

while his certificate was pending. Applicant stated he worked from the Summer 2001 through December 19, 2002 approximately 2 days per week, seeing 2-3 patients per day.

4.

On February 27, 2003, the Board issued the Notice of Proposed Denial of Certificate and that notice was served via certified mail to Applicant. The return card verifying certified mail to applicant was returned and applicant received it on February 27, 2003. A response or request for hearing was due by March 27, 2003. No request for hearing or response was received by the Board from applicant. The Notice of Proposed Discipline included in paragraph 8 language that indicated the Board file is relevant to the subject and automatically became part of the evidentiary record for purposes of default to prove a prima facie case.

Conclusions of Law

The Board finds that the acts and conduct of applicant which evidence unlicensed practice while the application for CCA certificate was pending, constitutes unlicensed practice of Chiropractic Assisting in violation of **OAR 811-010-0110(5)**. The Board finds that CCA knowingly provided patient treatment without a valid CCA certificate and finds that that conduct is unprofessional and warrants denial of the CCA license. In addition, the Board also finds that practicing without a license constitutes unprofessional and dishonorable conduct which may injure a patient and is cause for denial of the certificate pursuant to **OAR 811-010-0110(15)(a)**.

15. The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate or may impose upon an applicant a civil penalty not to exceed \$1000 upon finding any of the following:
 - (a) Cause, which is defined as, but not limited to, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information.

5.

IT IS HEREBY ORDERED that the Applicant Gary L. Jones, is found to be in default and that a final order is entered that his application is denied as he is in default and due to the aforementioned violations pursuant to ORS 684.100(a).

DATED this 2nd day of April, 2003.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: Original Signatures on file
at the OBCE Office
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 with 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 2, 2003 I served the foregoing Final Order of Default upon Gary L. Jones, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Gary Lane Jones
130 NW 19th St., Suite A-123
Newport, Oregon 97365

Original Signatures on file
at the OBCE Office

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

VERIFICATION

State of Oregon)
County of Marion) Case # 2003-5000

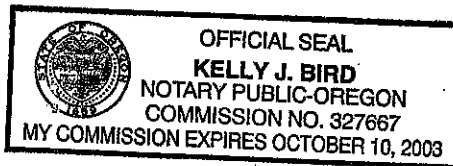
I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Board of Chiropractic Examiners of the State of Oregon, and as such, am authorized to verify pleadings in this case; and that the foregoing Notice is true to the best of my knowledge as I verily believe.

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 2nd day of April, 2003.

Original Signatures on file
at the OBCE Office

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/10/03



BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)
) Case # 2003-5000
Gary L. Jones, applicant CCA)
)
) **NOTICE OF PROPOSED**
) **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. Gary L. Jones (hereafter "CCA applicant"), applied for a license as a certified chiropractic assistant in Oregon. The Board proposes to deny the certificate of the above applicant on the following basis:

1.

On June 24, 2002, the OBCE received CCA's application for a certificate to practice as a certified chiropractic assistant in Oregon. All requirements of the application process were not met and additional information was requested. The information requested was in regards to a response on the application that the applicant has been arrested or charged for a misdemeanor theft, 8 years ago. The Board requested additional circumstances of that matter.

2.

Board staff followed up in July of 2002 and into November 2002 when the further information was not received by the applicant. In November Board staff called the office where it was understood Applicant was working and ascertained from staff at Dr. Tomlin's office that applicant was providing therapies. Board staff also ascertained that applicant had failed to obtain his CCA certificate and was not a Licensed Massage Therapist in the State of Oregon. Dr. Tomlin was specifically notified that applicant, having no CCA certificate, nor LMT license, would not be able to perform any services on existing patients.

3.

Further investigation by the OBCE revealed that applicant had continued to provide services to patients at Dr. Tomlin's offices and in December, 2002, Board staff ascertained that applicant was still performing services on patients in Dr. Tomlin's practice.

Applicant further told the Board that after he completed his classes necessary for a CCA license in the summer of 2001, it was his belief that it was appropriate for him to begin working while his certificate was pending. Applicant stated he worked from the Summer 2001 through December 19, 2002 approximately 2 days per week, seeing 2-3 patients per day.

4.

The Board finds that the acts and conduct of applicant which evidence unlicensed practice while the application for CCA certificate was pending, constitutes unlicensed practice of Chiropractic Assistant in violation of **OAR 811-010-0110(5)**. In addition, the Board also finds that practicing without a license constitutes unprofessional and dishonorable conduct which may injure a patient and is cause for denial of the certificate pursuant to **OAR 811-010-0110(14)(a)**.

“The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate or may impose upon an applicant a civil penalty not to exceed \$1000 upon finding any of the following:

(a) Cause, which is defined as, but not limited to, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information.”

5.

The Board finds that CCA knowingly provided patient treatment without a valid CCA certificate and finds that that conduct is unprofessional and warrants denial of the CCA license.

6.

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 a hearing is requested, 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).

7.

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.

8.

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 26th day of February, 2003.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

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

CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on February 26, 2003, I served the foregoing Notice upon Gary L. Jones, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Gary Lane Jones
130 NW 19th St., Suite A-123
Newport, Oregon 97365

Original Signatures on file
at the OBCE Office

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners

VERIFICATION

State of Oregon)
County of Marion) Case # 2003-5000

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 26th day of February, 2003.

**Original Signatures on file
at the OBCE Office**

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/10/03

