

BEFORE THE  
BOARD OF CHIROPRACTIC EXAMINERS  
STATE OF OREGON

In the Matter of the Application of an )  
Ancillary Personnel Certificate of )  
LUKE STINSON. ) FINAL ORDER

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On May 11, 1994, the Board of Chiropractic Examiners (Board) issued a notice of denial of ancillary personnel certificate to Luke Stinson. The basis of the denial was that Stinson violated ORS 684.100(1)(g) and OAR 811-10-110(5), (7) and (17) by treating patients with electrotherapy, physiotherapy, hydrotherapy, massage or chiropractic services without first being certified or licensed. On May 13, 1994, Stinson denied the material allegations of the notice and requested a hearing.

A hearing was scheduled for September 1, 1994. Prior to the beginning of the hearing, the parties agreed to stipulate to the record. The stipulation of record, along with closing argument by Board counsel J. Kevin Shuba, Assistant Attorney General, was submitted to Hearings Officer Kathryn Logan on October 8, 1994.

The issue presented to the hearings officer is: Did Luke Stinson violate ORS 684.100(1)(g) and OAR 811-10-110(5), (7) and (17) by the conduct alleged in the notice? If so, should his application for an ancillary personnel certificate be denied?

**FINDINGS OF FACT**

1. The parties stipulated to the following:

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1 a) Stinson requested a hearing on the denial of a  
2 certificate;

3 b) Stinson testified concerning the performance of massage  
4 prior to licensure in a hearing concerning the license of Walter  
5 Trapp, D.C.

6 c) The Board and Stinson agree that the denial of license  
7 to Stinson may be based on all of the evidence presented at the  
8 hearing concerning Walter Trapp, D.C.;

9 d) The Board and Stinson may submit written arguments  
10 concerning the evidence submitted at the Trapp hearing;

11 e) The record for this hearing closes upon the signing of  
12 this agreement. A proposed order should be issued after receipt  
13 of arguments, if any.

14 2. A Final Order was issued In the Matter of the License of  
15 Walter C. Trapp, D.C. on February 3, 1995. Finding of Fact II  
16 reads as follows:

17 Luke Stinson is Bert Stinson's son and Trapp's brother-  
18 in-law. Luke Stinson was interested in massage and  
observed Trapp performing massage therapy on patients.

19 Trapp performed "recreational" massage on Charles Davis  
20 and his wife on a regular basis. Neither patient had a  
particular ailment or infirmity. They simply enjoyed  
21 how they felt after being massaged. One of their  
scheduled appointments occurred while Trapp was on his  
22 honeymoon. Prior to leaving, Trapp arranged with the  
Davises that Luke Stinson would do the massage. They  
23 agreed.

24 On October 4, 1993, while Trapp was on his honeymoon,  
25 Luke Stinson performed a massage on Charles Davis and  
his wife in the clinic. David did not pay for the  
26 massage. Luke Stinson was not licensed.

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1 3. In Conclusion of Law 1, we held that the massage  
2 performed by Stinson was physiotherapy. Walter Trapp, p. 5.

3 **CONCLUSIONS OF LAW**

4 1. The Board has jurisdiction over the applicant and the  
5 subject matter of this application.

6 2. Stinson violated ORS 684.100(1)(q) and OAR 811-10-110(5).  
7 ORS 684.100(1)(q) states that the Board may refuse to grant a  
8 license to any applicant who has violated any provision of this  
9 chapter or any rule adopted thereunder. OAR 811-10-110(5) states  
10 that "Ancillary Personnel shall not perform \* \* \* physiotherapy  
11 until he or she receives a certificate from the Board."

12 It was established in the Trapp case that the massage  
13 administered to the Davises was physiotherapy, and that Stinson  
14 was not licensed to perform such therapy. Stinson violated  
15 OAR 811-10-110(5) by performing such therapy without a certificate  
16 or license from the Board.

17 It is within this Board's discretion to refuse to grant  
18 Stinson a license or certificate. Nothing has been presented to  
19 show that the Board is abusing its discretion by such action. The  
20 denial should be upheld.

21 **ORDER**

22 1. Luke Stinson violated ORS 684.100(1)(q) and  
23 OAR 811-10-110(5) by performing physiotherapy on the Davises when  
24 he was not licensed to perform such therapy.

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1           2.    Luke Stinson's application for an Ancillary Personnel  
2 Certificate is denied.

3           DATED at Salem, Oregon, this   8   day of February, 1995.

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5                           BOARD OF CHIROPRACTIC EXAMINERS  
6                           State of Oregon  
7   Original signatures on file  
8                           By:                           at the OBCE office.  
9                           Christie Joachin, Executive Director

10 **NOTICE:** You are entitled to judicial review of this order  
11 pursuant to the provisions of ORS 183.480. Judicial Review may be  
12 obtained by filing a petition in the Oregon Court of Appeals. The  
13 petition must be filed within 60 days from the date of service of  
14 this order.

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