

1 The Board elects in this case to designate the record of proceedings to date, which consists of
2 Applicant's file with the Board as the record for purposes of proving a prima facie case, pursuant
3 to ORS 183.417(4).

4 3.

5 **FINDINGS OF FACT**

6 Applicant is an osteopathic physician, board certified in family medicine, who submitted
7 an application for an active license to practice medicine in Oregon on September 19, 2018.
8 Applicant's acts and conduct that violated the Medical Practice Act and constitute the basis to
9 deny this license application follow:

10 3.1 Review of this application file reveals that Applicant answered "no" to question
11 #7 of the application, which asked: "Have you ever been arrested, convicted of, or pled guilty or
12 "nolo contendere" (no contest) to ANY offense in any state in the United States or any foreign
13 country, other than minor traffic violations? Matters in which you were pardoned and/or
14 diverted, or the conviction was deferred, set aside or expunged must be disclosed." Applicant's
15 answer was not accurate. In fact, Applicant was arrested in 1996 for Criminal Trespass and
16 Disorderly Conduct in Florida; was arrested for carrying a concealed weapon in Scioto, Ohio on
17 August 29, 2000; and was also arrested in 2006 for misdemeanor Disorderly Conduct and
18 Protesting without a Permit in Jackson, Mississippi. While charges in all cases were dismissed,
19 the arrests were still reportable.

20 3.2 The Board sent a request for information to Applicant on February 25, 2019, in
21 which Applicant was asked to explain his failure to disclose the above described arrests in 1996,
22 2000, and 2006. Applicant failed to respond. The Board sent a second letter for a response to
23 the allegations on March 25, 2019. Applicant failed to respond. The Board sent a third request
24 for a response to the allegations on April 16, 2019. Applicant was given a deadline of
25 April 30, 2019, to provide a written response. Applicant provided a written response on
26 April 29, 2019, in which he explained that his arrest in 1996 was due to his distributing religious
27 literature at a "satanic rock" concert. He had been asked by a law enforcement officer to leave

1 the area or be arrested and Applicant stated he “called his bluff” and refused to leave and was
2 arrested. Applicant stated after a trial the charges were dropped and the record expunged.
3 Applicant was again arrested in 2000, during a traffic stop for speeding, for carrying a concealed
4 weapon (a loaded handgun) on his person as well as having a stun gun in the glove compartment
5 of his motor vehicle, nunchuks on the passenger floorboard and a survival knife near the driver
6 seat. Applicant stated in his response that charges in this case were later dropped after courts
7 accepted his affirmative defense that he had armed himself due to threats from “narcotic seekers”
8 at his practice. The 2006 arrest stemmed from Applicant participating in a protest in which he
9 was accused of blocking a sidewalk and refusing to move. Applicant stated that he did not know
10 that the arresting officer had warned the protest organizer that participants would be arrested if
11 they did not move. Applicant was arrested; however, the charge in this case was also dropped.
12 Applicant asserted that all three incidents were “false” arrests.

13 3.3 Applicant is not a person in the military service of the United States.

14 4.

15 CONCLUSIONS OF LAW

16 Based upon its examination of the record in this case, the Board finds that the acts and
17 conduct of Applicant described above is supported by reliable, probative and substantive
18 evidence and violated the Medical Practice Act, as set forth below:

19 4.1 Applicant’s failure to accurately report his arrests on his application violates
20 ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined in ORS 677.188(4)(a) as
21 conduct contrary to recognized standards of ethics of the medical profession; ORS 677.190(8)
22 fraud or misrepresentation in applying for or procuring a license to practice medicine in this
23 state; and ORS 677.190(17) willfully violating any provision of the Medical Practice Act or a
24 Board rule, specifically ORS 677.100(1)(d) and OAR 847-008-0058(1).

25 4.2 Applicant’s failure to respond to the Board’s letter on February 25, 2019, and on
26 March 25, 2019, in a timely manner, and his disingenuous answer that he was the victim of
27 “false” arrests was false, misleading or deceptive and reflects that he is not qualified for

1 licensure, in violation of ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined
2 in ORS 677.188(4)(a) as conduct contrary to recognized standards of ethics of the medical
3 profession.

4 4.3 Applicant's above described conduct also constitutes fraud or misrepresentation
5 in applying for or procuring a license to practice medicine in this state, in violation of
6 ORS 677.190(8); as well as ORS 677.190(17) failing to comply with a Board request and
7 willfully violating any Board rule, specifically OAR 847-008-0058(1) omissions or false,
8 misleading or deceptive statements or information on any Board application.

9 4.4 In its review of Applicant's application, the Board concludes that Applicant has
10 failed to demonstrate that he is of good moral character. His failure to comply with Board's
11 letter and his disingenuous answer reflect moral turpitude and cause the Board to have
12 substantial doubts about Applicant's honesty, fairness and respect for the rights of others and the
13 laws of this state, in violation of ORS 677.100(1)(d).

14 5.

15 **ORDER**

16 In order to protect the public and appropriately address his conduct, the Board enters the
17 following order:

18 IT IS HEREBY ORDERED THAT the license application of James Patrick Johnston,
19 DO, to practice medicine in the State of Oregon is denied. This Order is effective immediately
20 upon the signature of the Board Chair. In addition, Applicant must pay a civil penalty of \$2,000,

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 payable within 90 days from the date this Order is signed by the Board Vice Chair. Violation of
2 the terms of this Order constitute a violation of the Medical Practice Act.

3 DATED this 5th day of MARCH 2020.

4
5 OREGON MEDICAL BOARD
State of Oregon

6 
7 SAURABH GUPTA, MD
8 BOARD VICE CHAIR
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1
2 **Right to Judicial Review**

3 **NOTICE:** You are entitled to judicial review of this Order. Judicial review may be obtained by
4 filing a petition for review with the Oregon Court of Appeals within 60 days after the final order
5 is served upon you. See ORS 183.482. If this Order was personally delivered to you, the date of
6 service is the day it was mailed, not the day you received it. If you do not file a petition for
7 judicial review within the 60 days' time period, you will lose your right to appeal.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27