

IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

STATE BOARD OF REGISTRATION)
FOR THE HEALING ARTS,)

Case No.: 08BA-CV01476

Plaintiff,

DAVID MATTHEW WHITE, D.C.)
d/b/a ADVANCED PHYSICAL)
HEALTH, P.C.)

FILED
BOONE COUNTY
JAN 20 2009
CHRISTY BLAKEMORE
CLERK CIRCUIT COURT, COLUMBIA, MO

Defendant.)

**DEFENDANT'S BRIEF IN SUPPORT OF HIS
MOTION FOR SUMMARY JUDGMENT**

Respectfully Submitted,

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IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

STATE BOARD OF REGISTRATION]	
FOR THE HEALING ARTS,]	
]	
Plaintiff,]	
]	
v.]	Case No.: o8BA-CV01476
]	
DAVID MATTHEW WHITE, D.C.]	
d/b/a ADVANCED PHYSICAL]	
HEALTH, P.C.]	
]	
Defendant.]	

**DEFENDANT'S BREIF IN SUPPORT OF HIS
MOTION FOR SUMMARY JUDGMENT**

**I.
Introduction**

This matter is before the Court on cross motions for summary judgment. Plaintiff State Board of Registration for the Healing Arts (hereinafter "BHA" or "the Board") filed the instant Petition for Preliminary and Permanent Injunction against Defendant seeking an order prohibiting and enjoining him from advertising that he performs "**chiropractic physiotherapy**". As stated more thoroughly below, the Board is without jurisdiction to seek injunctive action against Defendant. Moreover, even if the Board *did* have jurisdiction in this matter, the advertisement it seeks to enjoin is a physiologic and rehabilitative modality that is expressly permitted under the licensure granted to him by the

Missouri Board of Chiropractic Examiners. Accordingly, Defendant's motion for summary judgment must be granted and Plaintiff's Petition dismissed.

**II.
Procedural History And Current Posture Of The Case**

1. On March 14, 2008, the State Board of Registration for the Healing Arts (hereinafter to as "BHA") filed a Petition for Preliminary and Permanent Injunction against David Matthew White, D.C. doing business as Advanced Physical Health, P.C. (hereinafter referred to as "Dr. White").
2. On April 29, 2008, Dr. White filed "Defendant Dr. White, D.C.'s Answer to Petition for Preliminary and Permanent Injunction".
3. On June 23, 2008, the Court entered its Order requiring Dr. White and BHA to submit briefs on the summary judgment motions.
4. On September 19, 2008, Dr. White and the BHA filed a "Joint Stipulation of Facts".
5. On December 11, 2008, Dr. White and the BHA filed a "Proposed Scheduling Order" providing that Cross Motions for Summary Judgment were to be filed on or before January 20, 2009. .
6. That on December 12, 2008, the Court entered its Order adopting the parties' Proposed Scheduling Order.
7. This instant motion is timely filed pursuant to the Court's Order.

III.
Defendant's Statement Of Uncontroverted Facts

1. Dr. David Matthew White, D.C. is a duly licensed chiropractic physician in good standing in the state of Missouri. See, Affidavit of Loree Kessler, Executive Director of the Missouri State Board of Chiropractic Examiners, attached hereto as Defendant's Exhibit "A".¹
2. Dr. David Matthew White, D.C. is a chiropractic physician duly licensed by the Missouri Board of Chiropractic Examiners since June 11, 1985. Def. Exh. "A" at ¶ 5.
3. On or about April 30, 2007, Dr. White, D.C. had a sign outside of his clinic which read "**chiropractic physiotherapy**". See, Joint Stipulation of Facts, Page 2, Paragraph 2.)
4. The Revised Statutes of Missouri, chapter 331.010.1 defines the "practice of chiropractic" as the "examination, diagnosis and *treatment* of patients, by those *methods commonly taught* at any chiropractic college or chiropractic program in a university which has been **accredited by the Counsel on Chiropractic Education**, its successor entity or approved by the board....".
5. Logan Chiropractic College in St. Louis, Missouri and Cleveland Chiropractic College in Overland Park, Kansas are both accredited by the Counsel on Chiropractic Education. See, Affidavit of Dr. Glenn A. Bub, Chief of Staff at Logan Chiropractic College and Affidavit of Dr. M. Ruth

¹ Hereinafter, defendant's supporting documents are references as "Def. Exh. ___".

Sandefur, D.C., Vice President of Academic Services at Cleveland College of Chiropractic., attached hereto as Defendant's Exhibit "B" and Exhibit "C".

6. **"Chiropractic physiotherapy" is a physiologic and rehabilitative modality that is commonly taught at Logan Chiropractic College and Cleveland Chiropractic College.** See, Affidavit of Dr. Laney Nelson, Director of the Bio-Freeze Sports and Rehabilitation Center at Logan Chiropractic College, See also Affidavit of Dr. William Tuttle, Physiotherapy Professor at Cleveland Chiropractic College, attached hereto as *Defendant's Exhibits "D" and Defendant's Exhibit "E"*.
7. The Missouri State Board of Chiropractic Examiners (hereinafter "BCE" or "Board of Chiropractic Examiners") has the exclusive authority pursuant the laws of the State of Missouri for the licensure of chiropractic physicians as well as regulating the practice of chiropractic for the protection of the health and welfare of the citizens of the State of Missouri. Def. Exh. "A", ¶ 3.
8. The Board has determined that **"chiropractic physiotherapy" is a physiologic and rehabilitative modality which falls within the scope of practice of chiropractic physicians licensed to practice pursuant to RSMo. 331.010.** Def. Exh. "A", ¶ 8.
9. Plaintiff asserts that the authority granted it by Chapter 334.610 RSMo to license and regulate the practice of physical therapy and to enjoin its unauthorized practice, necessarily brings Defendant within its jurisdiction.

See, Plaintiff's Petition for Preliminary and Permanent Injunction at ¶¶ 10,

11.

10. The practice of chiropractic is expressly excluded from the oversight of the BHA. *See, Chapter 334.155.2 RSMo.*
11. The BHA has no authority over the advertising of physiologic and rehabilitative modalities by chiropractic physicians. (*Id.*).

IV.

Standards For Summary Judgment

Summary Judgment is proper when there is no genuine issue of material fact and the plaintiff is entitled to a judgment as a matter of law. *ITT Commercial Finance v. Mid-Am. Marine, 854 S.W.2d 371, 376 (Mo. banc 1993); Rule 74.04.*

Summary judgment is intended to allow the trial court to enter judgment, without delay, when the moving party has demonstrated, on the basis of facts of which there is no genuine dispute, a right to judgment as a matter of law. *Id.* A genuine issue exists where there is evidence of two plausible, but contradictory, accounts of the essential facts. *ITT Commercial Finance v. Mid-Am. Marine, 854 S.W.2d at 382.*

When the moving party is a defending party with no burden of persuasion at trial, it may establish a right to summary judgment by showing: 1) facts that negate any one of the claimant's elements, or, 2) that the non-movant, will not be able to produce evidence sufficient to allow the trier of fact to find the existence of one of the claimant's essential elements, or, 3) that there is no genuine dispute as to the existence of each of the facts necessary to support the movant's properly pleaded affirmative defenses. *ITT Commercial Finance v. Mid-Am. Marine, 854*

S.W.2d at 381; *Fetick v. American Cyanamid Co.*, 38 S.W.3d 415, 418 (Mo. banc 2001).

Once a *prima facie* case is made for summary judgment, “an adverse party may not rest upon the mere allegations or denials of the party’s pleading, but the response, by affidavits or as otherwise provided in this Rule 74.04, shall set forth specific facts showing that there is a genuine issue for trial”. *Victory Hills Ltd. P’ship I v. NationsBank, N.A. (Midwest)*, 28 S.W.3d 322, 333 (Mo. App. 2000).

**V.
Argument**

A. The Board of Healing Arts Lacks The Authority To Enjoin Dr. White From Advertising or Using the Term “Chiropractic Physiotherapy” Because §334 RSMo. Expressly Exempts From Its Coverage Chiropractic Physicians Practicing Within The Scope Of Their License.

The BHA was created by the Missouri Legislature for the purpose of registering, licensing and regulating physicians, surgeons, and certain associated healthcare providers such as physical therapists. *See generally* Chapter 334 RSMo. As an administrative body, it is a creature of statute and only has the jurisdiction and authority as was granted by the legislature. *Mo. Hosp. Ass’n. v. Air Conservation Com’n*, 874 S.W.2d 380, 397 (Mo.App.W.D. 1994). The provisions of BHA’s enabling statute apply only to those licensed under Chapter 334 performing tasks which their education or licensure qualify them to perform. *See* §334.155.1 RSMo. Chapter 334 *does not* apply to “....chiropractors licensed and lawfully practicing their profession within the provisions of Chapter 331, RSMo”. *See* §334-155.2 RSMo. Dr. White has been a licensed chiropractic physician in the State of

Missouri since June 11, 1985. SOF 2.² As a chiropractic physician duly licensed by the state of Missouri, he is permitted to practice any methodology “**commonly taught in any chiropractic college or chiropractic program in a university which has been accredited by the Counsel on Chiropractic Education.....or approved by the Board**”. See, §331.010.1 RSMo. (Emphasis added).

The term “**chiropractic physiotherapy**” found objectionable by the BHA, is a form of **physiologic and rehabilitative modality** that is commonly taught at both Logan Chiropractic College and Cleveland Chiropractic College as part of the curriculum for their Doctor of Chiropractic program. SOF 6. Additionally, the Board recognizes and approves the use of the term “**chiropractic physiotherapy**” as one of the forms of **physiologic and rehabilitative modalities** that fall within the scope of practice for chiropractic physicians licensed and practicing pursuant to §331.010 RSMo. SOF 8.

At all times relevant to these proceedings, Dr. White was a licensed chiropractor lawfully practicing his profession within the scope §331, RSMo. when he advertised the use of the term “**chiropractic physiotherapy**”. Consequently, notwithstanding BHA’s assertion to the contrary, it does not have the statutory authority, or the requisite jurisdiction to enjoin his continued publication of his practice and use of this particular modality. See, §334.155.2 RSMo.

² Defendant’s Statement of Uncontroverted Facts are hereinafter referenced by paragraph as “SOF___”

³ The word “Board” referenced in §.31.010 means the State Board of Chiropractic Examiners. See, §331.020 RSMo.

Missouri Courts have previously recognized the limitations of the BHA's authority over other licensed health care providers that were lawfully practicing their professions. In *Sermchief v. Gonzales*, the Supreme Court of Missouri found the express provisions of §334.155 made all of Chapter 334 inapplicable to professional nurses who, among other things, took histories, performed breast and pelvic examinations as well as laboratory testing of "pap smears". 660 S.W.2d 683, (Mo. banc 1983); see also, *Group Health v. State Board of Registration*, 787 S.W.2d at 748 (Mo. App. 1996). Like *Sermchief*, §334 does not extend to chiropractic physicians practicing within the scope of their license because chiropractors, licensed under §331 are explicitly exempt from the BHA's jurisdiction. Without a clear mandate from the legislature, the BHA has overstepped the jurisdiction and authority granted to it by the legislature. It is BHA's burden to demonstrate its jurisdiction over defendant; something it cannot do. Jurisdiction is an essential element of BHA's cause of action. *Redden v. DanRedden Co.*, 859 S.W. 2d 207, 210 (Mo.App. 1993). Plaintiff's failure to establish jurisdiction is sufficient to support defendant's motion for summary judgment. *ITT Commercial Finance v. Mid-Am. Marine*, 854 S.W.2d at 381 (non-movant, will not be able to produce evidence sufficient to allow the trier of fact to find the existence of one of the claimant's essential elements).

B. The Use of the Term "Chiropractic Physiotherapy" Is Not Listed As A Specific Term That Is Prohibited Under §334.610.

Even assuming *arguendo* that the BHA has jurisdiction over defendant and other chiropractors similarly performing chiropractic physiotherapy, there is no

legal basis for their action since the term “chiropractic physiotherapy” is expressly excluded from the list of words of letters in §334.610 for use by a licensed physical therapist.

