

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
) Case # 2010-3002
Timothy Goulart, D.C.)
)
)
) **FINAL ORDER BY DEFAULT**
Licensee.)
)
)
_____)

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. Timothy Goulart DC (hereafter “Licensee”), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

Findings of Fact

1.

A complaint was filed regarding Licensee’s radio advertising where Licensee did not identify himself as a chiropractor or chiropractic physician.

2.

There were both radio and fliers to advertise the event. The advertisement was for a ladies night of indulgence to benefit a non profit cause. The advertisement said that the ladies could get spoiled for an evening and should bring non perishable canned food as a donation. It also stated that they could shop, get manicures, facials and make up advice. It offered complimentary posture evaluations and free exercise advice with neck and shoulder massages as well. In the advertisement it stated that “the event is sponsored by Dr. Timothy Goulart.” The flyer also stated that they should RSVP to a certain e mail address.

3.

Licensee has failed to identify his profession on this advertisement in both oral or written formats. By referring to himself as Dr. Timothy Goulart, Licensee is not fulfilling the requirements of the Oregon Doctor’s Title Act which requires use of the terms, “chiropractor,” “chiropractic physician,” or presumably “chiropractic” in reference to a clinic in connection with all advertising. It also violated OAR 811-015-0045(2) and (3). This is in violation of the Oregon Doctors’ Title Act, ORS, 676.110 , and OAR 811-015-0045 (3) which says, “A Chiropractic physician shall adhere to the Doctors’ Title Act, ORS 676.110(2).”

4.

On March 25, 2010, the Proposed Notice of Discipline was served on Licensee via certified mail. By confirmation of the certified mail, Licensee signed for receipt of this on March 29, 2010. On April 15, 2010, Licensee confirmed via a telephone conversation with the Board that he was not contesting the Proposed Notice having already paid the \$500 penalty. In the Proposed Notice, the Board stated that they would rely on the record herein for purposes of default if a hearing request was not filed. To date, Licensee has failed to timely request a hearing.

ORDER

5.

The Board hereby orders Licensee to pay a \$500 Civil Penalty due to the previously mentioned violations. The Board received Licensee payment for the Civil Penalty on April 2, 2010.

Dated April 15, 2010.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file at OBCE

By:

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.


Certificate of Service

I, Dave McTeague, certify that on April 15, 2010, I served the foregoing Final Default Order upon the party hereto by mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

Timothy Goulart, DC
Goulart Family Chiropractic Inc
424 NE Franklin
Bend, OR 97701

Original signature on file at OBCE

B



Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

5.

Licensee shall pay costs of this disciplinary proceeding, including investigative costs and attorney fees pursuant to ORS 684.100(9)(g).

6.

Licensee has the right, if Licensee requests, to have a formal contested case hearing before the OBCE or its Administrative Law Judge to contest the matter set out above. At the hearing, Licensee 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 30 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 Licensee 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 this 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 Licensee requests a hearing, before commencement of that hearing, Licensee will be given information on the procedures, rights of representation and other rights of the parties relating to the conduct of the hearing as required under ORS 183.413-415.

9.


If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the hearing, the OBCE may issue a final order by default and impose the above sanctions against Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file regarding the subject of this automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a prima facie case.

Dated March 25, 2010.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signature on file at OBCE


By:

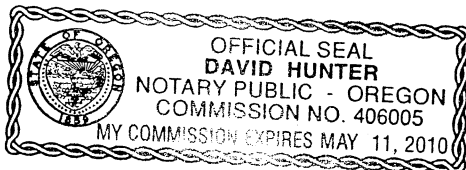


Dave McTeague, Executive Director

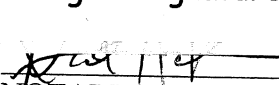
State of Oregon) Case # 2010-3002
County of Marion) Timothy Goulart DC

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

Original signature on file at OBCE

Dave McTeague, Executive Director
Oregon Board of Chiropractic Examiners



SUBSCRIBED AND SWORN to before me
this 25th day of March, 2010

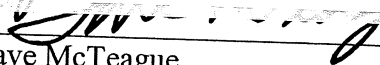
Original signature on file at OBCE

NOTARY PUBLIC FOR OREGON
My Commission Expires: May 11, 2010

Certificate of Service

I, Dave McTeague, certify that on March 25, 2010, I served the foregoing Notice of Proposed Disciplinary Action upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Timothy Goulart, DC
Goulart Family Chiropractic Inc
424 NE Franklin
Bend, OR 97701

Original signature on file at OBCE



Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners