

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

TOM BURT,

Respondent.

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Case # 99-0009

FINAL ORDER BY DEFAULT

The Oregon Board of Chiropractic Examiners (hereafter "Board") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Under the authority of the Board granted in ORS 684.100, the Board is also responsible to regulate unlicensed practice of Chiropractic in the State of Oregon. Tom Burt (hereafter "Respondent"), is not currently licensed by the Board to practice as a chiropractic physician in Oregon.

1.

The OBCE received a complaint on April 5, 1999 concerning unlicensed practice of chiropractic by Tom Burt. After receipt of that complaint, the Board conducted an investigation. Patient 1 received chiropractic adjustments from Mr. Burt on several occasions, and also received three massages. On one occasion he gave her a cervical adjustment which hurt an old neck injury for one week. Mr. Burt worked as a cook in a restaurant in La Pine, Oregon, where he solicited patients, distributed his (chiropractic) business cards and on occasion provided chiropractic adjustments. Mr. Burt represented to Patient 1 and 2 that he was or is licensed as a chiropractor in Montana and California. Witness 1 saw Mr. Burt perform chiropractic adjustments to three or four people in the restaurant while they were seated in chairs. Witness 3 heard Mr. Burt discuss charges with these persons. Mr. Burt charged \$35.00 per adjustment and \$35 per hour for massage therapy. Mr. Burt told Witness 1 that he was licensed in California and that he was on his way back to Ennis, Montana to get his chiropractic license back.

2.

When interviewed by the Board investigator at Mr. Burt's residence in La Pine, Oregon, Mr. Burt confirmed he was "Tom Burt" and his phone number was "536-9591" as listed on his business card for "La Pine Greenhouses." He also confirmed that if anyone called that number they could reach him, Tom Burt. Mr. Burt was then presented with a copy of his other business card which read: "Chiroport Inc., Tom Burt, D.C., Chiropractic Physician, Phone: (541) 536-9591." Mr. Burt thereupon responded to the Board investigator "You're not a cop, you're not law enforcement. I don't have to tell you anything."

3.

On 27 April 1999 the Board voted to issue a Proposed Notice for a civil penalty for unlicensed chiropractic in the state of Oregon.

4.

On April 28, 1999, a copy of the "Notice of Proposed \$10,000 civil penalty for unlicensed practice of chiropractic" was left by the Board investigator at the door of the last known residence of Tom Burt located at 53315 Bridge Drive, La Pine, Oregon, 97739. (Notice is herein attached as Exhibit A) In addition, on April 27, 1999, the Board caused the Notice of Proposed civil penalty to be mailed, certified to Tom Burt at the same address. (Exhibit B attached is a copy of the certified card and envelope with postmark mailed to Tom Burt.) Prior to delivery of the Notice of Proposed civil penalty on April 28, 1999, on or about April 21, 1999, the Board investigator had spoken with Tom Burt at the above address and confirmed that he resided at that location.

5.

The Notice of Proposed Civil Penalty was served by certified mail and gave Tom Burt twenty-one days in which to answer the notice. No answer to the notice was received as of the twenty-one day time period. Nor has any answer been received as of the date of this Final Order by Default. The Notice of Proposed Civil Penalty included in paragraph 9 language that indicated the Board file relevant to this subject automatically became part of the evidentiary record for purposes of default to prove a prima facie case.

Tom Burt, Final Order by Default

6.

The Board finds that the acts and conduct of Licensee described constitutes a violation of ORS 684.015, 684.020 and OAR 811-035-0015(4) for practicing chiropractic without a valid chiropractic license.

7.

It is hereby ordered Tom Burt is found to be in default and that a civil penalty in the amount of \$10,000 is assessed against Tom Burt for unlicensed practice of chiropractic in the state of Oregon pursuant to ORS 684.100(9)(g).

8.

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

DATED this 2nd day of October, 2002.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: Original Signatures on file
at the OBCE Office
Dave McTeague, Executive Director

GEN32281

Tom Burt, Final Order by Default

CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on October 2nd, 2002 I served the foregoing Final Order by Default of Civil Penalty Assessment and Default upon Tom Burt the respondent hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Tom Burt
53315 Bridge Drive
La Pine OR 97739

Original Signatures on file
at the OBCE Office

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

VERIFICATION

State of Oregon) Case # 99-1009
County of Marion) Tom Burt

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 Signatures on file
at the OBCE Office

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

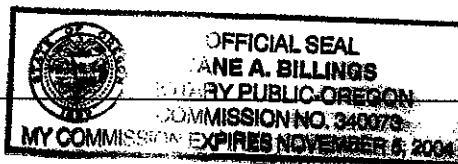
SUBSCRIBED AND SWORN to before me

this 2nd day of October, 2002.

Original Signatures on file
at the OBCE Office

NOTARY PUBLIC FOR OREGON

My Commission Expires: 11-5-04



Tom Burt, Final Order by Default



Oregon

John A. Kitzhaber, M.D., Governor

Oregon Board of Chiropractic Examiners

3218 Pringle Road SE

Suite 150

Salem, OR 97302-6311

(503) 378-5816

April 27, 1999

Exhibit A

Tom Burt
53315 Bridge Dr.
La Pine, Oregon 97739

COPY

Re: Case 99 -1009

Dear Mr. Burt,

The Oregon Board of Chiropractic Examiners voted to issue the enclosed order proposing a civil penalty of \$10,000.00 against you for the unlicensed practice of chiropractic.

You due process rights are listed in the notice.

Any further practice of chiropractic by yourself will result in additional legal action by the Board.

If you have any questions, you may call me at call at 503-378-5816 ext. 23.

Sincerely,

Dave McTeague
Executive Director

1 BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS

2 FOR THE STATE OF OREGON

3

4) NOTICE OF PROPOSED

5 In The Matter of) \$10,000

6 Tom Burt) CIVIL PENALTY

7) FOR UNLICENSED PRACTICE OF

8 Case # 99 - 1009) CHIROPRACTIC

9

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12 1.

13 The Oregon Board of Chiropractic Examiners (OBCE) is the

14 state agency responsible for licensing and regulating

15 chiropractic in the State of Oregon. An unlicensed person

16 performing chiropractic health care, doing business as "Tom Burt,

17 DC, Chiropractic Physician, is not a licensed chiropractic

18 physician in the State of Oregon. The OBCE proposes to impose a

19 civil penalty of \$10,000.00 pursuant to ORS 684.100 (9) (f) for

20 violations of ORS 684.015, 684.020 and OAR 811-035-0015 (14) for

21 practicing chiropractic without a valid State of Oregon

22 chiropractic license.

22 2.

23 On or about April 5, 1999, the OBCE received a written-

24 signed complaint concerning unlicensed practice of chiropractic

25 by Tom Burt. Patient 1 received chiropractic adjustments from

26 Mr. Burt on several occasions, and also received three massages.

27 On one occasion he gave her a cervical adjustment which hurt an

28 ~~old neck injury for one week. Mr. Burt worked as a cook in a~~

restaurant in LaPine, Oregon, where he solicited patients,

Tom Burt, Proposed Order for Civil Penalty, Case # 99 - 1009

1 distributed his (chiropractic) business cards and on occasion
2 provided chiropractic adjustments. Mr. Burt represented to
3 Patient 1 and Patient 2 that he was or is licensed as a
4 chiropractor in Montana and California. Witness 1 saw Mr. Burt
5 perform chiropractic adjustments to three or four people in the
6 restaurant while they were seated in chairs. Witness #3 heard Mr.
7 Burt discuss charges with these persons. Mr. Burt charged \$35.00
8 per adjustment and \$35 per hour for massage therapy. Mr. Burt
9 told Witness 1 that he was licensed in California and that he was
10 on his way back to Ennis, Montana to get his chiropractic license
11 back.

12 When interviewed by the OBCE investigator at Mr. Burt's
13 current residence in La Pine, Oregon. Mr. Burt confirmed he was
14 "Tom Burt" and his phone number was "536-9591" as listed on his
15 business card for "La Pine Greenhouses." He also confirmed that
16 if anyone called that number they could reach him, Tom Burt. Mr.
17 Burt was then presented with a copy of his other business card
18 which reads: "Chirosport, Inc., Tom Burt, D.C., Chiropractic
19 Physician, Phone: (541) 536-9591." Mr. Burt thereupon responded
20 to the OBCE investigator, "You're not a cop, you're not law
21 enforcement. I don't have to tell you anything."

22 3.

23 The conduct described in paragraphs 2 constitutes the
24 practice of chiropractic without a valid chiropractic license and
25 in violation of ORS 684.015, 684.020 and OAR 811-035-0015 (14).
26

27 4.

28 The OBCE proposes to impose a civil penalty of \$10,000.00
~~for violation of ORS 684.015, 684.020 and OAR 811-035-0015 (14)~~
for practicing chiropractic without a valid chiropractic license.

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5.

Pursuant to ORS 684.100 (9) (g), the OBCE proposes to assess the cost of this disciplinary proceeding against Unlicensed person.

6.

Unlicensed person has the right, if Unlicensed person requests, to have a formal contested case hearing before the OBCE or its hearings officer to contest the matter set out above. At the hearing, Unlicensed person may be represented by an attorney and subpoena and cross examine witnesses. That request for hearing must be made in writing to the OBCE, must be received by the OBCE within 21 days from the mailing of this notice (or if not mailed, the date of personal service), and must be accompanied by a written answer to the charges contained in this notice.

7.

The answer shall be made in writing to the OBCE and shall include an admission or denial of each factual matter alleged in this notice, and a short plain statement of each relevant affirmative defense Unlicensed person may have. Except for good cause, factual matters alleged in this notice and not denied in the answer will be considered a waiver of such defense; new matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on any issue not raised in the notice and answer.

8.

~~If Unlicensed person requests a hearing, before commencement of that hearing, Unlicensed person will be given information on~~

1 the procedures, rights of representation, and other rights of the
2 parties relating to the conduct of the hearing as required under
3 ORS 183.413-415.

4 9.

5 If Unlicensed person fails to request a hearing within 21
6 days, or fails to appear as scheduled at the hearing, the OBCE
7 may issue a final order by default and impose the above sanctions
8 against Unlicensed person. Unlicensed person's submissions to the
9 OBCE to-date regarding the subject of this disciplinary case and
10 all information in the OBCE's files relevant to the subject of
11 this case automatically become part of the evidentiary record of
12 this disciplinary action upon default for the purpose of proving
13 a prima facie case.

14 DATED this 27th day of April 1999
15 Board of Chiropractic Examiners
16 State of Oregon

17 Original Signatures on file
18 at the OBCE Office

19 _____
20 Dave McTeague,
21 Executive Director
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VERIFICATION

Tom Burt
Case # 99-1009

State of Oregon)
County of Marion)

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.

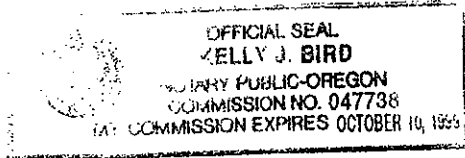
Original Signatures on file
at the OBCE Office

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 27th day of April, 1999.

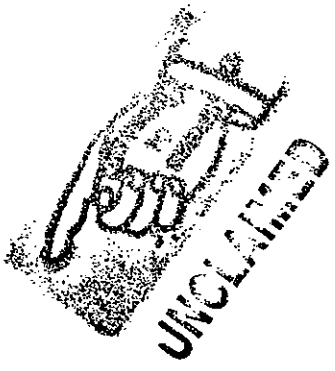
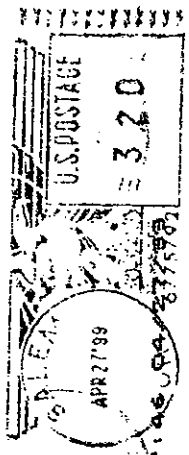
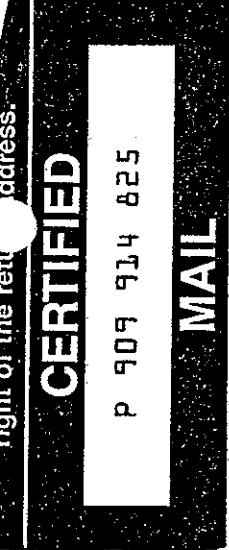
Original Signatures on file
at the OBCE Office

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/10/99

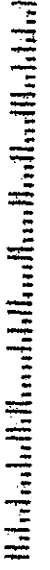
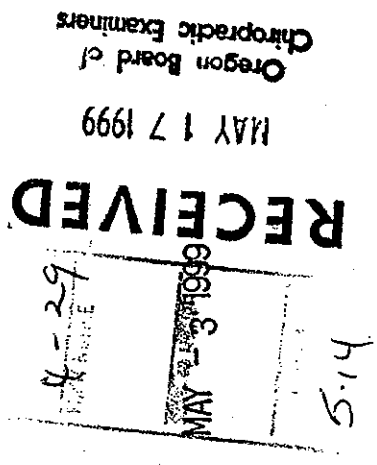


Return to sender if no return address is present on the right of the return address.

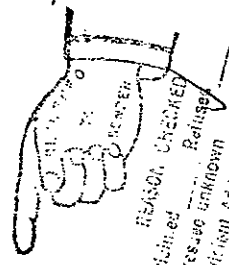
BOARD OF
CHIROPRACTIC
EXAMINERS
First Floor, Suite 150
3218 Pringle Rd SE
Salem, OR 97302-6311



Tom Burt
53315 Bridge Dr.
La Pine, Oregon 97739



BOARD OF
CHIROPRACTIC
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3218 Pringle Rd SE
Salem, OR 97302-6311



UNDELIVERED
Reason: CROCKED
Address unknown
Insufficient address
No such street
No such office in state
Do not re-mail in this envelope



RECEIVED

JUN 02 1999

Oregon Board of
Chiropractic Examiners

Please
Forward
Tom Burt
53315 Bridge Dr.
La Pine, Oregon 97739
P.O. Box 342
La Pine, Oregon 97739

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
 - 2. Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

Tom Burt
53315 Bridge Drive
Lafine, OR 97737

4a. Article Number

P909914825

4b. Service Type

- Registered
- Express Mail
- Certified
- Insured
- COD

7. Date of Delivery

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X

PS Form 3811, December 1994

102595-98-9-0229

Domestic Return Receipt

Thank you for using Return Receipt Service.