



Texas Board of Chiropractic Examiners

333 Guadalupe St, Suite 3-825, Austin, TX 78701



Complaint and Investigation Process

AFO – Agreed Final Order
CD – Cease & Desist
EC – Enforcement Committee

ED – Executive Director
IC – Informal Conference
SOAH – State Office of Administrative Hearings

STEP 1 <i>Day One</i>	STEP 2 <i>Within 30 Days</i>	STEP 3
COMPLAINT RECEIVED	CASE ASSESSMENT <ul style="list-style-type: none"> Contact parties & others w/knowledge Case evaluation Records request ▶ <i>Notify parties of timeframe of investigative process</i> 	RECOMMENDATION TO ED <ul style="list-style-type: none"> Administrative Closure Refer to EC for further action Other actions by Executive Director
STEP 4	STEP 5	STEP 6 <i>Within 14 Days Following EC Meeting</i>
ACTION TAKEN <ul style="list-style-type: none"> Closure Education letter Warning letter Other actions by ED Refer to Enforcement Committee ▶ <i>Notification to parties</i> 	NEXT ACTIONS AS DETERMINED BY THE EC <ul style="list-style-type: none"> Informal conferences Agreed Final Orders Cease & Desist Orders Hearings at SOAH 	TAKE DISCIPLINARY ACTION AS DETERMINED BY EC <ul style="list-style-type: none"> Agreed orders Education Warning
STEP 7 <i>Within 20 Days</i>	STEP 8 <i>Final Resolution</i>	
RESPONDENT TO <ul style="list-style-type: none"> Sign & return AFO or request IC with EC <p><i>Note: If after 20 days, no response from respondent, case is set for a hearing at SOAH</i></p>	HEARING AT SOAH <ul style="list-style-type: none"> Issuance of decision by SOAH judge Final order posted to TBCE website ▶ <i>Notify parties of decision</i> <p><i>Note: Cases resulting in disciplinary action are reported to National Practitioner Data Bank</i></p>	



Texas Board of Chiropractic Examiners COMPLIANCE & INVESTIGATIONS DIVISION

333 Guadalupe St, Suite 3-825, Austin, TX 78701



Complaint Response Questionnaire

NOTICE: All information is requested under [Board Rule §78.5](#). Failure to provide the requested information will not delay or prevent the investigation of this complaint. As much information as possible should be provided in connection with the complaint. The information on this form will be used in part to determine whether a violation of the Chiropractic Act or Board rules has occurred or not occurred. Complete information will assist in bringing the investigation to a speedy resolution.

Name: _____ License #: _____

Phone Number: _____ Complaint #: _____

Fax number: _____ E-mail address _____

Do you consent to the use of the e-mail listed above for expedited communications? Y / N

PLEASE RESPOND TO THE FOLLOWING QUESTIONS

THE INFORMATION IS CONFIDENTIAL UNLESS THIS INVESTIGATION RESULTS IN A PUBLIC HEARING

ALL "YES" RESPONSES REQUIRE EXPLANATION ON A SEPARATE SHEET

1. A. Are you: Solo Practitioner _____ Partnership _____ Association _____
Government or military _____
Other (explain) _____

B. If you practice at more than one office, please list the additional addresses.

C. What are the days and hours of operation of the clinic(s) you own or at which you work?

2. Summarize:

A. Your average weekly patient caseload at each facility: _____

B. Brief description of your practice: _____

3. Has your practice changed significantly in the last three years? YES NO

4. Have you ever had your chiropractic license (or facility registration) monitored, revoked, suspended, limited or denied by any organization, health care facility, or excluded from participating in any Federal or State reimbursement program? YES NO

5. Have you ever been arrested, indicted, placed on deferred adjudication or convicted of a felony or misdemeanor other than minor traffic offense including drug or alcohol related offenses?
YES NO

6. Have you, in the past five (5) years abused drugs/alcohol or been treated for abuse? YES NO

7. Are you currently under the care of a physician for any medical or psychiatric condition which could impair your clinical judgment or ability to practice as a chiropractor or operate a chiropractic facility? YES NO
8. A. Hours of continuing education obtained in the last two (2) years. _____
 B. Are you certified by any Boards, professional associations, or any other credentialing organization? YES NO
 C. If yes, which Board, association or organization _____

 D. List any postgraduate or specialty training you have obtained. _____

9. Do you maintain, control or authorize the advertisement of your professional services on a website available to the public? YES NO
 If so, please provide all current URL addresses for the website(s): _____

10. Do you supervise any recent graduates of a chiropractic college (within one (1) year of graduation)? YES NO
 If so, please provide a list of those persons and the year they graduated from Chiropractic College.

11. Are you aware of any fraudulent activity that is occurring or has occurred within the practice facility (or other practice facilities) in which you currently practice? (Cooperation in disclosing such activities may reflect favorably upon the discloser of such activities.) YES NO
 If so, please identify the individual(s) and the location of the practice: _____

12. Have you been licensed to practice in Texas at all times within the previous 12 month period prior to receiving this questionnaire? YES NO
 If not, please explain: _____

13. Have you practiced in a registered facility at all times within the previous 12 month period prior to receiving this questionnaire?
 If not, please explain: _____

14. Have you been registered as a Designated Doctor pursuant to the Requirements of the Texas Labor Code, Title 5 at any time in the past 12 months? YES NO
15. If you are a facility owner, have you maintained a current and valid facility registration at all times within the previous 12 month period prior to receiving this questionnaire? YES NO
 If not, please explain: _____

16. Do you offer a prepayment plan? YES NO
If so, please provide a copy of your prepayment plan.

17. Have you obtained testimonials for any publication or website involving your chiropractic license or facility registration? YES NO

18. Do you maintain a record of the testimonials in accordance with Rule §77.2? YES NO

19. Do you practice acupuncture? YES NO
If so, please indicate when and where you completed your training: _____

20. List all other states in which you hold a chiropractic license or maintain a facility registration.

21. Detailed Response to Complaint- Please respond in specific detail to the complaint contained with this questionnaire. Complete information will greatly assist the investigator and is more likely to result in the speedy resolution of the complaint against you.

NOTE: Once you reach the end of this page, you must attach a new sheet for additional complaint information.

RETURN TO: (Mail)

Texas Board of
Chiropractic Examiners
333 Guadalupe, Ste 3-825
Austin, TX 78701
Fax: (512) 305-6705
Email: tbce@tbce.state.tx.us

Under penalty of perjury, I attest that all statements made by me in relations to this complaint are true to the best of my knowledge and belief.

Signature: _____ Date: _____



Texas Board of Chiropractic Examiners

333 Guadalupe St, Suite 3-825, Austin, TX 78701



Date

Chiropractor
Facility Name
Address
City, State, Zip code

RE: TBCE Case # 2016-000

Dear Dr./Mr./Ms.

This letter is to notify you that the Texas Board of Chiropractic Examiners (TBCE) received a complaint alleging that you (DETAIL ALLEGATION HERE).

This is an educational letter regarding your responsibilities as a chiropractor under:
the Texas Chiropractic Act

<http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.201.htm>

and Texas Administrative Code

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=22&pt=3](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=22&pt=3).

It is important to remember (ADD DETAIL HERE - A STATUTE OR RULE).

The TBCE staff recommends this complaint be closed after sending you this letter of education. If you have questions, please contact the TBCE Compliance and Investigations Division (ENTER THE NAME OF WHO TO CONTACT).

Sincerely,

Patricia Gilbert
Executive Director



Texas Board of Chiropractic Examiners

333 Guadalupe St, Suite 3-825, Austin, TX 78701



Date

Chiropractor
Facility Name
Address
City, State, Zip code

RE: TBCE Case # 2016-000

Dear Dr./Mr./Ms.

The Texas Board of Chiropractic Examiners (TBCE) has reached a conclusion concerning the above-referenced investigation into (DETAIL ALLEGATIONS HERE). Evidence gathered during the investigation confirmed that you are in violation of: the Texas Chiropractic Act

<http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.201.htm>

and the Texas Administrative Code

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=22&pt=3](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=22&pt=3).

Be advised that:

1. The TBCE Enforcement Committee (the Committee) or staff concluded (INSERT CONCLUSIONS)
2. (DETAIL OTHER FAILURE HERE)
3. (AND HERE)
4. Pursuant to Sections 201.551 and 201.553 of the Texas Chiropractic Act, a licensee or registrant commits an administrative violation if the person violates the Act, a Board rule, or a Board order.
5. Pursuant to Section (ENTER DETAILS OF THE ACT), a licensee shall (DETAIL REQUIREMENTS HERE).

In the future, the TBCE staff will carefully review any new complaints against you. If it is determined that you violated the Texas Chiropractic Act or Administrative Code, this letter will be considered in determining future disciplinary actions.

If you have questions, please contact the TBCE Compliance and Investigation Division (ENTER CONTACT NAME & INFO).

Sincerely,

Patricia Gilbert
Executive Director

MAXIMUM SANCTIONS TABLE

CATEGORY I. 1st Offense: \$1000; 2nd Offense: \$1000; 3rd Offense: \$1000; and/or revocation

Violation	Reference:
Practicing without a chiropractic license	22 TAC §78.9(d) CA §201.301
Practicing with an expired license (nonrenewal due to default student loan)	22 TAC §75.2(c)(6) and (e) CA §§201.301, 201.351, 201.354(f)
Practicing with an expired license (nonrenewal)	22 TAC §75.2(i) CA §§201.301, 201.351, 201.354(f)
Practicing while on inactive status	22 TAC §75.4(f) CA §§201.301, 201.311(b)(2)
Practicing in non-compliance with continuing education requirements	22 TAC §§75.5, 75.6(g) CA §§201.301, 201.354(f)
Improper control of patient care and treatment	22 TAC §73.4(c)
Grossly unprofessional conduct	22 TAC §78.1 CA §201.502(a)(7)
Lack of diligence/gross inefficient practice	22 TAC §78.2 CA §201.502(a)(18)
Practicing outside the scope of practice of chiropractic	22 TAC §§78.2, 78.17 CA §§ 201.002, 201.502(a)(1) and (18)
Performing radiologic procedures without registering, with an expired registration, or without DSHS approval; failure to renew (including non-payment of fees)	22 TAC §74.2(a), (d), (h)
MRTCA, DSHS rules or order	22 TAC §74.2(h), (j), (o)
Performing (1) radiologic procedures without supervision, or (2) cineradiography or other restricted procedure	22 TAC §74.2(g), (k), (l), (m)
Permitting a non-registered or non-DSHS approved person to perform radiologic procedures or CRT to perform procedures without supervision	22 TAC §74.2(k), (n)
Delegating to a non-licensee authority to perform adjustments or manipulations	22 TAC §77.5(a)
Failure to supervise a student	22 TAC §77.5(b)

Delegating authority to a licensee whose license has been suspended or revoked	22 TAC §77.5(d)
Failure to comply with the CA, other law or a board order or rule	22 TAC §78.9(c) CA §§201.501, 201.502(a)(1)
Failure to comply with down-time restrictions	22 TAC §78.9(f)
Medicaid fraud	CA §201.502(a)(2), (7); HRC §§36.002, 36.005
Solicitation	Occ. Code §§102.001, 102.006
Default on Student Loan	Occ. Code Chapter 56 22 TAC §77.6
Failure to comply with requirements/restrictions on prepaid treatment plans	22 TAC §77.12
Failure to respond to board inquiries	22 TAC §§75.3(1)(C), 78.3(h), 78.5, 77.7(g)
Failure to report criminal conviction	22 TAC §78.3(f)
Other statutory violations	CA §201.502(a)(2) - (8), (10), (12) - (17), (19) - (20)
CATEGORY II. 1st Offense: \$500 2nd Offense: \$750* 3rd Offense: \$1000* *and/or suspension	
Violation	Reference
Submitting an untrue continuing education certification	22 TAC §75.5(1)(E) CA §201.502(a)(2)
Operating a facility without a certificate of registration or with an expired registration	CA §201.312 22 TAC §§73.2(a), 73.3(e), 73.4(a)
Practicing in a facility without a certificate of registration or with an expired registration	CA §201.312 22 TAC §73.2(k)
Unauthorized disclosure of patient records	22 TAC §77.7 CA §§201.402, 201.405
Overtreating/overcharging a patient	22 TAC §78.1(a)(4) HPCA §101.203
Deceptive advertising and other prohibited advertising	22 TAC §77.2 CA §201.502(a)(2), (9), (11); HPCA §101.201
CATEGORY III. 1st Offense: \$250 2nd Offense: \$500* 3rd Offense: \$1000* *and/or suspension	
Violation	Reference
Failure to furnish patient records Overcharging for copies of patient records	22 TAC §77.7 CA §201.405(f)

Failure to disclose charges to patient	22 TAC §§78.1(a)(6), 77.3(a) HPCA §101.202
Failure to submit to medical examination	22 TAC §77.7(h)
Failure to maintain patient records	22 TAC §77.8
CATEGORY IV. 1st Offense: \$250 2nd Offense: \$500 3rd Offense: \$1000	
Violation	Reference
Failure to display public interest information Displaying an invalid license or renewal card	22 TAC §§78.6(d), (e), 78.7 CA §201.502(a)(2), (9)
Failure to complete CRT continuing education	22 TAC §74.2(i)
CATEGORY V. 1st Offense: \$250 2nd Offense: \$400 3rd Offense: \$500	
Violation	Reference
Failure to report change of address	22 TAC §75.1
Failure to report change of facility address/ownership	22 TAC §73.4(d)
Failure to report <i>locum tenens</i> information	22 TAC §75.2(b)
Use of the term "physician," "chiropractic physician"	CA §201.502(a)(22)
Failure to use "chiropractor," "D.C." in advertising	22 TAC §78.1(a)(2)



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Complaint and Investigation Process

Categories of Violations

Category I:

- Practicing without a chiropractic license
- Practicing with an expired license
- Practicing while on inactive status
- Practicing in non-compliance with CE
- Performing radiologic procedures w/o registering, w/an expired registration or w/o DSHS approval
- Delegating to a non- licensee authority to perform adjustments or manipulations
- Delegating authority to a licensee whose license has been suspended or revoked
- Default on a student loan
- Failure to respond to Board Inquiries
- Failure to report a criminal conviction

Category II:

- Operating a facility without a certificate of registration or with an expired registration
- Practicing in a facility without a certificate of registration or with an expired registration
- Failure to report out of facility practice

Category III, IV, & V:

- Failure to furnish patient records
- Overcharging for copies of patient records
- Failure to disclose charges to patient
- Failure to maintain patient records
- Failure to display public interest information, current facility registration or current annual license renewal
- Failure to complete CRT Continuing Education
- Failure to comply with Spinal Screening requirements
- Failure to report change of address
- Failure to report change of facility address/ownership
- Failure to report locum tenens information
- Use of the term "physician" or "chiropractic physician"
- Failure to use "chiropractor" or "D.C." when advertising

Complaint Closures without Enforcement Committee Approval

- No Violation
- Insufficient evidence
- Non-jurisdictional
- Warning letters in lieu of sanctions when appropriate
- Education letters in lieu of sanctions when appropriate



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Enforcement Violations FY 2014 – FY 2016

FY 2015 – FY 2016 YTD – *

		To Staff	TO EC
I	178		
II	62		
Subtotal	240	*50 Cases	190 cases
III	41		
IV	4		
V	32		
No Violations	49		
Subtotal	126	126 Cases	0 Cases
TOTAL	366	176 Cases	190 Cases

FY 2014 – **

		To Staff	To EC
***I	399		
II	170		
Subtotal	569	**120 Cases	449
III	92		
IV	19		
V	89		
No Violations	98		
Subtotal	298	298 Cases	0 Cases
TOTAL	867	418 Cases	449 Cases

* Based on 20% delegation to ED

** Based on 30% delegation to ED

*** Change of address focus



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Enforcement Case Aging & Tracking

Current as of December 2015

AGE OF CASE IN DAYS	# OF CASES PENDING	%
0-90	69	64%
91-120	11	10%
121-180	11	10%
Over 180	16	15%
TOTALS	107	100%



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EXPERT WITNESS REPORT

Case Number: 2016-000

Author: DC NAME, Lic # 00000

Introduction: On DATE I was asked by the Texas Board of Chiropractic Examiners to render an opinion in TBCE case #2016-0XX.

Witness Qualifications: ABC

Prior Contested Cases in Which Witness has Provided Expert Opinions: ABC

Witness Compensation: ABC

Definitions: Minimum Texas Standard of Chiropractic Care requirements are defined in the following statutes and TBCE rules: Chs. 201.002, 201.2545, 201.502, 201.5025, & 201.5026 of the Texas Occupations Code; and Title 22 TAC §§ 77.5, 77.8, 77.10, 77.11, 78.1, 78.2, 78.8, 78.12, 78.13, 78.14, and 78.15, I have read and I am familiar with these statutes and rules.

Documents, records, and other evidence reviewed upon which professional opinions are based: In order to prepare this report, I reviewed the following:

1. Patient Records of
2. X-rays of
3. MRI's of

Summary of Events:

Describe the timeline/clinical course

Relevant Standard(s) of Care: The standard(s) of care in the practice of chiropractic governing the chiropractic treatment or services provided by the chiropractor in this matter are:

Standard of Care Opinion 1: Did the chiropractor meet the standard of care in providing the treatment or services?

Identify the clinical basis for your findings.

Facts & Data Considered In Forming Opinion: ABC

Evidence Used to Summarize or Support Opinion:

Summary:

Name of Reviewer

Date