

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

James Bradley Gabrielson

D.C. Applicant.

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Case # 2003-5003

**FINAL ORDER BY DEFAULT
DENIAL OF CERTIFICATE**

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. James Bradley Gabrielson (hereafter "Applicant"), has requested to be certified by the Board to practice as a chiropractic assistant in Oregon.

1.

Summary of Facts

On March 18, 2003, the OBCE received Applicant's application for a certificate to practice as a certified chiropractic assistant in Oregon. All requirements of the application process were met and the application was forwarded to Executive Director Dave McTeague for the Board to review and approve.

2.

Applicant stated in his application dated March 13, 2003, that he was not arrested for, or charged with, a violation, misdemeanor or felony.

3.

On April 17, 1990, Licensee had been ordered by this Board, to be suspended by an Immediate License Suspension and Notice of Proposed License Revocation of his chiropractic license. That suspension was for an arrest for unlawfully purchasing and possessing one half grams of cocaine, unlawfully ingesting cocaine for five years, unlawfully distribution of a

controlled schedule II substance, which included conducting the unlawful cocaine purchase and sale in his then chiropractic offices. The notice also included abandonment of his practice without notification to clients. Licensee did not appear in that noticed suspension and discipline, thus, a Final Order Revoking the license dated September 20, 1990 became a final order. (The final order of default is incorporated herein by reference)

4.

After the CCA application was received by this Board, an investigation began. Further investigation by the OBCE revealed that Applicants Oregon Computer Criminal History record indicates on May 25, 1990, applicant was arrested for a controlled substance offense, and possession and delivery of cocaine. It also indicates an arrest on 11/15/70 for possession of liquor as a minor. Further information also indicates that an arrest for a DUII was made in Washington County for which an accusatory instrument that was filed on 2/8/82. Applicant was also convicted of infractions (violations) of driving while suspended on February 16, 1993 and January 9, 2002. Applicant has stated on his application that he has had no arrests or had been charged with violations when the record clearly indicates that applicant has been arrested on more than one occasion.

5.

During the investigation, the Board also became aware of other altercations the applicant has had with the Portland Police Bureau for the last decade. From 1992 through 2000, there are reports that indicate applicant was involved in malicious mischief, was assisting the police with at least two cocaine arrests involving large amounts of cocaine, being involved in physical altercations with others that are documented by police reports, complaints from an elderly woman that she was not paid for goods sold to applicant, in addition to the 1990 cocaine arrest which occurred in his then chiropractic office.

6.

On October 10, 2003, Applicant requested a hearing on the Notice of Proposed Denial of Certificate. On January 15, 2004, Applicant appeared before the Board to discuss the Notice of Proposed Denial of Certificate and conduct as mentioned above. On January 16, 2004 Applicant James Gabrielson withdrew his request for hearing on this matter. In the Notice of Proposed Denial of Certificate, the Board informed Applicant that the file will become part of the contested case record upon default for the purpose of providing a prima facie case. The Board may issue a final order by default pursuant to OAR 137-003-0075 when the Applicant withdraws the request for hearing.

7.

Conclusions of Law

The Board finds that the acts and conduct of Applicant described above violates the standards as set forth in the statutes and rules for authorized ancillary personnel pursuant to ORS 684.155. Specifically, OAR 811-010-0100 (14) allows the Board to refuse to grant a certificate to any applicant upon a finding of unprofessional or dishonorable conduct. In addition, OAR 811-010-0100 (14) also allows for refusal of a certificate for fraud or misrepresentation in applying for or procuring a certification.

8.

The Board finds that there were misrepresentations in the application for the certification in terms of applicants arrest history. In addition, the Board finds that there is a long history with this applicant, since 1990 of unprofessional and/or dishonorable conduct. The Board has reviewed the 1990 revocation findings and current investigation materials and finds that the facts surrounding that revocation and the continual pattern of behavior of the applicant constitute

unprofessional and/or dishonorable conduct that warrants denial of the certification. In the 1990 revocation, the Board had grave concerns about applicant's ability to practice chiropractic with his patient's best interests in mind. Those concerns remain with the history that has transpired since 1990 and into 2000.

The Board finds that denial of certificate is warranted. The Board considers the above conduct and prior revocation in this matter to be serious and warrant a denial of certificate for the Applicant. The Board finds that granting a certificate to Applicant would not protect the public.
THE BOARD HEREBY ORDERS:

That James Bradley Gabrielson's application for Certified Chiropractic Assistant is denied in the State of Oregon by the Board of Chiropractic Examiners. This denial is effective on the date the Order is signed by the President of the Board.

IT IS SO ORDERED this 23rd day of April 2004.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By:



Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners

A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court of Appeals pursuant to the provisions of ORS 183.482. Judicial review may be obtained by filing a petition for review with the Office of State Court Administrator, Supreme Court Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is requested by filing a petition in the Court of Appeals within 60 days following the date the order upon which the petition is based is served.

VERIFICATION

State of Oregon)
County of Marion) Case # 2003-5003

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 23rd day of April, 2004:

Original signatures on file at
the OBCE office.

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/10/07
KJB



CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on April 26, 2004, I served the foregoing Final Order on Default upon James Gabrielson, Applicant, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

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

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on April 26, 2004, I served the foregoing Final Order on Default upon James Gabrielson, Applicant, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

James Bradley Gabrielson
37 SE 65th Ave.
Portland, Oregon 97215

By regular mail to:

James Vick, AAL
698 12th St., Suite 200
Salem, Oregon 97301

Original signatures on file
at the OBCE office.

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

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STATE OF OREGON

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**NOTICE OF PROPOSED
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8.

NOTICE OF RIGHT TO A HEARING

Applicant has the right, if Applicant requests, to a hearing as provided by the Administrative procedures Act (ORS Chapter 183) before the Board or its hearing officer to contest the matter set out above. At the hearing, Applicant may be represented by an attorney, and may subpoena and cross-examine witnesses. A request for hearing must be made in writing

to the Board, and must be received by the Board within 30 days from the date of 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. Upon receipt of a request for hearing, the Board will notify Applicant of the time and place of the hearing. If Applicant requests a hearing, Applicant will be given, prior to the commencement of the hearing, information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing as required by ORS 183.413(2).

9.

Applicant's answer shall be made in writing to the Board 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 Applicant may have. Except for good cause, factual matters alleged in this notice and not denied in the answer shall be presumed admitted; failure to raise a particular defense in the answer will be considered a waiver of such defense; and 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.

10.

If Applicant fails to request a hearing within 30 days, or fails to appear as scheduled at the hearing, the Board may issue a final order by default and impose the above sanctions against Applicant. Upon default order of the Board or failure to appear, the contents of the Board's file regarding the subject of this case automatically becomes part of the evidentiary record of this

disciplinary action for the purpose of proving a prima facie case. ORS 183.415(6).

DATED this 4th day of September, 2003.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures on file
at the OBCE office.

By:

Dave McTeague, Executive Director