

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

\* \* \* \* \*

CONSENT ORDER

On November 12, 2015, the Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") summarily suspended the chiropractic license of **FRANK E. TARQUINI, D.C.** (the "Respondent"), License Number S01882, pursuant to Md. Code Ann., State Gov't II, § 10-226(c) (2014 Repl. Vol.). On January 14, 2016, the Board charged the Respondent with violating the Maryland Chiropractic Act (the "Act"), Md. Code Ann., Health Occ. I ("Health Occ. I"), §§ 3-101 *et seq.* (2014 Repl. Vol.).

Specifically, the Board charged the Respondent with violating the following provisions of the Act under Health Occ. § 3-313:

Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the applicant or licensee:

- (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 Board charged the Respondent with violating rule or regulations adopted by the Board under Health Occ. § 3-313(20), specifically Md. Regs. Code ("COMAR") tit. 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.

On February 11, 2016, a Case Resolution Conference was held before a panel of the Board. As a result of the conference, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

#### **FINDINGS OF FACT**

The Board makes the following Findings of Fact:

#### **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 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")<sup>1</sup> 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.

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.

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<sup>1</sup> To ensure confidentiality, the names of individuals and facilities involved in this case are not disclosed in this document.

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.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's actions, including providing chiropractic services to patients after consuming and while under the influence of alcohol on multiple occasions at the Practice from in or around March to August 2015, constitute: providing professional services while under the influence of alcohol, in violation of Health Occ. I § 3-313(6)(i); violating any rule or regulations adopted by the Board, *i.e.* COMAR 10.43.14.03B, in violation of § 3-313(20); committing an act of unprofessional conduct in the practice of chiropractic, in violation of § 3-313(21); and being physically or mentally impaired to the extent that it impaired his ability to practice chiropractic safely, in violation of § 3-313(27).

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the Board considering this case:

**ORDERED** that the Summary Suspension of the Respondent's license issued on November 12, 2015, is hereby **TERMINATED**; and it is further

**ORDERED** that the Respondent's license to practice chiropractic in the State of Maryland is hereby **SUSPENDED** for a minimum period of **ONE (1) YEAR** to

commence on the date the Board executes this Consent Order, subject to the following terms and conditions:

(1) Alcohol Treatment Program:

- I. Within **thirty (30) days** of the date the Board executes this Consent Order, the Respondent shall enroll in an alcohol and substance abuse treatment program with Maryland Medical Society (the "MedChi Program"), which shall be effective for the duration of the suspension period.
- II. The Respondent may continue to receive alcohol and substance abuse testing and treatment at a location near his place of residence subject to the MedChi Program's policies and protocols.
- III. For the entire duration of the active suspension period, the Respondent shall fully, timely and satisfactorily cooperate and comply with all directives and requirements from the MedChi Program, which must include at the very least the following requirements:
  - a. The Respondent shall be subject to periodic randomized alcohol and drug screening at a location within thirty (30) miles of the Respondent's place of residence, the frequency of which to be approved by the MedChi Program.
  - b. The MedChi Program shall submit quarterly reports to the Board summarizing the Respondent's treatment progress, including, but not limited to, its assessment of the Respondent's progress and the results of the Respondent's alcohol and drug screens.
  - c. The Respondent's failure to comply with the directives and/or requirements of the MedChi Program shall be deemed a violation of this Consent Order.

(2) Release(s):

- I. The Respondent shall sign a release or releases from time to time to ensure that the Board and the MedChi Program has the ability to receive any and all treatment and testing records from any alcohol or substance abuse treatment program(s) he attended or may attend.

- (3) The Respondent shall be solely responsible for ensuring that he provides the Board with adequate written verification that he has fully and successfully complied with the above terms and conditions.

**AND IT IS FURTHER ORDERED** that provided the Respondent has successfully complied with the above terms and conditions and upon written endorsement from the MedChi Program that the Respondent is safe to return to practice chiropractic, the Respondent no sooner than ten (10) months after the suspension of his license may file a petition with the Board requesting a termination of the suspension of his license. The Board shall make a written determination concerning the Respondent's Petition to Terminate the Suspension of his license within two (2) months of his filing of the Petition to Terminate Suspension. If the Board determines that the Respondent fails to fully comply with the above terms and conditions, or that the MedChi Program refuses to support his resumption of the practice of chiropractic, the Board shall continue the suspension of the Respondent's license until he has complied with all of the above terms and conditions and the MedChi Program endorses his Petition to Terminate the Suspension; and it is further

**ORDERED** that in the event the Board grants the Respondent's Petition to Terminate the Suspension and after the conclusion of at least one (1) year of active suspension of the Respondent's license, the Board shall place the Respondent on **PROBATION** for a period of **FIVE (5) YEARS**, to commence on the date the Board terminates the suspension of the Respondent's license, and shall continue until all of the following terms and conditions are met:

- (1) The Respondent's shall continue his enrollment with the MedChi Program for the duration of the probation period.

- (2) The Respondent may continue to receive alcohol and substance abuse testing and treatment at a location near his place of residence subject to the MedChi Program's policies and protocols.
- (3) The Respondent shall sign a release or releases from time to time to ensure that the Board and the MedChi Program has the ability to receive any and all treatment and testing records from any alcohol or substance abuse treatment program(s) he attended or may attend.
- (4) For the entire duration of the probation period, the Respondent shall fully, timely and satisfactorily cooperate and comply with all directives and/or requirements of the MedChi Program, including but not limited to the following terms and conditions:
  - I. The Respondent shall be subject to periodic randomized alcohol and drug screening at a location within thirty (30) miles of the Respondent's place of residence, the frequency of which to be approved by the MedChi Program.
  - II. The MedChi Program shall submit quarterly reports to the Board summarizing the Respondent's treatment progress, including, but not limited to, its assessment of the Respondent's progress and the results of the Respondent's alcohol and drug screens.
  - III. The Respondent's failure to comply with the directives and/or requirements of the MedChi Program shall be deemed a violation of this Consent Order.
- (5) The Respondent shall comply with the Maryland Chiropractic Act and all laws, statutes and regulations pertaining thereof.
- (6) The Respondent may be eligible for an early termination of his probation after successful completion of three (3) years of his probation.
- (7) Any non-compliance with the directives and/or requirements of the MedChi Program shall be deemed a violation of his probation and of this Consent Order and shall be grounds for immediate suspension of his license pending his right to an evidentiary hearing if there is a genuine dispute as to the underlying facts, or a show cause hearing otherwise, before the Board.

**AND IT IS FURTHER ORDERED** that after the conclusion of at minimum **THREE (3) YEARS of PROBATION**, the Respondent may submit a written petition to the Board requesting early termination of his probationary status, but only if he has fully

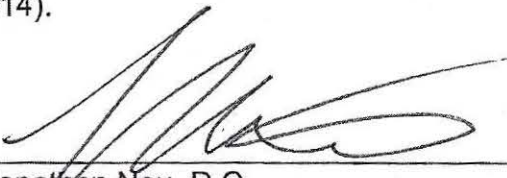
and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

**ORDERED** that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to the underlying facts, or an opportunity for a show cause hearing, before the Board otherwise, may impose any sanction which the Board may have imposed in this case, including probationary terms and conditions, a reprimand, suspension, revocation and/or a monetary penalty; and it is further

**ORDERED** that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

**ORDERED** that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

3/10/14  
\_\_\_\_\_  
Date

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

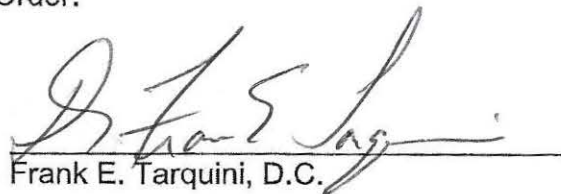
**CONSENT**

I, Frank E. Tarquini, D.C., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions. I acknowledge the violations as set forth above and accept personal responsibility for my behavior.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

3/18/2016  
Date

  
Frank E. Tarquini, D.C.

NOTARY

STATE OF Florida  
CITY/COUNTY OF palm Beach

I HEREBY CERTIFY that on this 18 day of March,  
2016, before me, a Notary Public of the foregoing State and City/County personally  
appear Frank E. Tarquini, D.C., and made oath in due form of law that signing the  
foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Sarah C. Millar  
Notary Public



My commission expires: