OBCE has received and reviewed the proposed order and the exceptions, if any, the OBCE shall:

- a. Entertain such oral argument as it determines necessary or appropriate to assist it in the proper disposition of the case; and
 - b. Remand the matter to the hearings officer for further proceedings on any issues of fact which the OBCE believes were not fully or adequately developed; or
 - c. Enter a final order adopting the recommendation of the ALJ as the OBCE's order or rejecting the recommendation of the ALJ. If the OBCE elects to reject the recommendation of the ALJ, the final order shall contain necessary findings of fact and conclusions of law.
12. **Final Order.** The agency will render the final order in this matter. The agency may modify the proposed order issued by the ALJ. If the agency modifies the proposed order in any substantial matter, the agency in its order will identify the modification and explain why the agency made the modification. The agency may modify a proposed finding of "historical" fact only if the proposed finding is not supported by clear and convincing evidence in the record.
13. **Conferences.** Prior to a hearing, the ALJ may schedule conferences to:
- a. Establish a procedural schedule, including dates for prefiled testimony and exhibits;
 - b. Identify, simplify or clarify issues;
 - c. Eliminate irrelevant or immaterial issues;
 - d. Obtain stipulations, authenticate documents, admit documents into evidence and decide the order of proof; and

- e. Consider other matters which may expedite the orderly conduct and disposition of the proceeding.

Except as provided in the following paragraph, the record shall reflect the results of any conferences, which shall be binding on all parties.

- 14. **NOTICE TO ACTIVE DUTY SERVICEMEMBERS:**
Active duty service members have a right to stay these proceedings under Service Members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.
- 15. **Record.** A record will be made of the entire hearing to preserve the testimony and other evidence for appeal. This will be done by a tape recorder. Ordinarily the record will not be transcribed unless you appeal to the Court of Appeals. If you appeal, you will not have to pay for the cost of transcribing the record, unless the petition is frivolous or you unreasonably refuse to stipulate to a limited record. If you do not appeal, a copy of the record will be made available to you upon payment of the cost of making it.
- 16. **Appeal.** If you wish to appeal the final order, you must file a petition for review with the Oregon Court of Appeals within 60 days after the final order is served on you. See Oregon Revised Statutes 183.480 et seq.