

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	Case # 2003-3006
Denise Asgian, D.C.)	
)	
Licensee.)	FINAL ORDER BY DEFAULT
_____)	
)	
)	

The Oregon Board of Chiropractic Examiners (hereafter "Board" or "OBCE") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Denise Asgian, D.C. (hereafter "Licensee"), is currently licensed (inactive status) by the Board as a chiropractic physician in Oregon.

1.

March 17, 2003: The OBCE received a complaint alleging Licensee has failed to respond to a valid release of records request for Patient 1 submitted to Licensee by Chiropractic Physician 1 in correspondence dated January 27, 2003. Licensee has sold her clinic but has not transferred the patient files that normally change ownership when a clinic is sold. Licensee has reportedly taken these with her to Missouri to complete her billings for services rendered.

March 25, 2003: Board investigator Michael Summers wrote to Licensee explaining the complaint and asked for her to respond.

April 17, 2003: Licensee received and signed for a packet of requests for release of patient file information with signed releases from Patients 1 (again) 2, 3 and 4. This request was sent by clinic staff for Chiropractic Physician 1.

April 21, 2003: Board investigator, Michael Summers wrote to Licensee explaining the complaint and asked for her to respond a second time and requested a response within 14 days. Licensee did not respond to the Board in regards to the complaint or explain why the records were not provided. Subsequent to this letter, Mr. Summers spoke with Licensee over the phone and reports she understands the request and stated she would respond to the complaint and release the records as requested.

July 15, 2003: Board Executive Director Dave McTeague placed a phone call to Licensee. She answered the phone and when Director McTeague explained the purpose of his call, Licensee said she had family to attend to and would return the call later that afternoon. Licensee did not return the phone call that day or on subsequent days.

July 16, 2003: Board investigator, Michael Summers wrote to Licensee a third time explaining the complaint and requested Licensee to respond within 14 days. Licensee did not respond to the Board in regards to the complaint or why the records were not provided.

July 29, 2003: Board Executive Director Dave McTeague spoke with the chiropractic physician's office staff making the request on behalf of Patient #1, and confirmed the requested records had not been released.

August 7, 2003: Notice of Discipline was set to Licensee at PO Box 1035 Smithville, MO 64089, her address of record. The Notice was returned in the postage on September 4, 2003.

September 22, 2003, telephone contact was made to Licensee by Dave McTeague of OBCE and licensee requested a copy be sent to her at 5 Nantucket Court, Smithville MO 64089. Licensee told Mr. McTeague once she got the notice she would contact him. The Notice of Discipline was sent to her on September 22, 2003 at the new address provided.

As of the signing of this order, Licensee has not responded to the release of records requests from Patients 1, 2, 3 and 4. Licensee has not responded to the Board's letter requesting a response to the complaint. Licensee has not made any effort at telephone contact or written contact in anyway with this Board or Mr. McTeague.

2.

As set out in the preceding chronology, Licensee has failed to provide the Board with requested documentation, failed to cooperate with the Board during an investigation, failed to make chiropractic patient records available within a reasonable time upon patients' written requests, and failed to give reasonable access to records. In addition, Licensee has failed to timely request a hearing in this matter. At no time within thirty days of service of any notice has Licensee answered the notice nor requested a hearing.

The Notice of Proposed Discipline included in paragraph 9 language that indicated the Board file is relevant to the subject and automatically became part of the evidentiary record for purposes of default to prove a prima facie case.

3.

The Board finds that the acts and conduct of Licensee described above are in violation of:

- a) OAR 811-035-0015 (19) Failing to provide the Board with any documents requested by the Board which is sanctionable as unprofessional conduct pursuant to ORS 684.100(1)(g);
- b) OAR 811-035-0015 (20) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege which is sanctionable as unprofessional conduct pursuant to ORS 684.100(1)(g);

c) OAR 811-015-0006 (1) A Chiropractic physician shall make available within a reasonable time to a patient or a third party upon the patient's written request, copies or summaries of medical records and originals or copies of the patient's X-rays which is sanctionable pursuant to ORS 684.100(1)(q); and

d) ORS 684.100 (1)(t) ...failing to give reasonable access to the records and files of the physician's patients at any time.

5.

It IS HEREBY ORDERED that the Licensee, Denise Asgian D.C., is found to be in default and that her license be automatically suspended from the practice of chiropractic due to the aforementioned violations pursuant to ORS 684.100(1) and for her default in this matter.

6.

Licensee is ordered to pay costs of this disciplinary proceeding, including investigative costs and attorney fees, pursuant to ORS 684.100(9)(g) in an amount to be determined within 30 days.

DATED this 29th day of October, 2003.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: Original signature on file
at the OBCE office.
Dave McTeague, Executive Director

Appeal Rights:

You are entitled to judicial review of this order in accordance with ORS Chapter 183.480. You may request judicial review by filing a petition in the Court of Appeals in Salem, Oregon within 60 days from the date of this order.

VERIFICATION

State of Oregon)
County of Marion) Case # 2003-3006

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Board of Chiropractic Examiners of the State of Oregon, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice is true to the best of my knowledge as I verily believe.

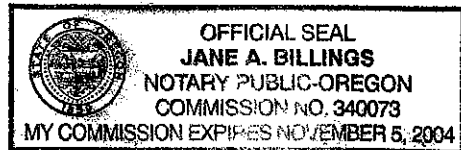
**Original signature on file
at the OBCE office.**

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 28th day of October, 2003.

**Original signature on file
at the OBCE office.**

NOTARY PUBLIC FOR OREGON
My Commission Expires: 11-5-04



CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on October 29, 2003, I served the foregoing Final Order by Default upon Denise Asgian DC, the party hereto, by mailing, certified mail & regular mail, postage prepaid, a true, exact and full copy thereof to:

Denise Asgian DC
P. O. Box 1035
Smithville, MO 64089

Denise Asgian DC
5 Nantucket Court
Smithville MO 64089

**Original signature on file
at the OBCE office.**

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners