

BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS
OF THE
STATE OF OREGON

IN THE MATTER OF THE LICENSE)
APPLICATION OF) FINAL ORDER
JOSEPH ANTHONY BLANDINO, D.C.)

BACKGROUND:

Date of Notice of Proposed Denial of License:	August 24, 1994
Date of Hearing Request:	September 13, 1994
Date of Hearing:	December 7, 1994
Place of Hearing:	Salem, Oregon
Date of Proposed Order:	February 6, 1995
Hearing Officer:	Jack H. Graham
Petitioner's Representative:	James G. Nelson Attorney at Law
Board's Representative:	Kevin Shuba, Assistant Attorney General
Witnesses:	Joseph A. Blandino, D.C.; David Young, PhD., Dennis Black, Attorney at Law.

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ISSUES:

- (1) Did the Petitioner's sworn testimony August 17, 1993, in the case of Douglas v. Ledbury violate ORS 684.100(1)(a), ORS 684.100(1)(g)(A) and ORS 348.885 by claiming falsely that Petitioner had achieved an M.D. degree?
- (2) Is the proposed penalty imposing a 30 day suspension on the Petitioner's license to practice and a civil penalty of \$2,500 authorized by law for the nature of the violations, if any?

FINDINGS OF FACT:

- (1) On August 17, 1993, in the case of Douglas v. Ledbury, in the Circuit Court of the State of Oregon for Jackson County, Case No. 91-2900-L-3, attorney Dennis Black asked Petitioner the following question: "Okay. Did you achieve an M.D. degree, as well as a D.C. degree?" Petitioner, testifying under oath, responded "Yes" to the question. That response constitutes a claim that Petitioner had achieved an M.D. degree or its equivalent.
- (2) Petitioner has not attained an M.D. degree or its equivalent.
- (3) The "Titulo Profesional" is the nearest approximation to the M.D. degree which can be achieved in Mexico.
- (4) Petitioner received the "Carta de Pasante" which translates to "Letter of Certification" on July 24, 1987, from El Centro de Estudios Universitarios Xochicalco. It recognizes that Petitioner took and passed the plan that authorized studies majoring as a Medical Surgeon but is not the equivalent of an M.D. degree. The Carta de Pasante states expressly (translated from Spanish to English:

"To obtain the Professional Title (Titulo Profesional), he will have to present and to pass the corresponding exam." (See Petitioner's exhibit D, page 3).
- (5) Petitioner has never presented and passed the corresponding exam.
- (6) Petitioner is not and has not claimed to be licensed to practice as a medical doctor in the United States or Mexico.

ULTIMATE FINDINGS OF FACT:

- (1) Petitioner claimed under oath in the Douglas v. Ledbury case that he had

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achieved an M.D. degree.

(2) Petitioner has not attained an M.D. degree or its equivalent.

CONCLUSIONS OF LAW:

(1) The Board must prove by a preponderance of the evidence that Petitioner violated ORS 684.100(1)(a) or ORS 684.100(1)(g)(A).

(2) Fraud is not an issue in the Board's Proposed Disciplinary Action.

(3) The Board may not impose a penalty for a violation of ORS 348.885 based upon the penalty provision of ORS 348.990.

(4) The Board has jurisdiction to accept evidence of a violation of ORS 348.885 as it relates to misrepresentation or unprofessional conduct as defined by ORS 684.100(1)(a) and ORS 684.100(1)(g)(A), respectively.

(5) There was no violation of due process by the timing of discovery provided by the Board to Petitioner. Petitioner did not claim nor was there any appearance of his being disadvantaged by the timing of discovery. Consequently, there was no need for a continuance to allow for additional preparation.

(6) The specific issues which are the subject of this hearing were not previously adjudicated by the board. The letter of August 24, 1994, from the Board to Petitioner reflected the conclusion of the Board regarding a separate issue raised in complaint #3019-94.

(7) Evidence of prior violations of ORS 348.885 is admissible for the limited purpose of showing that Petitioner was aware of the distinction between an M.D. degree as recognized by the State of Oregon and his academic achievements in Mexico.

(8) An *Ex Parte* communication in the form of a letter, dated December 15, 1994, was sent by G. Glen Comuntzis, Director, Government Affairs, Oregon Doctors of Chiropractic, to Dr. Roger P. Setera, a member of the Board.

OPINION:

It is argued by Petitioner that the Board must prove by clear and convincing evidence that Petitioner violated ORS 684.100(1)(a) or ORS 684.100(1)(g)(A). However, fraud is not an issue in this case and intent is not an element of misrepresentation in the

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context of civil violations of these sections. There is no standard which imposes the greater burden on the Board under the Administrative Procedures Act or the rules of the Board. Thus, the Board must prove by a preponderance of the evidence that Petitioner violated ORS 684.100(1)(a) or ORS 684.100(1)(g)(A), not by clear and convincing evidence.

The Board clearly does not have jurisdiction to impose a penalty for a violation of ORS 348.885 based upon ORS 348.990. The enforcement of that law lies with the Oregon Office of Educational Policy and Planning (OEPP). Nonetheless, evidence of a violation of that law based upon the testimony of Petitioner in the case of Douglas v. Ledbury is relevant to this hearing. Such evidence is relevant to the determination of misrepresentation or unprofessional or dishonorable conduct.

Petitioner relies upon Megdal v. Board of Dental Examiners, 288 Or 293 (1980) to exclude evidence of a violation of a state law enforceable by a different state agency. However, the Board argues persuasively that Megdal is distinguished by the fact that the language in the Board of Dental Examiners' enabling legislation is different from that of the Board of Chiropractic Examiners. On the contrary, the language in the Board of Medical Examiners' unprofessional conduct statute is identical to that of ORS 684.100(1)(g)(A). The Board of Medical Examiners statute was found to allow discipline against licensees for ethical violations without specific rules in McKay v. BME, 100 Or App 685 (1990).

Further, Megdal is distinguished on the basis that the offensive conduct in that case was not prohibited by the legislature, by rules previously made by the Board of Dental Examiners, or professional standards supported at the hearing. Petitioner's conduct complained of in this case, is prohibited by the legislature (ORS 348.885). This is a significant distinction from Megdal which requires that evidence of conduct prohibited by the legislature be admitted in this case.

Petitioner had statutory notice of the prohibited conduct so it cannot be claimed that he is being sanctioned without prior notification depriving him of due process of law in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

Petitioner contends that the Board may not impose a penalty for a violation of ORS 348.885. That may be correct. However, no such penalty is proposed. The penalty proposed by the Board is based upon alleged violations of ORS 684.100(1)(a) and ORS 684.100(1)(g)(A). ORS 684.100(9) authorizes and specifies the limits for violations of ORS 684.100(1). The Board, in disciplining a licensee for violation of ORS 684.100(1), may apply any or all of several sanctions including (c) Suspension of the license of the person to practice chiropractic in this state and (f) imposition of a civil

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penalty not to exceed \$10,000. Thus, the Board is authorized to penalize a person for the violations alleged in this case and the proposed penalties are within the limits set by applicable state law.

Petitioner claims that he was denied due process of law because the Board did not provide discovery of certain requested documents until approximately 48 hours prior to the hearing. One document was made available for the first time, at the hearing, according to Petitioner. There is no claim that Petitioner was disadvantaged by the timing of discovery. There was no indication by the nature of preparation or cross examination that Petitioner was unable to prepare adequately as a result. Thus, there being no disadvantage, no need for a continuance for additional preparation was requested nor was such need apparent.

Furthermore, the factual issues in the case were not of sufficient complexity to require significant preparation. And, the documents requested were almost entirely documents provided originally by Petitioner to the Board or were received by Petitioner from the Board in earlier correspondence from the Board or from the Office of Educational Policy and Planning.

Finally, no inconsistency appears in the Board's practice regarding discovery. Like cases have been treated in like manner.

The specific issues which are the subject of this hearing were not previously adjudicated by the board as claimed by Petitioner. The letter of August 24, 1994, from the Board to Petitioner reflected the conclusion of the Board regarding a separate issue raised in complaint #3019-94. The sole issue investigated in complaint #3019-94 related to an allegation by a Dr. Fischel that Petitioner had provided false information to a county sheriff which may or may not have resulted in the arrest of Dr. Fischel.

An *Ex Parte* communication in the form of a letter, dated December 15, 1994, was sent by G. Glen Comuntzis, Director, Government Affairs, Oregon Doctors of Chiropractic, to Dr. Roger P. Setera, a member of the Board. This occurred after the hearing but prior to the decision of the Board. The letter addressed numerous factual issues in this case and is made a part of the record.

Petitioner's attorney argues that the letter came from a third party without his knowledge or consent. The letter is an *Ex Parte* communication whether it came from a third party or whether authorized by Petitioner.

Both the Board and Petitioner had opportunity in their written closing arguments to rebut the statements made in the *Ex Parte* communication. Both acknowledged the

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letter but made no rebuttal statement other than to argue the point of whether the letter constituted an *Ex Parte* communication. The letter is given no weight and no consideration in evaluating the arguments of the parties relating to conclusions of fact or law.

It is important to the discussion of this case to know that Petitioner, whose native language is Spanish, speaks and understands English extremely well. There is virtually no trace of accent in his speech and his vocabulary is excellent. This weighs against any argument suggesting that he did not understand the distinction between the M.D. degree and various titles and certificates awarded by or achieved in Mexican medical education programs.

Petitioner's argument that he had achieved the functional equivalent of an "M.D. degree" is rejected on the basis that the Carta de Pasante which he was awarded by El Centro de Estudios Universitarios Xochicalco on July 24, 1987, specifies that he must take and pass an examination to achieve the "Titulo Profesional" which marks the culmination of the Mexican academic program and represents the nearest equivalent to an M.D. degree. An M.D. degree marks the culmination of the academic program in the Oregon.

The central issue of this case is whether Petitioner had achieved the Mexican equivalent of an M.D. degree prior to his sworn testimony to that effect on August 17, 1993. Petitioner's testimony in this case may be summarized as stating that there is no degree or title granted in Mexico which is exactly the same as an M.D. degree, as that term is used in Oregon.

Dr. David Young, testified similarly that there is no exact equivalent. However, he stated that the Titulo Profesional (Professional Title) is generally recognized by the Oregon Board of Medical Examiners as a sufficient approximation to the M.D. degree. Young is Administrator of Academic Degrees and Program Review for the Oregon Office of Educational Policy and Planning. In that position, he is the senior official for degree reviews.

Petitioner claims that the Carta de Pasante is the equal of an M.D. degree. However, in Petitioner's Exhibit B, page 5, it is clear that the completion of the academic program requires a one year internship, one year of social service and presentation of a professional exam and a thesis. Those elements plus the Carta de Pasante entitles the student to the professional title (Titulo Profesional) which is an acceptable approximation to the M.D. degree.

In Petitioner's Exhibit D, page 3, a translation of the Carta de Pasante, states expressly: "To obtain the Professional Title, he will have to present and to pass the

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corresponding exam." No documentation or testimony was offered evidencing further progress toward the Professional Title. Therefore, it can only be concluded that Petitioner has never achieved the M.D. degree or its Mexican approximation, the Titulo Profesional.

The Board has jurisdiction to accept evidence of a violation of ORS 348.885 as it relates to misrepresentation or unprofessional conduct as defined by ORS 684.100(1)(a) and ORS 684.100(1)(g)(A), respectively. This section of law is administered by the Oregon Office of Educational Policy and Planning. And, only that Office may sanction violations of this section under the penalty provision of ORS 348.990.

Nonetheless, this section sets one applicable standard of conduct for those holding professional licenses in Oregon. And, all licensees have a duty to be aware of such standards and their conduct may be measured against those standards. For such a limited purpose, the Board may accept evidence of a violation of this standard.

Evidence of prior violations of ORS 348.885 is admissible for the limited purpose of showing that Petitioner was aware of the distinction between an M.D. degree as recognized by the State of Oregon and his academic achievements in Mexico. The Board's Exhibit 13 shows that Petitioner was previously found in violation of ORS 348.885 for claiming that he had achieved the equivalent of an M.D. degree at El Centro de Estudios Universitarios Xochicalco. In a final order dated May 11, 1990, Petitioner was ordered to cease and desist from claiming to possess any academic degree other than the Doctor of Chiropractic.

Board Exhibit 3 is an excerpt of the transcript from the case of Douglas v. Ledbury, Case No. 91-2900-L-3. At page 2 of Exhibit 3 Attorney Dennis Black asks P: "Okay. Did you achieve an M.D. degree, as well as a D.C. degree?"

Under oath, Petitioner answered "Yes."

This testimony, no doubt, had the intended effect of enhancing the credibility of Petitioner's testimony as the doctor of chiropractic treating the plaintiff in that case.

It must be clear that this is exactly the kind of impact intended to be deterred by ORS 348.885. Petitioner claims professional credentials falsely, thereby increasing the weight of his testimony and, in all likelihood, the award to his patient.

There can be no conclusion other than Petitioner claimed to have achieved the M.D. degree. Petitioner has not achieved the M.D. degree or the closest approximation available in Mexico. He was aware of the significance and the meaning of this claim.

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And, it was obviously done intentionally.

This false claim is a misrepresentation in violation of ORS 684.100(1)(a) and is unprofessional or dishonorable conduct contrary to a recognized standard of ethics of the chiropractic profession in violation of ORS 684.100(1)(g)(A).

NOTICE:

Notice of the order proposing the suspension of Petitioner's license to practice chiropractic in the State of Oregon for a period of thirty days and assessing a civil penalty of \$2,500 was provided in compliance with ORS chapter 183, dated August 24, 1994.

FINAL ORDER:

It is hereby ordered that Joseph Anthony Blandino, D.C., did falsely claim to have achieved the M.D. degree and that such conduct violates ORS 684.100(1)(a) and ORS 684.100(1)(g)(A). Petitioner shall be assessed a civil penalty of \$1,000 to be paid to the Board of Chiropractic Examiners not later than ten days after the date of this order.

IT IS SO ORDERED, this 21st day of March, 1995.

Original signature on file
at the OBCE office.

Christie Joachim, Executive Director
Oregon Board of Chiropractic Examiners

NOTICE:

You are entitled to judicial review of the order. Judicial review may be obtained by filing a petition for review within 60 days from the service of the order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.

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OF THE
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JOSEPH ANTHONY BLANDINO, D.C.)

BACKGROUND:

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Hearing Officer:	Jack H. Graham
Petitioner's Representative:	James G. Nelson Attorney at Law
Board's Representative:	Kevin Shuba, Assistant Attorney General
Witnesses:	Joseph A. Blandino, D.C.; David Young, PhD., Dennis Black, Attorney at Law.

ISSUES:

- (1) Did the Petitioner's sworn testimony August 17, 1993, in the case of Douglas v. Ledbury violate ORS 684.100(1)(a), ORS 684.100(1)(g)(A) and ORS 348.885 by claiming falsely that Petitioner had achieved an M.D. degree?
- (2) Is the proposed penalty imposing a 30 day suspension on the Petitioner's license to practice and a civil penalty of \$2,500 authorized by law for the nature of the violations, if any?

FINDINGS OF FACT:

- (1) On August 17, 1993, in the case of Douglas v. Ledbury, in the Circuit Court of the State of Oregon for Jackson County, Case No. 91-2900-L-3, attorney Dennis Black asked Petitioner the following question: "Okay. Did you achieve an M.D. degree, as well as a D.C. degree?" Petitioner, testifying under oath, responded "Yes" to the question. That response constitutes a claim that Petitioner had achieved an M.D. degree or its equivalent.
- (2) Petitioner has not attained an M.D. degree or its equivalent.
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- (5) Petitioner has never presented and passed the corresponding exam.
- (6) Petitioner is not and has not claimed to be licensed to practice as a medical doctor in the United States or Mexico.

ULTIMATE FINDINGS OF FACT:

- (1) Petitioner claimed under oath in the Douglas v. Ledbury case that he had

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achieved an M.D. degree.

(2) Petitioner has not attained an M.D. degree or its equivalent.

CONCLUSIONS OF LAW:

(1) The Board must prove by a preponderance of the evidence that Petitioner violated ORS 684.100(1)(a) or ORS 684.100(1)(g)(A).

(2) Fraud is not an issue in the Board's Proposed Disciplinary Action.

(3) The Board may not impose a penalty for a violation of ORS 348.885 based upon the penalty provision of ORS 348.990.

(4) The Board has jurisdiction to accept evidence of a violation of ORS 348.885 as it relates to misrepresentation or unprofessional conduct as defined by ORS 684.100(1)(a) and ORS 684.100(1)(g)(A), respectively.

(5) There was no violation of due process by the timing of discovery provided by the Board to Petitioner. Petitioner did not claim nor was there any appearance of his being disadvantaged by the timing of discovery. Consequently, there was no need for a continuance to allow for additional preparation.

(6) The specific issues which are the subject of this hearing were not previously adjudicated by the board. The letter of August 24, 1994, from the Board to Petitioner reflected the conclusion of the Board regarding a separate issue raised in complaint #3019-94.

(7) Evidence of prior violations of ORS 348.885 is admissible for the limited purpose of showing that Petitioner was aware of the distinction between an M.D. degree as recognized by the State of Oregon and his academic achievements in Mexico.

(8) An *Ex Parte* communication in the form of a letter, dated December 15, 1994, was sent by G. Glen Comuntzis, Director, Government Affairs, Oregon Doctors of Chiropractic, to Dr. Roger P. Setera, a member of the Board.

OPINION:

It is argued by Petitioner that the Board must prove by clear and convincing evidence that Petitioner violated ORS 684.100(1)(a) or ORS 684.100(1)(g)(A). However, fraud is not an issue in this case and intent is not an element of misrepresentation in the

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context of civil violations of these sections. There is no standard which imposes the greater burden on the Board under the Administrative Procedures Act or the rules of the Board. Thus, the Board must prove by a preponderance of the evidence that Petitioner violated ORS 684.100(1)(a) or ORS 684.100(1)(g)(A), not by clear and convincing evidence.

The Board clearly does not have jurisdiction to impose a penalty for a violation of ORS 348.885 based upon ORS 348.990. The enforcement of that law lies with the Oregon Office of Educational Policy and Planning (OEPP). Nonetheless, evidence of a violation of that law based upon the testimony of Petitioner in the case of Douglas v. Ledbury is relevant to this hearing. Such evidence is relevant to the determination of misrepresentation or unprofessional or dishonorable conduct.

Petitioner relies upon Megdal v. Board of Dental Examiners, 288 Or 293 (1980) to exclude evidence of a violation of a state law enforceable by a different state agency. However, the Board argues persuasively that Megdal is distinguished by the fact that the language in the Board of Dental Examiners' enabling legislation is different from that of the Board of Chiropractic Examiners. On the contrary, the language in the Board of Medical Examiners' unprofessional conduct statute is identical to that of ORS 684.100(1)(g)(A). The Board of Medical Examiners statute was found to allow discipline against licensees for ethical violations without specific rules in McKay v. BME, 100 Or App 685 (1990).

