

**STATE OF VERMONT
BOARD OF CHIROPRACTIC**

In re: Pamela Halton
License No. 006-1168

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Docket No. 2013-576

Appearances:

Petitioner, State of Vermont:

Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board of Chiropractic held a hearing on the above matter on August 5, 2014 at the Office of Professional Regulation hearing room at the City Center in Montpelier, Vermont. The Dr. Halton did not attend and was not represented by counsel.

Findings of Fact

1. Dr. Halton is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 127, 26 V.S.A. § 541, the Administrative Rules of the Board of Chiropractic and the Rules of the Office of Professional Regulation. Her license was summarily suspended on May 6, 2014. Dr. Halton was notified of the Summary Suspension by email on May 9, 2014.
2. On April 29, 2014 Dr. Halton was sent a Notice of Charges in this matter by certified mail to her last known Vermont address. A copy of the Specification of Charges is attached to this Default Order. The certified notices were returned to OPR on May 6, 2014. The returns provided Dr. Halton's new address in Hawaii. Notice of these charges was sent to the Hawaii address on May 7, 2014.
3. OPR Rule 3.3 requires that an Answer be filed within 20 days of the date on which the notice of charges was mailed by the Director.
4. Licensees are required to notify the Board of any change of address within 30 days. 3 V.S.A. § 129a(a)(14).
5. The notice of charges sent by certified mail to Dr. Halton in Hawaii was returned as "unclaimed, unable to forward." The first class mailing was not returned.
6. Dr. Halton did not file an Answer to the charges within the required time.
7. On July 3, 2014 notice of the Default Hearing scheduled for this date was mailed to Dr. Halton at that same Hawaii address by certified mail, first class mail, and email. The file shows receipt/no return on this mailing. The first class mailing was not returned.
8. Dr. Halton has not answered the charges. A duplicate was sent to Dr. Halton's old address as well.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds

the Dr. Halton to be in default. The allegations contained in the State's specification of charges dated April 29, 2014 (copy attached) are therefore treated as the facts on which the Board's order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

Dr. Halton has received adequate or constructive notice of the charges in this matter as indicated by the Board's file and the State's presentation. Because Dr. Halton has failed to answer the charges, the State's factual allegations in the Specification of Charges are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board finds, in this Default Hearing held pursuant to 3 V.S.A. §809(d), that Dr. Halton has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Dr. Halton's license is hereby **Suspended Indefinitely**, effective as of the date of the hearing. Should Dr. Halton apply for reinstatement, the Board at that time will determine whether any conditions can permit her to resume practice while protecting public health and safety.

Appeal Rights

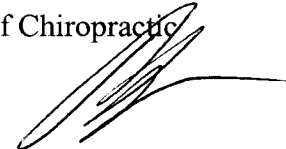
This is a final administrative determination by the Vermont Board of Chiropractic.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 89 Main St., Fl. 3, Montpelier, VT 05620-3402 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a. To request a stay of the Board's decision, please refer to the attached stay instructions.

Board of Chiropractic

By:


Palmer Peet, D.C., Chair

Date: August 5, 2014

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 8/5/14

STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF CHIROPRACTIC

IN RE:

PAMELA HALTON

License No. 006.0001168

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Docket No. 2013-576

SPECIFICATION OF CHARGES

Board Authority

1. The Vermont Board of Chiropractic (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by chiropractors pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. §§529 and 541; the Board of Chiropractic Laws of the Office of Professional Regulation.

Statement of Facts

2. Pamela Halton (the "Respondent") of Essex Junction, Vermont is licensed by the State of Vermont as a Chiropractor under license number 006.0001168. This license is active and is currently set to expire on or about September 30, 2014.
3. On or about August 2, 2011, the Vermont Board of Chiropractic approved a Stipulation and Consent Order (Docket 2010-705) in which the Respondent admitted to unprofessional conduct including repeated failure to provide patient records according to law. The Board reprimanded Respondent's license, required Respondent to attend 3 hours of continuing education in record-keeping, allowed the Board to randomly inspect Respondent's records twice in the following two years to insure compliance with Board rules, and issued a \$500.00 administrative penalty.
4. On or about September 18, 2012, patient L.L. began seeing Respondent for Network Spinal Analysis. Initially, Respondent's chiropractic work relieved the back pain L.L. had been experiencing for quite some time. L.L. continued to see Respondent through September and into October of 2012. On or about October 10, 2012, Respondent convinced L.L. to sign a "Savings Program for Optimum Wellness," a pay in advance contract for a set number of procedures. The contract listed specific services to be provided and L.L. paid Respondent \$1897.00 via check on or about October 10, 2012.
5. In January, 2013, Respondent stopped all treatment of L.L. and indicated she would be out of state until April of 2013. In January, 2013, L.L. requested her money back pursuant to their contract, minus services rendered. The total amount owed back to L.L. per their Savings Program for Optimal Wellness equaled approximately \$1406.30. L.L. did not hear from Respondent.

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Office of
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- a. On or about April 3, 2013, Respondent sent L.L. a lengthy email detailing Respondent's personal and medical difficulties and stating she would not be returning to Vermont for a few months. Respondent made no mention of how she would proceed with chiropractic services, nor any mention of reimbursement for services that had not been provided.
 - b. On or about May 30, 2013, L.L. left a voicemail message for Respondent indicating that she would like a refund, per the Savings Program for Optimum Wellness contract, minus the cost of services that had been rendered.
 - c. On or about August 4, 2013, L.L. spoke with Respondent by phone and again asked for a refund. Respondent refused to pay back the money.
 - d. On or about August 5, 2013, Respondent sent a lengthy email to L.L. again detailing Respondent's personal and medical difficulties, begging L.L. not to file a complaint with the Vermont Board of Chiropractic.
6. OPR Investigator John Lewis spoke with Respondent via phone on or about November 5, 2013. During this conversation, Respondent admitted she had abandoned her chiropractic practice in Vermont and had moved to Hawaii for personal health reasons. At that time, Respondent did not have a mailing or physical address but agreed to communicate with Investigator Lewis via email.
- a. On or about November 6, 2013, Investigator Lewis emailed Respondent, attaching L.L.'s complaint, and requested a written response to the allegations. In addition, Investigator Lewis requested all records within Respondent's possession or control related to L.L.
 - b. On or about November 25, 2013, Investigator Lewis again emailed Respondent requesting she send the records pertaining to L.L. Subsequent to the November 6, 2013 contact with Respondent, Investigator Lewis had also received correspondence from Respondent's patients T.C. and M.H. Lewis requested all records for T.C. and M.H. as well.
 - c. Beginning on or about November 25, 2013, Respondent began emailing and texting Investigator Lewis repeatedly with long explanations of personal circumstances that prevented her from responding to Investigator Lewis' requests for records.
 - d. On or about February 8, 2014, Investigator Lewis contacted Respondent by phone. Respondent claimed she had given the requested patient records to someone whom she claimed was supposed to mail them to OPR. OPR never received the records. Respondent would not divulge the name of the person she claimed would provide the materials and stated she could not contact him/her because he/she was in Mexico.

7. A review of all correspondence Respondent has had with L.L. and Investigator Lewis shows a pattern of behavior that bring into question Respondent's fitness to practice

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chiropractic care and also demonstrate a repeated failure to provide patient records upon request.

Charges

8. The above acts and circumstances, alone or in combination, constitute unprofessional conduct in violation of:
- a. 3 V.S.A. §129a(a)(5) (Practicing the profession when medically or psychologically unfit to do so); and
 - b. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records; or willfully failing to file the proper reports or records); and
 - c. 3 V.S.A. §129a(a)(8) (Failing to make available promptly to a person using professional health care services, that person's representative, succeeding health care professionals or institutions, upon written request and direction of the person using health care services, copies of that person's records in the possession or under the control of the licensed practitioner); and
 - d. 3. V.S.A. § 129a(a)(9) (Failing to retain client records for a period of seven years); and
 - e. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Relief Requested

WHEREFORE, the license of Respondent Pamela Halton should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 29th day of April, 2014.

STATE OF VERMONT



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89 Main Street
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STATE OF VERMONT
SECRETARY OF STATE

By: _____

Annika Green
Annika Green
State Prosecuting Attorney

**STATE OF VERMONT
BOARD OF CHIROPRACTIC**

In re: Pamela A. Halton
License No. 006-1168

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Docket No. 2013-576(Ch.)

**DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER**

Appearances:

for Petitioner, State of Vermont: Annika Green
for Respondent: did not appear

Presiding Officer: Larry S. Novins

**Summary Suspension Order
FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

On May 6, 2014 this matter came before the Board of Chiropractic on the State's Request for a Summary Suspension pursuant to 3 V.S.A. § 814(c). Dr. Halton did not appear. The Board has authority to summarily suspend a license pending further action, if it determines that public health, safety, or welfare imperatively requires emergency action.

Findings of Fact

Based on a Review of the pleadings and the file, and on evidence presented to the Board at the hearing, the Board finds:

1. Dr. Halton is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 10, 3 V.S.A. § 129, the Administrative Rules of the Board of Chiropractic, and the Administrative Rules of the Office of Professional Regulation. 3 V.S.A. § 814(c) permits the Board to summarily suspend a license if it finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order.
2. The State has filed a "Request for Summary Suspension." The Request alleges, in part, that Dr. Halton abandoned a patient. A copy of the Request is attached to this Decision and Order.
3. The State further alleges that the public health, safety or welfare imperatively requires emergency action.
4. Notice of this hearing was sent to Dr. Halton at her last known Vermont address via certified mail dated April 30, 2014. The notice was returned after being forwarded to

- Hawaii saying that forwarding to Dr. Halton's new address in Hawaii had expired.
5. The Board has reviewed the evidence presented at the hearing.
 6. The Board finds for purposes of this hearing that Dr. Halton abandoned her client in January, 2013.
 7. Dr. Halton's conduct, as shown through emails admitted into evidence shows a disturbing and on-going pattern of non-compliance with legal requirements. Once again, Dr. Halton refused to provide a patient with her records. Evidence in this hearing shows Dr. Halton lied to her patient and did not respond to her patient's quite proper requests for a refund of moneys. The content of her emails shows that she is not now fit to practice. She is at this time a danger to the public.
 8. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree.
 9. The evidence presented does imperatively require emergency action for the public health, safety, and welfare.
 10. Summary suspension is necessary to prevent further patient harm.
 11. If summary suspension is not ordered, the Board believes that further patient harm will occur.

Conclusions of Law

Our Findings of Fact and Conclusions of Law in this Summary Suspension hearing are for purposes of deciding whether *at this time* there is an imperative need to take emergency action. 3 V.S.A. § 814(c). Our Findings of Fact and Conclusions of Law herein are for purposes of this Order only.

The State's Request for a Summary Suspension is supported by the evidence presented. The Board concludes that the allegations in the Request for Summary Suspension have been established to the necessary degree. For purposes of this Summary Suspension Hearing, the Findings of Fact above do support Summary Suspension of Dr. Halton's license. There is an imperative need to take emergency action. 3 V.S.A. § 814(c).

Vermont law requires that unprofessional charges be filed promptly, as the prosecution already has, with Dr. Halton being afforded a prompt hearing. At any merits hearing in this matter, the State will bear the burden of proving unprofessional conduct. Our Findings of Fact and Conclusions of Law in this matter will not absolve the State or Dr. Halton from producing or challenging relevant evidence at a merits hearing. The Findings of Fact and Conclusions of Law at a contested hearing will be based exclusively on the evidence admitted at that hearing.

Order

The State's Request for Summary Suspension is **Granted**. Dr. Halton's license is summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

APPEAL RIGHTS

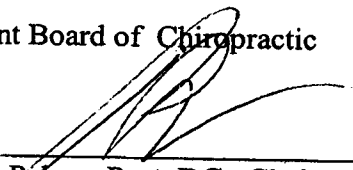
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If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a. To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Chiropractic

By:


Palmer Peet, DC, Chair

Date: May 6, 2014

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/6/14

STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF CHIROPRACTIC

IN RE:

PAMELA HALTON

License No. 006.0001168

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Docket No. 2013-576

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Chiropractic (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by chiropractors pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. §§529 and 541; the Board of Chiropractic Laws of the Office of Professional Regulation.
2. The Board of Chiropractic is authorized by 3 V.S.A. § 814 to summarily suspend the license of a chiropractor when it finds that the public health, safety, or welfare imperatively requires emergency action.

Statement of Facts

3. Pamela Halton (the "Respondent") of Essex Junction, Vermont is licensed by the State of Vermont as a Chiropractor under license number 006.0001168. This license is active and is currently set to expire on or about September 30, 2014.
4. On or about August 2, 2011, the Vermont Board of Chiropractic approved a Stipulation and Consent Order (Docket 2010-705) in which the Respondent admitted to unprofessional conduct including repeated failure to provide patient records according to law. The Board reprimanded Respondent's license, required Respondent to attend 3 hours of continuing education in record-keeping, allowed the Board to randomly inspect Respondent's records twice in the following two years to insure compliance with Board rules, and issued a \$500.00 administrative penalty.
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6. In January, 2013, Respondent stopped all treatment of L.L. and indicated she would be out of state until April of 2013. In January, 2013, L.L. requested her money back pursuant to their contract, minus services rendered. The total amount owed back to L.L. per their Savings Program for Optimal Wellness equaled approximately \$1406.30. L.L. did not hear from Respondent.

- a. On or about April 3, 2013, Respondent sent L.L. a lengthy email detailing Respondent's personal and medical difficulties and stating she would not be returning to Vermont for a few months. Respondent made no mention of how she would proceed with chiropractic services, nor any mention of reimbursement for services that had not been provided.
- b. On or about May 30, 2013, L.L. left a voicemail message for Respondent indicating that she would like a refund, per the Savings Program for Optimum Wellness contract, minus the cost of services that had been rendered.
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- a. On or about November 6, 2013, Investigator Lewis emailed Respondent, attaching L.L.'s complaint, and requested a written response to the allegations. In addition, Investigator Lewis requested all records within Respondent's possession or control related to L.L.
- b. On or about November 25, 2013, Investigator Lewis again emailed Respondent requesting she send the records pertaining to L.L. Subsequent to the November 6, 2013 contact with Respondent, Investigator Lewis had also received correspondence from Respondent's patients T.C. and M.H. Lewis requested all records for T.C. and M.H. as well.
- c. Beginning on or about November 25, 2013, Respondent began emailing and texting Investigator Lewis repeatedly with long explanations of personal circumstances that prevented her from responding to Investigator Lewis' requests for records.

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- d. On or about February 8, 2014, Investigator Lewis contacted Respondent by phone. Respondent claimed she had given the requested patient records to someone whom she claimed was supposed to mail them to OPR. OPR never received the records. Respondent would not divulge the name of the person she claimed would provide the materials and stated she could not contact him/her because he/she was in Mexico.
8. A review of all correspondence Respondent has had with L.L. and Investigator Lewis shows a pattern of behavior that bring into question Respondent's fitness to practice chiropractic care and also demonstrate a repeated failure to provide patient records upon request.

Request for Relief

9. The facts as set out above establish that in order to protect the public health, safety, or welfare of the people of the State of Vermont, emergency action is imperative.
10. The above acts and circumstances, alone or in combination, constitute unprofessional conduct in violation of:
- a. 3 V.S.A. §129a(a)(5) (Practicing the profession when medically or psychologically unfit to do so); and
 - b. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records; or willfully failing to file the proper reports or records); and
 - c. 3 V.S.A. §129a(a)(8) (Failing to make available promptly to a person using professional health care services, that person's representative, succeeding health care professionals or institutions, upon written request and direction of the person using health care services, copies of that person's records in the possession or under the control of the licensed practitioner); and
 - d. 3 V.S.A. § 129a(a)(9) (Failing to retain client records for a period of seven years); and
 - e. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

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WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's chiropractic license number 006.0001168 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 29th day of April, 2014.

STATE OF VERMONT
SECRETARY OF STATE

By:

Annika Green

Annika Green
State Prosecuting Attorney

STATE OF VERMONT



Prosecuting Attorney
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