

IN THE MATTER OF
FRANK E. TARQUINI, D.C.

Respondent

License Number: S01882

* BEFORE THE MARYLAND STATE
* BOARD OF CHIROPRACTIC AND
* MASSAGE THERAPY EXAMINERS
* Case Number: 15-62C

* * * * *

**ORDER FOR SUMMARY SUSPENSION
OF LICENSE TO PRACTICE CHIROPRACTIC**

The Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") hereby **SUMMARILY SUSPENDS** the license of **FRANK E. TARQUINI, D.C.** (the "Respondent"), License Number S01882, to practice chiropractic in the State of Maryland. The Board takes such action pursuant to its authority under Md. Code Ann., State Gov't II ("State Gov't II") § 10-226(c)(2014 Repl. Vol.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

PRIOR DISCIPLINARY HISTORY

1. At all times relevant hereto, the Respondent was and is licensed to practice chiropractic in the State of Maryland. The Respondent was originally licensed

¹ The statements regarding the Board's investigative findings are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

to practice chiropractic in the State of Maryland on March 18, 1998, under License Number S01882.

2. On or about October 22, 2012, the Board summarily suspended the Respondent's license to practice chiropractic in the State of Maryland and charged him with violating certain provisions of the Maryland Chiropractic Act, Md. Code Ann., Health Occ. §§ 3-101 *et seq.* (2009 Repl. Vol.). The Board took these emergency actions after its investigation revealed that on or about October 5, 2012, the Respondent attempted to provide chiropractic services to a patient at chiropractic practice located in Essex, Maryland, while under the influence of alcohol.

3. The Respondent resolved the Board's summary suspension of his license and charges by entering into a Consent Order (the "Consent Order"), dated April 3, 2013, in which the Board found as a matter of law that he: provided professional services while under the influence of alcohol, in violation of Health Occ. § 3-313(6); violated any rule or regulations adopted by the Board, *i.e.* Md. Code Regs. 10.43.14.03B, in violation of § 3-313(20); committed an act of unprofessional conduct in the practice of chiropractic, in violation of § 3-313(21); and was physically or mentally impaired to the extent that it impaired his ability to practice chiropractic safely, in violation of § 3-313(27). Pursuant to the Consent Order, the Board suspended the Respondent's chiropractic license for a period of two years with all but six months stayed and placed him on probation for a period of two years. During the suspension and while on probation, the Respondent was required to enroll in a Board-approved outpatient treatment program and comply with all recommendations and requirements from the treatment program.

4. The Respondent successfully complied with the terms and conditions of the Consent Order, and on or about November 14, 2014, the Board granted his request for an early termination of his probation.

CURRENT COMPLAINT

5. On or about August 31, 2015, the Board received a complaint from a licensed chiropractor (the "Complainant")² who operated a chiropractic practice (the "Practice") with several locations in Maryland and who employed the Respondent as a chiropractor from March through August 2015. The Complainant attached a detailed written chronology of events, which occurred during the Respondent's employment.

6. The Complainant hired the Respondent to provide coverage for chiropractic services at the Practice's Oxon Hill location on or about March 2, 2015.

7. On or about March 20, 2015, the Complainant received a telephone call from his staff at the Oxon Hill location stating that patients and staff were complaining that the Respondent smelled of alcohol and that he was sleeping during office hours. The Complainant spoke to the Respondent on the telephone and found that his speech was slurred and that he had difficulty understanding what the Complainant was telling him. The Complainant had the Respondent removed from the facility immediately.

8. The Complainant later had a face-to-face meeting with the Respondent, during which the Respondent assured him that everything was under control and that he was attending Alcoholics Anonymous. The Complainant agreed to give the Respondent a second chance.

² To ensure confidentiality, the names of individuals and facilities involved in this case are not disclosed in this document. The Respondent may obtain the names of all individuals and facilities referenced in this document by contacting the administrative prosecutor.

9. A few months later, on or about June 22, 2015, the Complainant received information that two patients left the Practice complaining that the Respondent smelled of alcohol. The Complainant met the Respondent to discuss the complaints during which the Respondent again guaranteed the Complainant that he had changed.

10. A month later, on or about July 27, 2015, a patient's attorney contacted the Complainant stating that the Respondent had behaved inappropriately with his client, including smacking her behind as she was leaving the Practice.

11. After confronting the Respondent regarding the July 27, 2015, complaint, the Complainant decided to terminate the Respondent's employment.

INTERVIEWS OF EMPLOYEES AT THE PRACTICE

12. On or about October 21, 2015, a Board investigator interviewed an employee ("Employee A") of the Practice, who made observations of the Respondent when he worked at the Oxon Hill location on or about March 20, 2015. During the interview, Employee A stated that on that day she went to knock on the Respondent's office door because patients had been waiting for him for a long time. Employee A stated that she had to knock on the door several times before the Respondent responded. After speaking with the Respondent, she noticed that he had been sleeping in his office and his breath smelled of alcohol.

13. Moreover, as Employee A was leaving for lunch, the Respondent asked her to call him on his cellular-phone later to wake him up. During the conversation, Employee A noticed that the Respondent's speech was slurred, his eyes were blood shot and his breath smelled of alcohol. Employee A became concerned and

immediately contacted her assistant manager who relayed the information to the Complainant.

14. On the same day, on or about October 21, 2015, a Board investigator interviewed a second employee ("Employee B") from the Practice. Employee B who had worked often with the Respondent between March and August 2015 also stated that on several occasions he appeared drunk and fell asleep between treating patients. Employee B recalled one patient after being treated by the Respondent complained that he smelled of alcohol. Employee B further stated that whenever the Respondent was under the influence of alcohol, he became more aggressive and often used profanity.

BASIS FOR DISCIPLINARY CHARGES

15. Based on the above investigative findings, the Board has a basis to charge the Respondent under the Maryland Chiropractic Act, Md. Code Ann., Health Occ. I §§ 3-101 *et seq.* (2014 Repl. Vol.). Specifically, the Board has a basis to charge the Respondent with violating the following provisions of Health Occ. I § 3-313:

- (6) Provide professional services while: (i) under the influence of alcohol;
- (20) Violates any rule or regulations adopted by the Board;
- (21) Commits an act of unprofessional conduct in the practice of chiropractic;
- and
- (27) Is physically or mentally impaired to the extent that it impairs the applicant's or licensee's ability to practice chiropractic safely.

The violation of rule or regulations adopted by the Board under H.O. § 3-313(20) includes violation of Md. Code Regs. 10.43.14.03B, which states:

A chiropractor or chiropractic assistant who suffers from a physical, mental, or emotional impairment, including

chemical abuse, that impacts the individual's ability to practice chiropractic or provide chiropractic assistance shall seek professional treatment and refrain from the practice of chiropractic or the practice of chiropractic assistance until the impairment no longer exists or reasonable accommodations can be made.

CONCLUSIONS OF LAW

Based upon the foregoing Investigative Findings, the Board concludes as a matter of law that the public health, safety, or welfare imperatively requires emergency action, pursuant to Md. Code Ann., State Gov't. II § 10-226(c)(2)(2014 Repl. Vol.).

ORDER

It is this 1st day of November, 2015, by a majority of the Board considering this case:

ORDERED that pursuant to the authority vested in the Board by Md. Code Ann. State Gov't. II § 10-226(c)(2), the Respondent's license to practice chiropractic in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that the Respondent must request a post-deprivation show cause hearing in writing **WITHIN THIRTY (30) DAYS** of service of this Order. The written request should be made to: Laurie Sheffield-James, Executive Director, Maryland State Board of Chiropractic and Massage Therapy Examiners, 4201 Patterson Avenue, Baltimore, Maryland 21215, with copies mailed to: K. F. Michael Kao, Assistant Attorney General, Health Occupations Prosecution and Litigation Division, Office of the Attorney General, 300 West Preston Street, Suite 201, Baltimore, Maryland 21201, and Grant Gerber, Assistant Attorney General, Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201, and it is further

ORDERED that if the Respondent fails to request a post-deprivation show cause hearing in writing, the Respondent's license will remain suspended; and it is further

ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board his original chiropractic license S01882, wallet card and wall certificate; and it is further

ORDERED that this is an Order of the Board, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).



Jonathan Nou, D.C.
President
Maryland State Board of Chiropractic
and Massage Therapy Examiners