Chapter 334.610, RSMo reads in part:

“...any person, who in any manner, represents themselves or herself as a physical therapist, or who uses in connection with such persons name the words or letters “physical therapist”, “physiotherapist”, “registered physical therapist”, “doctor of physiotherapy”, “P.T.”, “P.h.T”, “P.T.T”, “R.T.T.”, “M.P.T.”,”

When reviewing a statute such as 334.610, in which a list of prohibited terms, letters and words are expressed, the Court should apply the statutory construction doctrine of *expressio unius est exclusio alterius*⁴ recognized in *Kansas City v. Threshing Machine Company*, and other Court’s more recently. 337Mo.913 (Mo banc 1935). This doctrine of statutory construction means that the *express* mention of one or more things in the statute implies the *exclusion* of related things. See *Angoff v. M & M Management Corp.*, 897 S.W.2d 649, 655 (Mo. App. W.D. 1995). Or, when a statute enumerates the subjects or things on which it is to operate, or the persons affected, or *forbids certain things*, it is to be construed as *excluding* from its effect all those things *not expressly mentioned*. *Giloti v. Hamm-Singer Corp.*, 396 S.W.2d 711, 713 (Mo. 1965). see *Groh v. Ballard*, 965 S.W.2d 872, 874 (Mo. App. W.D. 1998). (“[a] standard rule of statutory construction is that the express mention of a thing implies exclusion of another [.]” citing *Yellow Freight Systems, Inc. v. Mayor’s Comm’n. on Human Rights of the City of Springfield*, 791

⁴ The expression of one thing is the exclusion of another.

S.W.2d 382, 387 (Mo. Banc 1990); *State v. Bouser*, 17 S.W.3d 130, 140 (Mo. App. W.D. 1999) (“[t]he maxim ‘expressio unius exclusion alterius’ is often employed in the construction of statutes...[i]n general, it means that a statute’s inclusion of a specific limitation excludes all other limitations of that type.”)

The Legislature in its drafting of §334.610 provided a list of specific terms and abbreviations that could only be used by a licensed physical therapist in the State of Missouri. The list of terms letters and abbreviations confined to licensed physical therapists were“... “physical therapist”, “physiotherapist”, “registered physical therapist”, “doctor of physiotherapy”, “P.T.”, “P.h.T.”, “P.T.T.”, “R.P.T.”, “D.P.T.”, “M.P.T.”. Conspicuously absent is the term “**chiropractic physiotherapy**”. The omission of “**chiropractic physiotherapy**”, when considered with other statutory language which is present (e.g. physiologic rehabilitative modality) must necessarily demonstrate a clear intent on the part of the legislature to exclude “**chiropractic physiotherapy**” from the prohibitions of §334.610.

The BHA may argue that the language of §334.610 which states “...or any other letters, words, abbreviations or insignia, indicating or implying that the person is a physical therapist without a valid existing license as a physical therapist...” is sufficient to give it jurisdiction in the instant matter. This argument, however, is unavailing as the word “**chiropractic**” preceding the term

“physiotherapy” clearly expresses the services of a chiropractic physician not a physical therapist.⁵

Courts are constrained from reading language or words into a statute that do not appear explicitly in the statute and are not suggested by strong implication from other words that are in the statute. *Metro Auto Auction v. Director of Revenue*, 707 S.W.2d 397, 405-05 (Mo. banc 1986); *Campbell v. Labor and Industrial Relations Comm’n.*, 907 S.W.2d 246 (Mo. App. W.D. 1995). It would be unreasonable to read into §334.610 the term **“chiropractic physiotherapy”** because of the other very specific terms that *are* provided along with the qualifying language that makes chiropractic physicians duly licensed under 331, RSMo, able to advertise the use of **“physiologic and rehabilitative modalities”**.

C. There Is No Prohibition Of A Chiropractic Physician Advertising “Chiropractic Physiotherapy” Because The Provisions of §334.610 Allow Chiropractors To Advertise The Use of “Physiologic And Rehabilitative Modalities” Such As “Chiropractic Physiotherapy”

Even though the term **“chiropractic physiotherapy”** is not listed as one of the terms specifically enumerated for use by licensed physical therapists, BHA may argue that the term is so similar to those which *are* enumerated that the term should be included by implication. Any such argument cannot be persuasive when well considered.

⁵ Any argument by the BHA regarding the use of **“chiropractic physiotherapy”** is further weakened by a specific exclusion carved out of this statute for chiropractors which states **“nothing in Sections 334.500-334.620 shall prohibit any person licensed in this state under Chapter 331, RSMo, from carrying out their practice for which the person is duly licensed, or from advertising the use of physiologic and rehabilitative modalities;...”**. See, § 334.610 RSMo.

The intent of the legislature in excluding the terms “**chiropractic physiotherapy**” or “physiotherapy” from the list to be used by licensed physical therapists; is supported by the fact that there is a specific exception in §334.610 for duly licensed chiropractors to advertise “the **physiological and rehabilitative modalities**”. The pertinent language is “...nothing in Section 334.500 to 334.620 shall prohibit any person licensed in this state under Chapter 331, RSMo, from carrying out the practice for which the person is duly licensed or from advertising the use of “**physiologic and rehabilitative modalities**”;”. See §334.610 RSMo. The legislature clearly recognized that chiropractors are qualified and trained to perform “**physiologic and rehabilitative modalities**”, which are inclusive of “**chiropractic physiotherapy**”. SOF 6 and 8. When the legislated language allows chiropractors to advertise “**physiologic and rehabilitative modalities**”, Plaintiff’s argument becomes an exercise in “hairsplitting” and without persuasive merit. Further, is contrary to the explicit language in §334.610 RSMo.

The “maxim of exclusion by implication” is to be applied with “great caution” and “should be invoked only when it would be natural to assume by a strong contrast that that which is omitted must have been intended for the opposite treatment. *Six Flag Theme Parks, Inc. v. Director of Revenue*, 179 S.W.3d 266, 270 (Mo. banc 2005); (See also, *Angoff, supra*, 897 S.W.2d 655) (Doctrine is to be applied with caution).

Similarly, courts are not permitted to read language or words into a statute that are not suggested by strong implication from other words in the statute.

Metro Auto Auction v. Director of Revenue, 707 S.W.2d 397, 404-05 (Mo. banc 1986); *Campbell v. Labor and Industrial Relations Comm'n.*, 907 S.W.2d 246 (Mo. App. W.D. 1995). Again, the fact that there is a specific exception that permits chiropractic physicians to advertise “**physiologic and rehabilitative modalities**” demonstrates the legislature’s recognition that “physiotherapy” fell within the scope of the practice of chiropractic in the state of Missouri, and outside the scope of the BHA’s jurisdiction.

VI. Conclusion

Plaintiff may assert, but it cannot prove that physiotherapy is a synonym for physical therapy. Its burden becomes more problematic, however, because it must prove, as an element of its case, that “**chiropractic physiotherapy**” is, in fact, the practice of physical therapy; something over which it has jurisdiction. The BHA’s burden becomes insurmountable, however, when there is a complete want of proof that it and not the Missouri Board of Chiropractic Examiners, is the appropriate authority for bringing an action against a chiropractor for practices outside a chiropractor’s license.

If, as the BHA asserts, “**chiropractic physiotherapy**” is a synonym for physical therapy, which can only be practiced by physical therapist, then the appropriate remedy is to file a complaint with the Board of Chiropractic Examiners (“BCE”) to have the chiropractor disciplined pursuant to the jurisdiction granted the BCE pursuant to §334 RSMo. for practicing methodologies outside his/her licensure. Should the Board of Chiropractic Examiners not agree that chiropractic

physiotherapy is outside the licensure of chiropractic methodologies (as it has) and refuse to discipline the practice of chiropractic physiotherapy, then the appropriate remedy is for the BHA to seek the Missouri Legislature's concurrence with its position and have the law changed. As the law is written, and as the uncontroverted facts clearly establish, the BHA has no jurisdiction to enjoin the practice (or advertisement) of chiropractic physiotherapy. Defendant's motion for summary judgment must be granted.

Respectfully Submitted,

McGONAGLE SPENCER, P.C.



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Telephone: 816/221-2222

Facsimile: 816/221-2245

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a true and correct copy of the above and foregoing was sent via First Class U.S. Mail, postage prepaid on this 20th day of January, 2009, to:

Sreenivasa Rao Dandamudi
P.O. Box 4
Jefferson City, MO 65102
ATTORNEY FOR PLAINTIFF



Gerald F. McGonagle

APPENDIX

RSMO 331.010

Practice of chiropractic, definition.

331.010. 1. The "practice of chiropractic" is defined as the science and art of examination, diagnosis, adjustment, manipulation and treatment both in inpatient and outpatient settings, by those methods commonly taught in any chiropractic college or chiropractic program in a university which has been accredited by the Council on Chiropractic Education, its successor entity or approved by the board. It shall not include the use of operative surgery, obstetrics, osteopathy, podiatry, nor the administration or prescribing of any drug or medicine nor the practice of medicine. The practice of chiropractic is declared not to be the practice of medicine and operative surgery or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter.

2. The practice of chiropractic may include meridian therapy/acupressure/acupuncture with certification as required by the board.

RSMO 334.155

Applicability of Chapter

334.155. 1. The provisions of this chapter shall apply to any licensee of this chapter performing tasks which education or licensure qualify him to perform, in any setting.

2. This chapter does not apply to dentists licensed and lawfully practicing their profession within the provisions of chapter 332, RSMo; to nurses licensed and lawfully practicing their profession within the provisions of chapter 335, RSMo; to optometrists licensed and lawfully practicing their profession within the provisions of chapter 336, RSMo; to pharmacists licensed and lawfully practicing their profession within the provisions of chapter 338, RSMo; to podiatrists licensed and lawfully practicing their profession within the provisions of chapter 330, RSMo; or to chiropractors licensed and lawfully practicing their profession within the provisions of chapter 331, RSMo.

3. The provisions of this chapter shall not prevent a licensed physician from referring a patient to or delegating responsibilities to the professions exempted by subsection 2 of this section.

RSMO 334.610

License to practice required, exceptions--unauthorized use of titles prohibited.

334.610. Any person who holds himself or herself out to be a physical therapist or a licensed physical therapist within this state or any person who advertises as a physical therapist or claims that the person can render physical therapy services and who, in fact, does not hold a valid physical therapist license is guilty of a class B misdemeanor and, upon conviction, shall be punished as provided by law. Any person who, in any manner, represents himself or herself as a physical therapist, or who uses in connection with such person's name the words or letters "physical therapist", "physiotherapist", "registered physical therapist", "doctor of physical therapy", "P.T.", "Ph.T.", "P.T.T.", "R.P.T.", "D.P.T.", "M.P.T.", or any other letters, words, abbreviations or insignia, indicating or implying that the person is a physical therapist without a valid existing license as a physical therapist issued to such person pursuant to the provisions of sections 334.500 to 334.620, is guilty of a class B misdemeanor. Nothing in sections 334.500 to 334.620 shall prohibit any person licensed in this state under chapter 331, RSMo, from carrying out the practice for which the person is duly licensed, or from advertising the use of physiologic and rehabilitative modalities; nor shall it prohibit any person licensed or registered in this state under section 334.735 or any other law from carrying out the practice for which the person is duly licensed or registered; nor shall it prevent professional and semiprofessional teams, schools, YMCA clubs, athletic clubs and similar organizations from furnishing treatment to their players and members. This section, also, shall not be construed so as to prohibit masseurs and masseuses from engaging in their practice not otherwise prohibited by law and provided they do not represent themselves as physical therapists. This section shall not apply to physicians and surgeons licensed under this chapter or to a person in an entry level of a professional education program approved by the commission for accreditation of physical therapists and physical therapist assistant education (CAPTE) who is satisfying supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education while under on-site supervision of a physical therapist; or to a physical therapist who is practicing in the United States Armed Services, United States Public Health Service, or Veterans Administration under federal regulations for state licensure for health care providers.