Further, Megdal is distinguished on the basis that the offensive conduct in that case was not prohibited by the legislature, by rules previously made by the Board of Dental Examiners, or professional standards supported at the hearing. Petitioner's conduct complained of in this case, is prohibited by the legislature (ORS 348.885). This is a significant distinction from Megdal which requires that evidence of conduct prohibited by the legislature be admitted in this case.

Petitioner had statutory notice of the prohibited conduct so it cannot be claimed that he is being sanctioned without prior notification depriving him of due process of law in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

Petitioner contends that the Board may not impose a penalty for a violation of ORS 348.885. That may be correct. However, no such penalty is proposed. The penalty proposed by the Board is based upon alleged violations of ORS 684.100(1)(a) and ORS 684.100(1)(g)(A). ORS 684.100(9) authorizes and specifies the limits for violations of ORS 684.100(1). The Board, in disciplining a licensee for violation of ORS 684.100(1), may apply any or all of several sanctions including (c) Suspension of the license of the person to practice chiropractic in this state and (f) imposition of a civil

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penalty not to exceed \$10,000. Thus, the Board is authorized to penalize a person for the violations alleged in this case and the proposed penalties are within the limits set by applicable state law.

Petitioner claims that he was denied due process of law because the Board did not provide discovery of certain requested documents until approximately 48 hours prior to the hearing. One document was made available for the first time, at the hearing, according to Petitioner. There is no claim that Petitioner was disadvantaged by the timing of discovery. There was no indication by the nature of preparation or cross examination that Petitioner was unable to prepare adequately as a result. Thus, there being no disadvantage, no need for a continuance for additional preparation was requested nor was such need apparent.

Furthermore, the factual issues in the case were not of sufficient complexity to require significant preparation. And, the documents requested were almost entirely documents provided originally by Petitioner to the Board or were received by Petitioner from the Board in earlier correspondence from the Board or from the Office of Educational Policy and Planning.

Finally, no inconsistency appears in the Board's practice regarding discovery. Like cases have been treated in like manner.

The specific issues which are the subject of this hearing were not previously adjudicated by the board as claimed by Petitioner. The letter of August 24, 1994, from the Board to Petitioner reflected the conclusion of the Board regarding a separate issue raised in complaint #3019-94. The sole issue investigated in complaint #3019-94 related to an allegation by a Dr. Fischel that Petitioner had provided false information to a county sheriff which may or may not have resulted in the arrest of Dr. Fischel.

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Petitioner's attorney argues that the letter came from a third party without his knowledge or consent. The letter is an *Ex Parte* communication whether it came from a third party or whether authorized by Petitioner.

Both the Board and Petitioner had opportunity in their written closing arguments to rebut the statements made in the *Ex Parte* communication. Both acknowledged the

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letter but made no rebuttal statement other than to argue the point of whether the letter constituted an *Ex Parte* communication. The letter is given no weight and no consideration in evaluating the arguments of the parties relating to conclusions of fact or law.

It is important to the discussion of this case to know that Petitioner, whose native language is Spanish, speaks and understands English extremely well. There is virtually no trace of accent in his speech and his vocabulary is excellent. This weighs against any argument suggesting that he did not understand the distinction between the M.D. degree and various titles and certificates awarded by or achieved in Mexican medical education programs.

Petitioner's argument that he had achieved the functional equivalent of an "M.D. degree" is rejected on the basis that the Carta de Pasante which he was awarded by El Centro de Estudios Universitarios Xochicalco on July 24, 1987, specifies that he must take and pass an examination to achieve the "Titulo Profesional" which marks the culmination of the Mexican academic program and represents the nearest equivalent to an M.D. degree. An M.D. degree marks the culmination of the academic program in the Oregon.

