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FILED

AUG 29 2016

**NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS**

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

ARCHER L. IRBY, D.C.
LICENSE NO. 38MC00651000

TO PRACTICE CHIROPRACTIC IN THE
STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Chiropractic Examiners ("Board") on August 17, 2016 upon the filing of a Verified Complaint by Christopher S. Porrino, Attorney General of New Jersey, by Christopher Salloum, Deputy Attorney General, appearing. The Verified Complaint alleges that the Respondent, Archer L. Irby, D.C., engaged in sexual contact with three patients in violation of the Board's sexual misconduct regulation, codified at N.J.A.C. 13:44E-2.3. This conduct led to the Respondent's arrests on July 31, 2016 and

August 1, 2016 by the Englewood Police Department for criminal sexual contact and lewdness.

On the same day that the Attorney General filed the Verified Complaint, the Board ordered the Respondent to show cause, before a Hearing Committee of the Board on August 30, 2016, why an Order should not be entered temporarily suspending his license to practice chiropractic in this State, or imposing such other restraints as the Board deems necessary, and to file a response to the Order to Show Cause by August 24, 2016. To date, the Respondent has not filed such a response.

The allegations contained in the Verified Complaint, if proven, would constitute violations of the Board's sexual misconduct regulation, gross or repeated malpractice, professional misconduct, and crimes or offenses of moral turpitude, thereby providing a basis for the Board to suspend or revoke the Respondent's license to practice chiropractic in this State pursuant to N.J.S.A. 45:1-21(c), (d), (e), (f), and (h).

The parties, being desirous of resolving this matter on an interim basis, and it appearing that the Respondent has read the terms of the within Order and understands their meaning and effect and consents to be bound by same, and it further appearing that Respondent wishes to enter into an interim agreement with the Board without making admissions, and the Board finding the within interim disposition adequately

protective of the public health, safety, and welfare; and it appearing that good cause exists for the entry of this Order:

IT IS, therefore, on this 29th day of August 2016

ORDERED AND AGREED as follows:

1. The Respondent's license to practice chiropractic in the State of New Jersey shall be, and hereby is, suspended pending the final disposition of plenary proceedings in this matter and further Order of the Board.

2. The Respondent shall cease and desist all patient contact, including, but not limited to, the rendering of chiropractic care, massage, yoga, and rehabilitation services such as stretching and exercise, pending the final disposition of plenary proceedings in this matter and further Order of the Board.

3. Respondent shall be, and hereby is, prohibited from occupying, sharing or using the office space at either Irby Spine Care, 115 Grand Avenue, Suite 1, Englewood, New Jersey or any other office in which another licensee provides health care services.

4. The Respondent shall file an Answer to the Attorney General's Verified Complaint no later than September 16, 2016.

5. The Respondent shall immediately deliver his license and/or wall certificate to Lisa Tadeo, Executive Director, State

Board of Chiropractic Examiners, 124 Halsey Street, Sixth Floor,
P.O. Box 45004, Newark, New Jersey 07101.

6. The entry of this Order shall not (a) be deemed to be an admission by the Respondent of any of the allegations contained in the Verified Complaint nor an admission of any of the criminal charges referenced therein; (b) constitute a waiver of any defenses the Respondent may assert in response to the Verified Complaint and the criminal charges referenced therein; (c) restrict or limit the Board, the Attorney General, or any other law enforcement entity or government agency from further investigation and prosecution of this matter.

7. The Directives of the Board applicable to any Chiropractic Board licensee who is suspended, revoked, or whose surrender of licensure has been accepted, attached hereto, shall be incorporated by reference as though fully set forth herein.

8. During the time that the Respondent's license is suspended, he shall not charge, receive or share in any fee for professional services rendered by him or others while barred from engaging in the professional practice of chiropractic. Respondent shall be permitted to collect account receivables with respect to professional services that he rendered prior to the date of the filing of this Order.

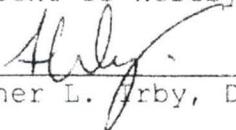
9. The Board shall retain jurisdiction to enforce the terms of this Order. Upon receipt of any reliable information

indicating that Respondent has violated any term of this Order, the Board reserves the right to bring further disciplinary action.

STATE BOARD OF CHIROPRACTIC EXAMINERS

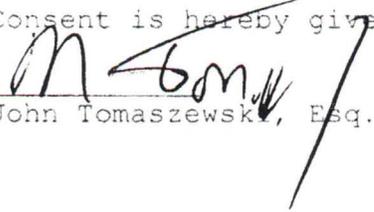
By: _____
David Allen, D.C.
Board President

I have read the within Consent Order and agree to be bound by its terms. I understand the meaning and effect of this Order, and I further understand that it has serious legal consequences. Consent is hereby given to the Board to enter this Order.



Archer L. Kirby, D.C.

Consent is hereby given as to the form and entry of this order.

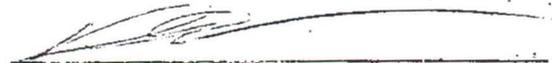


John Tomaszewski, Esq.

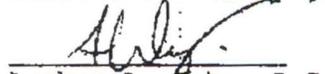
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STATE BOARD OF CHIROPRACTIC EXAMINERS

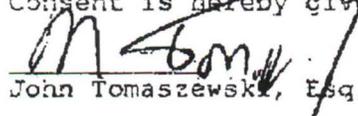
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Archer L. Kirby, D.C.

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John Tomaszewski, Esq.

**DIRECTIVES APPLICABLE TO ANY CHIROPRACTIC BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of chiropractic in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories,

professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Chiropractic Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a chiropractor:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the Federation of Chiropractic Licensing Boards of the United States, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.