AFFIDAVIT OF LOREE KESSLER, EXECUTIVE DIRECTOR OF THE MISSOURI
STATE BOARD OF CHIROPRACTIC EXAMINERS

COUNTY OF COLE)
) ss.
STATE OF MISSOURI)

I, Loree Kessler, an adult person and resident of the State of Missouri, do hereby make this affidavit of my own free will.

1. My name is Loree Kessler, and I am employed as the Executive Director of the Missouri State Board of Chiropractic Examiners ("Board").
2. The Board is an agency of the State of Missouri created and established pursuant to Section 331.090, RSMo 2000 et seq., for the purpose of executing and enforcing the provisions of Chapter 331, RSMo.
3. The Board is responsible, among other things, for the licensure of chiropractic physicians in the state of Missouri and for regulating the practice of chiropractic in the state of Missouri for the protection of the public.
4. I am the custodian of records for the Board and am therefore familiar with the records concerning the Board's licensees.
5. The Board's records indicate that Dr. David White, D.C. ("Dr. White") is a licensed chiropractic physician in the state of Missouri, holding License No. 005171. Dr. White was originally licensed by the Board June 11, 1985 and has maintained a current and active license up to and including the date of this Affidavit.
6. The Board's records indicate that Dr. White's license was current and active on or about April of 2007.
7. The Board has determined that Dr. White's advertisement of the term "chiropractic physiotherapy" was not a violation of section 331.060, RSMo., or any other statute or rule enforced by the Board.
8. The Board supports Dr. White's ability to advertise the term "chiropractic physiotherapy," because the Board has determined that "chiropractic physiotherapy" is a physiologic and rehabilitative modality which falls within the scope of practice of chiropractic physicians licensed and practicing pursuant to RSMo 331.010.

January 14, 2009
Date

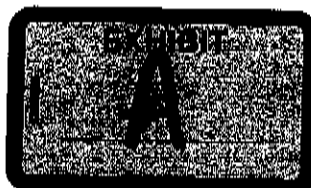
Loree Kessler
Loree Kessler

SUBSCRIBED AND SWORN TO before me this 14th day of January, 2009.

Sandra L. Robinson - Notary Public
Notary Seal, State of
Missouri - Cole County
Commission #06396051
My Commission Expires 4/29/2010

Sandra L. Robinson
Notary Public

My Commission Expires: 4/29/2010



AFFIDAVIT OF GLENN A. BUB

COUNTY OF SAINT LOUIS)
)ss.
STATE OF MISSOURI)

I, Glenn A. Bub, an adult person and resident of the State of Illinois do hereby make this affidavit of my own free will, and that I have personal knowledge of the facts stated below.

1. I am employed at Logan College of Chiropractic as the Health Center Chief of Staff and my duties and responsibilities in that position include oversight of the clinical education program and operation of the health centers.
2. In my position at Logan College of Chiropractic as the Chief of Staff, I am familiar with the accreditation process and requirements for and accreditation status of Logan College of Chiropractic.
3. The national accrediting authority for chiropractic colleges is the Council on Chiropractic Education.
4. I am responsible for making sure that Logan College of Chiropractic meets all requirements to remain a chiropractic college accredited by the Council on Chiropractic Education.
5. Logan College of Chiropractic is accredited by the Council on Chiropractic Education.
6. I have attached all current documents showing Logan College of Chiropractic's accreditation as a chiropractic college by the Council on Chiropractic Education.

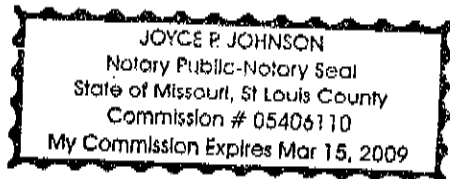
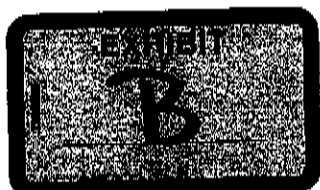
1/15/09
Date

Glenn A. Bub
Name

SUBSCRIBED AND SWORN TO before me this 15 day of Jan, 2009.

Joyce P. Johnson
Notary Public

My Commission Expires: 03/15/09





Promoting Excellence and
Assuring Quality in Chiropractic Education.

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The Council on Chiropractic Education

8049 N. 85th Way
Scottsdale, AZ 85258-4321
([map](#))

Tel: 480.443.8877

Fax: 480.483.7333

Email: cce@cce-usa.org

Website: www.cce-usa.org

Accredited Doctor of Chiropractic Programs

The Council on Chiropractic Education (CCE) Directory
of Chiropractic Degree Programs and Solitary Purpose
Chiropractic Institutions Holding Accredited Status

The following alphabetical listing of programs accredited by the CCE
Commission on Accreditation (COA) provides information specific to the
program and identifies certain dates of importance in the accreditation
process.

Doctor of Chiropractic Degree Programs and Solitary Purpose
Chiropractic Institutions must clearly state their accreditation status
as awarded by the CCE Commission on Accreditation (COA) in
accordance with CCE Policy BOD-151, Service to the Public and
Public Dissemination. (Reference: CCE Manual of Policies)

Parties who wish to submit third-party comment regarding any
program/institution must do so in accordance with CCE Policy
COA-68, Provision of Opportunity for Third-Party Comment Regarding
Accreditation Decisions. (Reference: CCE Manual of Policies)

(15) Doctor of Chiropractic Programs in (18) Locations:

Cleveland Chiropractic College

1. Cleveland Chiropractic College - Overland Park, KS
2. Cleveland Chiropractic College - Los Angeles, CA

D'Youville College Doctor of Chiropractic Degree Program

Buffalo, NY

Life University College of Chiropractic - Marietta, GA

Life Chiropractic College West - Hayward, CA

Logan College of Chiropractic - Chesterfield, MO

Los Angeles College of Chiropractic of the Southern California University of Health Sciences - Whittier, CA

Doctor of Chiropractic Degree Program in the College of Professional Studies of the National University of Health Sciences - Lombard, IL

LOGAN COLLEGE OF CHIROPRACTIC

George A. Goodman, D.C., President

P.O. Box 1065

Chesterfield, MO 63006-1065

Toll Free: 800-782-3344

Phone: 636-227-2100

Fax: 636-207-2420

Email: george.goodman@logan.edu

Web: www.logan.edu

Next regularly scheduled comprehensive evaluation site visit: Fall 2014

Next regularly scheduled COA status review meeting: January 2015

Continuously accredited since: June 1978

August 11, 2006

ANNOUNCEMENT

The Council on Chiropractic Education (CCE) Commission on Accreditation (COA) held its Semi-Annual Meeting July 13 - 15, 2006 in Scottsdale, Arizona. In addition to hearing reports on committee work, they reviewed various program reports and conducted Commission on Accreditation business.

The following Accreditation Actions were taken at this meeting:

Reaffirmation of Accreditation

**Cleveland Chiropractic College (CCC)
Kansas City, MO & Los Angeles, CA**

**Logan College of Chiropractic (LCOC)
Chesterfield, MO**

**THE COUNCIL ON CHIROPRACTIC EDUCATION (CCE)
DIRECTORY OF CHIROPRACTIC DEGREE PROGRAMS AND SOLITARY PURPOSE
CHIROPRACTIC INSTITUTIONS HOLDING ACCREDITED STATUS**

are currently available on the CCE website at:

www.cce-usa.org



For further information, contact:

Martha S. O'Connor, Ph.D., Executive Director
The Council on Chiropractic Education
8049 N. 85th Way, Scottsdale, AZ 85258
Tel: (480) 443-8877
Fax: (480) 483-7333
Email: cce@cce-usa.org

**CLEVELAND
CHIROPRACTIC
COLLEGE**

Kansas City | Los Angeles

www.cleveland.edu

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590 NORTH VERMONT AVE. LOS ANGELES, CA 90004
800.466.2252 • 323.906.2095 • 323.906.2094 FAX

Affidavit

COUNTY OF Johnson)
) ss.
STATE OF KANSAS)

I, M. Ruth Sandefur an adult person and resident of the State of Kansas do hereby make this affidavit of my own free will.

1. That my name is M. Ruth Sandefur, DC. I am an employee at Cleveland Chiropractic College.
2. Cleveland Chiropractic College is located at 10850 Lowell Avenue, Overland Park, KS 66210.
3. That I am employed at Cleveland Chiropractic College as the Vice President of Academic Services.
4. That the national accrediting authority for chiropractic colleges is the **Council on Chiropractic Education.**
5. That I am responsible for making sure that Cleveland Chiropractic College is an accredited chiropractic college by the **Council on Chiropractic Education.**
6. That Cleveland Chiropractic College is accredited by the **Council on Chiropractic Education.**
7. That I have attached all current documents showing accreditation as a chiropractic college by the **Council on Chiropractic Education.**

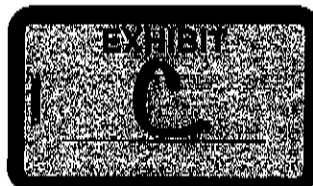
1-14-2009
Date

M. Ruth Sandefur
M. Ruth Sandefur, DC

SUBSCRIBED AND SWORN TO before me this 14th day of January, 2009.

Sarah Hilliard
Notary Public

My Commission Expires: 11/5/2011



August 11, 2006

ANNOUNCEMENT

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**THE COUNCIL ON CHIROPRACTIC EDUCATION (CCE)
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For further information, contact:

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Fax: (480) 483-7333
Email: cce@cce-usa.org

AFFIDAVIT OF LANEY NELSON

COUNTY OF SAINT LOUIS)
STATE OF MISSOURI) ss.

I, Laney Nelson, an adult person and resident of the State of Missouri, do hereby make this affidavit of my own free will and state that I have personal knowledge of the facts stated below.

1. My name is Dr. Laney Nelson and I am a faculty member at Logan College of Chiropractic.
2. My academic credentials are outlined in my curriculum vitae, which is attached and made part of this affidavit.
3. As a faculty member at Logan College of Chiropractic, I am Director of the Biofreeze Sports and Rehabilitation Center and teach Athletic Injuries, Physical Therapy I, and Physical Therapy II which are courses in the use of physiologic and rehabilitative modalities.
5. Chiropractic students and all graduates of Logan College of Chiropractic receive instruction concerning physiologic and rehabilitative modalities.
6. Chiropractic physiotherapy is a physiologic and rehabilitative modality, is commonly taught at Logan College of Chiropractic, and is a fundamental and basic part of a chiropractor's professional training.

Date 1/15/09 Name Joyce B. Johnson

SUBSCRIBED AND SWORN TO before me this 15 day of Jan., 2009.

Joyce B. Johnson
Notary Public

My Commission Expires: 03/15/09

JOYCE R. JOHNSON
Notary Public-Notary Seal
State of Missouri, St Louis County
Commission # 05406110
My Commission Expires Mar 15, 2009



Laney W. Nelson DC, DACBSP
Curriculum Vitae

Personal Biography:

Born Price Utah: 01-15-54 Current age 52
Married to Debra Kac Nelson since 1978 3 Adult children: Nathan, Natalie, Tyler
Hobbies: rock climbing, snowmobiling, water and snow skiing, mountaineering, scuba diving, horse
back riding and packing
Utah Residence: Quarter Horse / Paint Horse Ranch Lehi, Utah
Second Residence: Defiance, Missouri

Professional Occupation:

Private Chiropractic sports Practice from 1983 through 2004
Director of BIOFREEZE Sports and Rehabilitation Center Logan College of Chiropractic
1851 Schoctler Road Chesterfield, MO 63006; 2004 – present

Pre Professional Education:

West High School Salt Lake City, Utah graduated 1972
Marine Military Academy Harlingen, Texas preparatory to Naval Academy Admission 1973
United States Naval Academy Annapolis, Maryland 1973-1975
Utah State University Logan, Utah 1975-1977 BS Wildlife Biology
Utah State University Logan, Utah 1978 Teachers Certificate

Professional Education:

