

case# 90-1045

Oregon

OREGON
BOARD OF
CHIROPRACTIC
EXAMINERS

May 29, 1991

Storm Gill, D.C.
6575 SW Dori Court
Beaverton, OR. 97005

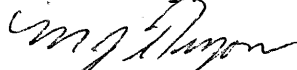
Dear Dr. Gill:

Enclosed is a copy of the Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, Order, and Notice of Opportunity for Judicial Review involving your contested case hearing.

As you are aware, your chiropractic license was received in the Board office on May 16, 1991, with your request to cancel your license, in the face of disciplinary action. The Board agreed to accept your request to cancel your license in lieu of the suspension described in the enclosed order. The Board also agrees to stay the imposition of the civil penalties, costs and fees until such time as you reapply for licensure. In other words, if you should ever reapply for a license to practice chiropractic in the state of Oregon, the civil penalties, costs and fees must first be paid before a license will be issued.

Please do not hesitate to contact me if you have any questions regarding this situation.

Sincerely,



Michael J. Tryon
Investigator



796 Winter Street NE
Salem, OR 97310
(503) 378-5816

State of Oregon
Before the Oregon Board of Chiropractic Examiners

In the Matter of the)	FINDINGS OF FACT,
Proposed License)	ULTIMATE FINDINGS OF FACT,
Revocation)	CONCLUSIONS OF LAW, ORDER
of Storm Gill, DC,)	AND NOTICE OF OPPORTUNITY FOR
Respondent)	JUDICIAL REVIEW

HISTORY OF THE CASE

The Board of Chiropractic Examiners held an informal interview with Dr. Storm Gill in July 1990 for the purpose of inquiring into his advertising practices. The Board found that Dr. Gill had violated statute and administrative rule regarding advertising. He was offered a Stipulation in which he was assessed a civil penalty of \$1000, and a printed retraction of his advertising which claimed that chiropractic was successful in the treatment or prevention of cancer.

Dr. Gill did not comply with the terms of the Stipulation.

On or about September 10, 1990, Dr. Gill stopped practicing chiropractic in Portland and began practicing in Salem without notifying the Board of his change of location. He began working in the chiropractic clinic of Dr. Floyd Harold Nickila, a chiropractor with a suspended license. The Board was notified of this change of location through a complaint from Ms. Kim Fernandez.

The Board proposed to Revoke the License of Dr. Storm Gill on September 21, 1990 for failure to notify the Board of a change in location of his practice, for untruthful, misleading and deceptive advertising and for aiding or abetting the practice of a healing art by an unlicensed physician during September, 1990

A hearing was held on Jan. 17, 1991 on the first two of these allegations. During that hearing, there was a stipulation that the assistant attorney general could synopsize the first two allegations and that Dr. Gill would present no defense. Dr. Gill stipulated that the evidence presented showed that he had been practicing in Portland and was now practicing in Salem beginning September 10, 1990 and that he had notified the Board after the fact on September 24, 1990 and that he had disseminated advertising which could be found by the Board to be misleading, although he personally believed it to be true.

On the third charge of aiding and abetting an unlicensed physician, the Board held a hearing on February 21, 1991 which was consolidated with the license revocation hearing of Dr. Floyd Harold Nickila, whom Dr. Gill was alleged to have aided and abetted. Dr. Gill appeared and represented himself. Dr. Nickila was represented by James D. Vick, attorney at law.

LEGAL ISSUES

Did Respondent violate ORS 684.100 (1)(h), failure to notify the Board of a change in location of his practice, ORS 684.100 (1)(s) and OAR 811-15-045 (1)(a) and (b) untruthful, misleading or deceptive advertising and ORS 684.100 (1)(p) aiding and abetting the practice of any of the healing arts by an unlicensed person.

FINDINGS OF FACT

1. Respondent mailed the circulars, marked as Exhibit A at the hearing, to approximately 4,500 people. The circulars were intended to generate patient referrals and visits to Respondent's office. The circulars were advertising within the meaning of ORS Chapter 684 and OAR Chapter 811. The circulars contained statements which would tend to cause the average patient to believe that chiropractic care has been shown to be effective in the prevention of cancer. The study quoted in the circular did not establish that chiropractic care prevents cancer. Respondent did not dispute this fact.
2. Respondent was licensed to practice chiropractic during 1990 and had notified the Board of Chiropractic Examiners that his office was located at 6355 SW Capitol Highway, Portland, Oregon, 97201 when he renewed his license on September 5, 1989. Respondent used the same address when he renewed his license July 24, 1990. On or about September 10, 1990, Respondent began practicing at 1765 Capitol St. NE, Salem, Oregon, 97303, the office of Dr. Nickila. Respondent did not give notice of his change of location of practice until September 24, 1990, after he had been notified of this disciplinary investigation. Respondent admitted practicing at Dr. Nickila's clinic prior to giving the required notice to the Board of Chiropractic Examiners.
3. Respondent treated patient Kim Fernandez on or about September 10, 1990 and was assisted by Dr. Nickila in the operation of the X-ray machine. Dr. Nickila assisted Respondent within the confines of the X-ray room of the clinic owned by Dr. Nickila, during the first day that Respondent worked in the clinic. Respondent did not assist Dr. Nickila, although Dr. Nickila engaged in conduct which constituted the practice of chiropractic.

CONCLUSIONS OF LAW

1. Respondent violated ORS 684.100 (1)(s) and OAR 811-15-045 (1)(a) and (b) by advertising through the mailed circular shown as Exhibit A.
2. Respondent violated ORS 684.100 (1)(h) by failing to give prompt notice of the change in the location of his professional practice.
3. Respondent did not violate ORS 684.100 (1)(p) because Dr. Nickila was assisting Respondent, not the other way around, which would have violated the statute.

ORDER

1. Dr. Storm Gill's license to practice chiropractic in Oregon is suspended for a period of 90 days. ORS 684.100 (1).
2. Dr. Gill is to serve a 24 month probationary period, during which time he shall not violate any chiropractic statute or administrative rule. If Dr. Gill violates ORS Chapter 684 or OAR Chapter 811, his license to practice chiropractic in the state of Oregon will be revoked.
3. Dr. Gill is assessed a \$1000 civil penalty for violation of ORS 684.100 (1)(s) and OAR 811-15-045, untruthful, misleading or deceptive advertising.
4. Dr. Gill is assessed a \$250 civil penalty for violation of ORS 684.100 (1)(h), failure to notify the Board of a change in location of his practice.
5. Dr. Gill is to send to the Board of Chiropractic Examiners any form of advertising prior to release, for approval.
6. Dr. Gill is assessed administrative costs of \$250.
7. On the day of the Board's Order of the suspension of his license, Dr. Gill forfeited his license to the Board and the Board ordered the forfeiture of Dr. Gill's license to practice chiropractic in Oregon.

Date May 24, 1991

Christie Joachim
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.