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COMMONWEALTH OF KENTUCKY  
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS  
ADMINISTRATIVE ACTION NO. 2000-KBCE-0039

KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS

COMPLAINANT

vs.

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND FINAL ORDER

PAUL PRESSMAN, D.C.  
License No. 2439

RESPONDENT

\* \* \* \* \*

On May 24, 2001, the Kentucky Board of Chiropractic Examiners conducted the administrative hearing in this action. The Board was represented by Hon. Cheryl Lalonde-Mooney, and the respondent, Paul Pressman, D.C., who was not present, was represented by Hon. Vince Cotton. All members of the Board were present, and Hon. Thomas J. Hellmann, Hearing Officer in the Office of Attorney General, Division of Administrative Hearings, acted as hearing officer in the case. After considering the testimony of the witnesses and the other evidence admitted to the record, the Board finds Pressman guilty of the charges against him and revokes his license as a chiropractor. In support of that decision the Board submits the following findings of fact, conclusions of law, and final order.

## FINDINGS OF FACT

1. On December 2, 1999, the Kentucky Board of Chiropractic Examiners issued a complaint against Paul Pressman charging him with several acts of misconduct under the Board's statutes and regulations. Specifically, the Board charged that in the course of his treatment of Patient T.H. on June 5, 1998, Pressman used acupuncture in violation of KRS 312.017, that during that same treatment of T.H. Pressman pressed a device against her genitals and encouraged her to have an orgasm which conduct violated KRS 312.150(2), and that he failed to maintain minimum standards for record keeping for T.H. in violation of KRS 312.019(9)(j) and 201 KAR 21:100, Section 1.

2. Although Pressman did not attend the hearing and thereby was not available to testify, he has denied the allegations against him through his attorney and by affidavit which was admitted into evidence. He admits that he performed acupuncture on T.H., but Pressman asserts that he was not acting as a chiropractor at the time. He also denies any sexual misconduct in his treatment of T.H. Thus, he asserts that he is not guilty of the charges against him.

3. On June 5, 1998, T.H. saw Pressman at his office in Lexington, Kentucky, for treatment of abdominal pain associated with endometriosis. Outside the office there was prominently displayed a sign which indicated the office was that of Dr. Paul Pressman, a licensed chiropractor.

4. T.H. had seen Pressman at his office on several occasions prior to June 5, 1998, for both chiropractic and acupuncture services, and she had paid him each time for the performance of those services.

5. On June 5, 1998, T.H. went to Pressman's office for treatment, and she and Pressman were the only persons in the office during her visit.

6. At his request she followed the established routine in anticipation of her treatment. She removed her clothing in an examination room, changing into a hospital-type gown, and lay on her back on the examination table.

7. Thereafter, Pressman entered the room, lifted the gown above her abdomen, and proceeded to place several acupuncture needles in her abdomen. Unlike the treatment on any other occasion, however, he then pressed a vibrating device against her abdomen in the area of the acupuncture needles. Eventually, he moved the device to her vagina, and stated, "I want you to try to have an orgasm. I want to see how you do it."

8. T.H. was surprised and shocked by his actions and stated something to the effect, "I don't think so." He then returned the device to her abdomen area.

9. After applying the device to that area for a few minutes, Pressman again moved the device to her vagina. This time he stated:

"Just close your eyes. Relax. Let your mind go to a pleasant place. Let yourself have an orgasm. There's no one else here. You can scream if you have to. There's nothing to be embarrassed about. There's no one around to hear you."

10. T.H. was frightened and felt threatened by that last comment, and after protesting that he was hurting her, Pressman stopped and left the room.

11. After a few minutes, Pressman returned to the examination room, removed the acupuncture needles from the abdomen, had T.H. lie on her stomach, and proceeded with acupuncture treatment to the lower back.

12. He made no further comments of a sexual nature, did not use the vibrating device on her back, and performed the treatment without any other inappropriate conduct.

13. When Pressman completed the acupuncture treatment, T.H. dressed, paid him, and left the office.

14. Her boyfriend, who had been waiting for her in the parking lot, commented that the treatment had taken longer than usual, but T.H. did not say anything to him about Pressman's conduct.

15. When she returned home, T.H. wrote down her recollection of the events that day, and she called her therapist to discuss the incident. The therapist suggested that T.H. contact the Board to register a complaint against Pressman.

16. Shortly thereafter, T.H. filed a written complaint with the Board.

17. T.H. has not filed any civil action against Pressman for his conduct, and in fact, filing the complaint with the Board was the only action she has taken against Pressman.

18. Prior to the incident at Pressman's office, T.H. had been treated on several occasions with acupuncture for her endometriosis, and the treatment had provided her with substantial but temporary relief.

19. Since June 5, 1998, T.H. has not sought acupuncture treatment for her endometriosis in spite of the continuing pain associated with the condition, and she has avoided submitting herself to any physical examination or treatment by a medical professional.

20. T.H. has received a substantial amount of counseling from a therapist as a result of the emotional trauma caused by Pressman's conduct.

21. Although T.H. has been treated by a therapist prior to June 5, 1998, on that date she did not suffer from any physical or emotional condition and was not taking any medications which would have prevented her from accurately and completely recalling the events of that day.

22. The Board finds that T.H. has accurately and truthfully recounted the events of June 5, 1998. She was very forthright and consistent in her statements, did not hesitate to answer any questions, and willingly stated if she did not know or could not accurately recall any specific event from that day. Consequently, the Board finds her testimony to be credible.

23. Pressman's affidavit is not credible in light of the fact that many of his assertions have been directly contradicted by T.H., and in light of the fact that he was not available to be cross-examined regarding his statements in that document.

24. In addition, Pressman's affidavit is not credible since some of his assertions regarding his discussions with Dr. Frank Hideg, the field coordinator for the Board, about the complaint filed by T.H. have also been contradicted by Dr. Hideg. He testified that when he went to Pressman's office to discuss the accusations with Pressman, no patients were in the office, and Pressman did not seem surprised or upset by the accusations. Pressman asserts in his affidavit that he was very busy with patients on the day that Hideg spoke with him and that he was very upset by the accusations. Hideg's testimony regarding the circumstances surrounding his conversation with Pressman and his demeanor during that conversation are credible.

25. Pressman had told Hideg that although a chiropractor was not permitted to perform acupuncture, he was lobbying to have the law changed within the next nine months. When pressed by Hideg about that statement, Pressman acknowledged that no such law had been passed in the then current legislative session.

26. There is no recognized or acceptable therapeutic basis in either the practice of acupuncture or chiropractic for the use of a vibrating device on the genitals of a patient or for requesting that the patient have an orgasm in the presence of the acupuncturist or chiropractor.

27. A chiropractor is required by regulation to record in his records each visit by a patient, the symptoms, procedures performed, other pertinent comments, and the doctor's name. Such information was largely absent from the Pressman's records for T.H.

## CONCLUSIONS OF LAW

1. Pursuant to KRS Chapter 312, the Kentucky Board of Chiropractic Examiners has jurisdiction to over this action.
2. Pursuant to KRS 312.150(3), the administrative hearing in this case was conducted in accordance with the provisions of KRS Chapter 13B.
3. Under KRS 13B.090(7) the Board had the burden to prove by a preponderance of the evidence the allegations against the respondent.
4. The Board has met its burden in this action.
5. Pressman violated KRS 312.017 by treating T.H. with acupuncture, a procedure which is prohibited by the specific language of the statute which states, "No chiropractor shall treat or attempt to treat by use of acupuncture." Thus, by treating T.H. with acupuncture, Pressman has intentionally and willfully violated the requirements of the statute.
6. By compiling and maintaining records for T.H. which did not meet the minimum standards of 201 KAR 21:100, Pressman has violated KRS 312.019(9)(j). Pressman's records were so deficient under the requirements of the regulation that he has blatantly and willfully violated the regulation and statute.
7. By pressing a vibrating device to the genitals of T.H. and asking her to have an orgasm during the administration of chiropractic treatment, Pressman violated KRS 312.150(2) and is subject to discipline pursuant to KRS 312.163(1).

## FINAL ORDER

Based upon the foregoing findings of fact and conclusions of law, the Board finds Pressman guilty of violating the Board's statutes and regulations and orders the following:

1. Paul Pressman's license as a chiropractor is revoked.
2. For each of the three statutory violations found by the Board, Pressman is fined \$2,000, for a total fine of \$6,000.
3. Pressman shall also pay for the full cost of the administrative proceedings as determined by the Board.
4. The \$6,000 fine and the full cost of the administrative proceedings shall be paid within ninety days of the date of this order.
5. Pressman may not reapply for a license as a chiropractor until at least three years from the date of this order.
6. Upon application for licensure, Pressman shall submit evidence showing that he has the good moral character required of a licensed chiropractor, which evidence shall include continuing education classes on sexual boundaries, ethical behavior, and record keeping requirements under the Board's statutes and regulations.
7. After the filing of Pressman's application for licensure, and upon the determination by the Board that Pressman has complied with the requirements of this order, the Board may at its discretion schedule a hearing on the issue whether Pressman is eligible for licensure.



## NOTICE OF EXCEPTION AND APPEAL RIGHTS

This Final Order may be appealed pursuant to KRS 13B.140(1), which states:


All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within 30 days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the Final Order.

Pursuant to KRS 312.160(1):

Any person whose license has been revoked or suspended shall have the right to appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Pursuant to KRS 23A.010(4), "such review [by the Circuit Court] shall not constitute and appeal but an original action." Some courts have interpreted this language to mean that a summons also be served upon filing an appeal in circuit court.

SO ORDERED this 6th day of September, 2001.

  
LENITA REASOR, CHAIRPERSON  
KENTUCKY BOARD OF CHIROPRACTIC  
EXAMINERS

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this FINAL ORDER was mailed this 7<sup>th</sup> day of

September, 2001, by first-class, postage prepaid, to:

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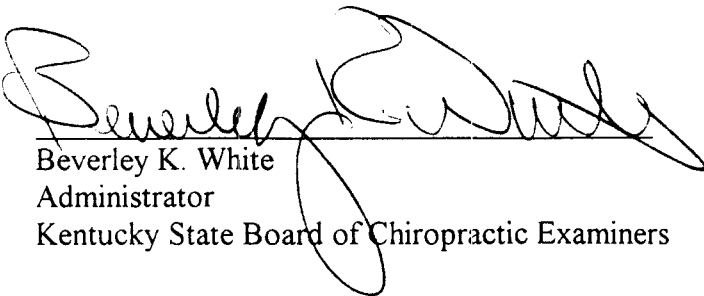
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Administrator  
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