Western States Chiropractic College Portland, Oregon graduation fall 1983
75 hours Logan Chiropractic College Orthopedic Program
Los Angeles Chiropractic College Certified Chiropractic Sports Physician Program
Certified 3 November 1991
Los Angeles Chiropractic College Diplomate Chiropractic Board of Sports Physician Program
Certified June 1993
Logan Chiropractic College certified Acupuncture Program - October 1999
Texas Chiropractic College certified Manipulation Under Joint Anesthesia - September 1997

Professional Service:

Utah Chiropractic Association District Representative 1987-1988
Vice President Utah Chiropractic Association 1988
Secretary/Treasure Utah Chiropractic Association 1989-1990
Editor of the "Utah Journal of Chiropractic" 1989-1991
President and founder of Utah Chiropractic Sports Injury Council 1992-present
Wrangler Pro Rodeo Wilderness Circuit Coordinator 1992-1994
Wrangler Pro Rodeo Board of Directors 1994-1996
Pro Sport Board of Directors 1996-1997
President ChiroMed hospital integration services 1996-1998
American Chiropractic Association Committee on Hospital Relations 1997
Utah Olympic Chiropractic Liaison - World Olympic Association Winter Olympics 2001

Professional Awards:

Outstanding Leadership Award - District Representative of the Year 1987
Utah Chiropractic Association

Laney Nelson DC, DACBSP
CV page 2

Distinguished Service Award - Utah Chiropractic Association 1988 Wrangler Sport Chiropractic -
Doctor of the Year Award 1993
Utah Grizzlies Team Chiropractor awarded Tunner Cup Championship Ring 1995
University of Missouri Baptist Team Chiropractor awarded NAIA Women's Indoor and Outdoor
National Championship Ring 2005

Leadership Appointments:

Board of Directors - Utah Oil Workers Credit Union 1986-1988 Board
of Directors - Hillview WBBA Boys Baseball 1986-1989 Advisory
Board of Directors - East Way Computer Software 1989
Director of Logan College Department of Sports Medicine

Public Service:

Little League Football Coach
Judge Memorial Ute Conference District 1984 - 1988 State Champions 1988 Midget
Division
Little League Football Coach - Judge Memorial Ute Conference District 1989- 1992 State
Champions 1989 Junior Division
Little League baseball Coach Hillview District 1985 - 1989
Draper Little League Baseball Coach 1992 - 1994
Alta District - Little League Football coach 1992
Little League Baseball Coach - Lehi Recreation 1992- 1996
Lehi Automotive Baseball Coach - 1993-1995 State Champions 1995
Bingham High School Rodeo Club - Medical Consultant 1992 - 1993
Lehi High School Sophomore, Junior Varsity, Varsity Baseball Coach 1995 - 2000 Lehi
High School Women Softball Assistant Coach 1995 - 1996

Ecclesiastical Service:

Member of Church of Jesus Christ of Latter Day Saints
Willow creek Ward Young Adult Sunday School Instructor 1996- 1999
Jordan River Ward Young Men's President 1999-2002
BYU 5' Stake High Councilman 2002 - 2004

Professional Appointments:

Medical Advisor to Ute Conference Little League Football 1987-1988
Medical Advisor to National Physique Association - Utah / Chapter 1988
Team Chiropractor - Utah Ruffians Rugby Association 1989
Team Chiropractor - Utah Trappers Professional Baseball Team 1988 - 1992
Team Chiropractor - Utah Sting Professional Soccer Team 1990
Wrangler Sports Chiropractic - District Representative 1992 - 1994
Wrangler Sports Chiropractic - Board of Directors 1993 - 1998
ProSport Chiropractic - Board of Directors 1998
Team Chiropractor - Utah Grizzlies Professional Hockey Team 1995 - 2004
Team Chiropractor - Brigham Young University Sports Medicine Department 1995-2004
Director Chiropractic Services - World Figure Skating Championships SLC, Ute. Feb 2001 Utah

Laney Nelson DC, DACBSP
CV page 3

Olympic Chiropractic Coordinator- World Olympic Association – 2001 – 2002
2002 Utah Winter Olympics – World Olympic participant 2002
American Chiropractic Association Sports Injuries Council Utah State Delegate 1992 - 1999
Independent Medical Review Panel Physician AETNA Insurance Company 1989 Independent
Medical Review Panel Physician Wausau Insurance Company 1990 Independent Medical Review
Panel Physician Concentra Review Services 1999 – 2004
Independent Medical Review Panel Physician Corvel Review services – 2000- 2004
Utah Worker's Compensation Fund Chiropractor peer review 2006 – present

Professional Organizations:

American Athletic Training Association 1993
American Sports Medicine Association 1993- 1994
American Chiropractic Association (ACA) Council on Sports Injuries and Physical Fitness
1985 - 2004
Utah Association of Chiropractic Physicians 1984 - 2004
Federation of International Chiropractic Sportif - FICS 1999 - 2004
United States Sports Chiropractic Federation 1999 – 2004

Personal Accomplishments:

Solo Member of Climbing Team to Summit Aconcagua 22,840 ft – 2003
Dual Team Member Kilimanjaro West Buttress Route 19,000 ft - 2004

Faculty Appointments:

Utah College of Massage Therapy - Sports Massage Instructor 1986- 1995
Northwestern College of Chiropractic - Division of Post Graduate Studies
Logan College of Chiropractic - Postdoctoral and Related Professional Education Department of Post
Graduate Education
Texas Chiropractic College - Division of Post Graduate Education
Director of Sports and Rehabilitation Logan College of Chiropractic 2005 - present

Educational Presentations:

Sport and Injury Massage - Utah College of Massage Therapy 8 week course 1986 - 1992
Soft Tissue Techniques for Good Health - Granite School District Continuing Education 4 week
course 1985 - 1989
AETNA Insurance Company - Evaluation of Chiropractic Clams - Aetna Claims *Office* Denver
Colorado 1989
Running Shoe Evaluation and Selection - Los Angeles Chiropractic College CCSP course 1992
Taping and Bracing for Rodeo Injuries - National Final Rodeo Las Vegas, NV 1992 in
conjunction with Wrangler Sports Chiropractic Seminar
On Field Examination Procedures - Texas Chiropractic College Pasadena, TX 1993
Taping Procedures Rodeo Injuries - Salt Lake Community College Rodeo Club SLC, UT 1993
Rodeo Injuries and Examination Procedures - Idaho Chiropractic Orthopedic Group, Boise, Id
April 1993
Radiological Review of Sports Injuries / Rodeo Injuries – Nevada Chiropractic Physicians Reno,
NV May 1993

Diagnostic Running Shoe Evaluation - Los Angeles Chiropractic College, Sports Diplomat
Laney Nelson DC, DACBSP
CV page 4

Program % Mike Reed DC, CCSP 1993
Wrangler Sports Chiropractic Certification Program Instructor - 1992 - 1998
Low Back Diagnosis and Treatment - New Mexico State Chiropractic Annual Convention
Featured Speaker 1995
Shoulder Injuries and Rehabilitation - Montana State Chiropractic Convention Annual Convention
featured Speaker 1994
On Field Examination - Northwestern Chiropractic College CCSP Course, Seattle WA 1997
Diagnosis and Treatment of Spinal Conditions - Louisiana Chiropractic Society Annual
Convention featured Speaker November 1998
Chiropractic Management of Chronic Pain - Western Slope Pain Management Study Group,
Grand Junction, Co April 1999
On Field Examination Procedures - Texas Chiropractic College Pasadena TX Sports Certification
Program 1994 to Present, 2 weekend courses per year
Manipulation Under Joint Anesthesia - Texas Chiropractic College Pasadena, TX MUJA
certification program 1998 to present
Cervical Spine Examination and Manipulation - ACA Sports Injuries Conference Atlanta, GA
1996
On Field Examination Procedures - ACA Sports Council Yearly Conference Maui HI, 1997
Chiropractic Restorative Services Panel Discussion - University of Utah Health Science Lecture
SLC, Ut September 1996
Manipulation under Joint Anesthesia - International Spine Injectionist Society Paper Presentation
New Orleans, La October 1995
Certified Chiropractic Sports Physician Course - Logan College of Chiropractic, Arizona Course
November 4, 2000 -
12 hour Certified Chiropractic Sports Physician Course Logan College of Chiropractic on Missouri
Campus Topics include: Cervical Spine Rehabilitation, Chiropractic Spinal Rehabilitation,
Advanced Concepts in Acupuncture, Lower Extremity Leg, Ankle, Knee, Gait Analysis

Publications:

Manual for Creating a Successful Practice - Utah Chiropractic Association St George
Convention 1988
Sports Injury Massage Manual - Utah College of Massage Therapy - 1988
Thoracic Disc Case Study - Utah Chiropractic Journal Volume: 2 1989
Manipulation Under Epidural Anesthesia - JMPT 1996
Examination and Manipulation of Cervical Spine using Schimizu Reflex as a Pre Screen - Abstract
Submitted at 1996 International Conference on Spinal Manipulation
Currently working on Textbook of Manipulative Stability and Rehabilitation
DC Tracts Audio Lecture: The Pathophysiology of Degenerative Joint Disease and its
Relationship to Chiropractic Manipulation Volume 19 number 2, 2007

**CLEVELAND
CHIROPRACTIC
COLLEGE**

Kansas City | Los Angeles

www.cleveland.edu

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800.466.2252 • 323.906.2095 • 323.906.2094 FAX

Affidavit

COUNTY OF Johnson)

) ss.

STATE OF KANSAS)

I, William Tuttle, an adult person and resident of the State of Missouri do hereby make this affidavit of my own free will.

1. That my name is William Tuttle, DC. I am a professor at Cleveland Chiropractic College.
2. Cleveland Chiropractic College is located at 10850 Lowell Avenue, Overland Park, KS 66210.
3. That I am a professor at Cleveland Chiropractic College and teach PHT 648 (Physiotherapy I and Rehab) and PHT 688 (Physiotherapy II).
4. That my academic credentials are outlined in my curriculum vitae, which is attached and made part of this affidavit.
5. That in my position at Cleveland Chiropractic College, I teach courses in the use of **physiologic and rehabilitative modalities**.
6. That all chiropractic students at Cleveland Chiropractic College receive instruction concerning **physiologic and rehabilitative modalities**.
7. That **physiotherapy is a physiologic and rehabilitative modality and is commonly taught** at Cleveland Chiropractic College.

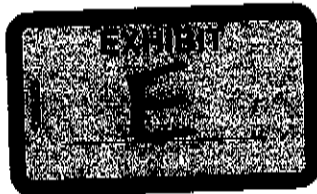
1/14/09
Date

William Tuttle, D.C.
William Tuttle, DC

SUBSCRIBED AND SWORN TO before me this 14th day of January, 2009.

Sarah Hilliard
Notary Public

My Commission Expires: 11/5/2011



CIRRICULUM VITAE

William E. Tuttle
12500 E. 42nd Terr, Independence, Missouri

Education

1962-1964	Baptist Memorial Hospital Kansas City, Missouri
1962-1964	Kansas City Jr. College Kansas City Missouri
1965-1966	U.S.Army, Fort Sam Houston San Antonio, Texas
1966-1968	University of California, Berkeley Berkeley, California
1967-1969	Butte Jr. College Chico, California
1975-1976	Pennvalley Kansas City, Missouri
1976-1977	University of Ottawa Kansas City, Missouri
1977-1980	Cleveland Chiropratic College Kansas City, Missouri
2002	University of Ottawa Overland Park, Kansas

Employment

1986-current Cleveland Chiropractic College
1980-current Tuttle Chiropractic Health Care
1971-1985 Research Medical Center
1969-1971 Butte Jr. College
1966-1969 Stanford Medical Center
1965-1966 Cottonwood LDS Hospital
1962-1965 Baptist Memorial Hospital

Who's Who Among American Teachers, 1998, 2005,
2007

Teacher of the Year by Beta Chiro, Cleveland Chiropractic
College, 1999

Zanshin-Zen Isshukai-Kan Karate-Physician of the
Year 1999

Kansas City Mustangs, Team Physician, 1993-1996

Olympic Physician, 1996