The central issue of this case is whether Petitioner had achieved the Mexican equivalent of an M.D. degree prior to his sworn testimony to that effect on August 17, 1993. Petitioner's testimony in this case may be summarized as stating that there is no degree or title granted in Mexico which is exactly the same as an M.D. degree, as that term is used in Oregon.

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In Petitioner's Exhibit D, page 3, a translation of the Carta de Pasante, states expressly: "To obtain the Professional Title, he will have to present and to pass the

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corresponding exam." No documentation or testimony was offered evidencing further progress toward the Professional Title. Therefore, it can only be concluded that Petitioner has never achieved the M.D. degree or its Mexican approximation, the Titulo Profesional.

The Board has jurisdiction to accept evidence of a violation of ORS 348.885 as it relates to misrepresentation or unprofessional conduct as defined by ORS 684.100(1)(a) and ORS 684.100(1)(g)(A), respectively. This section of law is administered by the Oregon Office of Educational Policy and Planning. And, only that Office may sanction violations of this section under the penalty provision of ORS 348.990.

Nonetheless, this section sets one applicable standard of conduct for those holding professional licenses in Oregon. And, all licensees have a duty to be aware of such standards and their conduct may be measured against those standards. For such a limited purpose, the Board may accept evidence of a violation of this standard.

Evidence of prior violations of ORS 348.885 is admissible for the limited purpose of showing that Petitioner was aware of the distinction between an M.D. degree as recognized by the State of Oregon and his academic achievements in Mexico. The Board's Exhibit 13 shows that Petitioner was previously found in violation of ORS 348.885 for claiming that he had achieved the equivalent of an M.D. degree at El Centro de Estudios Universitarios Xochicalco. In a final order dated May 11, 1990, Petitioner was ordered to cease and desist from claiming to possess any academic degree other than the Doctor of Chiropractic.

Board Exhibit 3 is an excerpt of the transcript from the case of Douglas v. Ledbury, Case No. 91-2900-L-3. At page 2 of Exhibit 3 Attorney Dennis Black asks P: "Okay. Did you achieve an M.D. degree, as well as a D.C. degree?"

Under oath, Petitioner answered "Yes."

This testimony, no doubt, had the intended effect of enhancing the credibility of Petitioner's testimony as the doctor of chiropractic treating the plaintiff in that case.

It must be clear that this is exactly the kind of impact intended to be deterred by ORS 348.885. Petitioner claims professional credentials falsely, thereby increasing the weight of his testimony and, in all likelihood, the award to his patient.

There can be no conclusion other than Petitioner claimed to have achieved the M.D. degree. Petitioner has not achieved the M.D. degree or the closest approximation available in Mexico. He was aware of the significance and the meaning of this claim.

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And, it was obviously done intentionally.

This false claim is a misrepresentation in violation of ORS 684.100(1)(a) and is unprofessional or dishonorable conduct contrary to a recognized standard of ethics of the chiropractic profession in violation of ORS 684.100(1)(g)(A).

NOTICE:

Notice of the order proposing the suspension of Petitioner's license to practice chiropractic in the State of Oregon for a period of thirty days and assessing a civil penalty of \$2,500 was provided in compliance with ORS chapter 183, dated August 24, 1994.

PROPOSED ORDER:

It is hereby ordered that Joseph Anthony Blandino, D.C., did falsely claim to have achieved the M.D. degree and that such conduct violates ORS 684.100(1)(a) and ORS 684.100(1)(g)(A). Petitioner's license to practice chiropractic in the state shall be suspended for a period of thirty days beginning twenty days after this order becomes final and Petitioner shall be assessed a civil penalty of \$2,500 to be paid to the Board of Chiropractic Examiners not later than thirty days after this order becomes final.

Date this sixth day of February, 1995.

Original signature on file
at the OBCE office.

Jack Graham, Hearing Officer
Oregon Board of Chiropractic Examiners