

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

Sam Sarkis Moursalian DC,
License No.: 3607

) Case # 2013-1006, 2013-3002, 2013-3003,
) 2013-3004, 2013-3005 and 2013-3006

) FINAL STIPULATED ORDER

The Oregon Board of Chiropractic Examiners (hereafter "Board") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Sam Sarkis Moursalian, DC (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon and is subject to the jurisdiction of the OBCE.

FINDING OF FACTS

1.

In February 2013 the Board received complaint(s) from previous patient(s) who were now employees that Licensee had engaged in sexual encounters with them after clinic hours. Other complaint(s) included a pattern of unprofessional conduct, including sexual harassment and intimidation by Licensee. On July 24, 2013 Licensee signed a Temporary Stipulated Order with certain restrictions on his practice. The factual findings in the Proposed Order for Disciplinary Action Dated June 2, 2014 is hereby incorporated by reference. Licensee denies these findings both as to their accuracy and applicability to any and all referenced violations. Licensee filed a Request for Hearing with multiple affirmative defenses.

Final Stipulated Order

CONCLUSIONS OF LAW

2.

The Board finds that if proven, the allegations in the Proposed Notice of Discipline would include inappropriate sexual contact and unethical conduct toward patients. If proven, these would be violations of ORS 684.100(1)(f)(A) and, OAR 811-035-0015 (1)(a)-(e). Licensee disputes the employee(s) were patients.

STIPULATIONS

3.

- A) The parties have agreed to enter this Stipulated Final Order. Licensee agrees that he is aware of his right to a hearing with his attorney present to contest the charges and hereby waives that right and agrees to entry of this order. Licensee agrees to waive any right to appeal. The parties wish to settle and resolve the above matter without further proceedings.
- B) Licensee agrees that his license will be suspended for 30 days to commence upon signature of this final order. Licensee may not provide any chiropractic treatment during that time period. Licensee will be required to prominently post in the clinic the suspension requirement where it is conspicuous and readable to the public.
- C) Licensee agrees to pay a \$2,000 civil penalty within 90 days.
- D) Licensee agrees to attend and complete the PBI Professional Boundaries program in California within six months of the final order. Licensee agrees to provide a certificate of successful completion of the program to the Board within 30 days of completion along with a final report as required by that program.
- E) Licensee agrees to take and pass the NBCE Ethics and Boundaries exam within one year of this order being final.
- F) During probation, Licensee will agree to submit to Board interviews when requested with 2 weeks' notice from the Board.
- G) Be placed probation for 3 years from the time the suspension is over.
- H) During the period of probation be required to have a board approved female chaperone for all female patients (with the exception of his wife) for the period of probation. The patients shall sign a statement that they understand they are required to have a chaperone and that the requirement cannot be waived by any patient. The chaperone shall not be related to the Licensee or involved in the past or current personal or business relationship with Licensee. The chaperone shall meet with representatives of the Board to be interviewed and approved and will not unreasonably be withheld of

Final Stipulated Order

approval. The Licensee shall provide the chaperone with a copy of this Final Order and obtain the chaperone's agreement to inform the Board if the chaperone has any concerns that Licensee has violated the conditions of this order or is engaging in behavior that may put patients at risk. The chaperone will provide quarterly written updates to the Board and discuss Licensee's compliance. There must be a signed agreement between Licensee and the chaperone stipulating no harm or retribution will occur for reporting to the Board. A copy of this agreement with each chaperone using the Board's template will be provided to the Board. The chaperone shall initial the patient's chart at the time of each visit to confirm presence during treatment. The chaperone must be provided for all female patients regardless of age.

- I) Licensee agrees to not to have personal relationships with his staff outside of professional and business capacity. He will not socialize with them, nor provide them with gifts, material items or meals.
- J) All current and incoming staff (including Licensee) must receive classroom setting sexual harassment prevention training, including the associate doctor.
- K) Prior to return to practice, licensee is required to have paid his civil penalty in full.
- L) Failure to complete this stipulated final order with the terms so stated, may result in further discipline, up to and including revocation.

IT IS SO ORDERED this ^{9th} ~~September~~ ^{October} day of ~~September~~, 2014.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures can be found in the
OBCE office.

By: Cassandra C. Skinner J.D., Executive Director

Original signatures can be found in the
OBCE office.

By: Dr. Sam Moursalian

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BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of

Case # 2013-1006, 2013-3002, 2013-3003,
2013-3004, 2013-3005 and 2013-3006

Sam Sarkis Moursalian, DC,
License No.: 3607

TEMPORARY STIPULATED ORDER

The Oregon Board of Chiropractic Examiners (hereafter "Board") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians in the State of Oregon. Sam Sarkis Moursalian, DC (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon and is subject to the jurisdiction of the OBCE.

1.

In order to address concerns raised in the course of a pending confidential investigation, Licensee and the Board agree to the entry of this Temporary Stipulated Order, which provides that Licensee shall comply with the following conditions:

- a) Nothing within this agreement constitutes or infers any admissions by Licensee, nor waives his rights under the Oregon or Federal Constitutions.
- b) All female patients will be provided with a chaperone approved by the Board during their treatments provided in the clinic.

~~Licensee agrees he will~~

not provide treatment for any female patients unless a chaperone is present. The chaperone present at each treatment will sign the patient's chart, representing they were present for the complete visit.

1 c) Licensee agrees he will have no personal relationships outside of a
2 professional and business capacity with female employees. He will not
3 socialize with them, nor provide them with gifts, meals and/or any
4 material items.

5 d) Licensee agrees he will not provide any treatment, including
6 massage, to any of his female employees.

7 e) Licensee agrees to meet the conditions of this order until the
8 Board's investigation is complete.

9 f) The Board may continue their investigation of this matter and
10 Licensee will continue to cooperate in their investigation, but does not
11 agree to waive his rights under the Oregon or Federal Constitution.

12 2.

13 This order is entered into by Licensee and the Board to insure the safety of the
14 public pursuant to ORS 676.175, while the Board completes their investigation related to
15 the performance and/or conduct of the Licensee. No formal allegations have been made
16 against Licensee by the Board, and he does not admit or deny any allegations, nor waive
17 any of his rights by agreeing to the terms of this order.

18 3.

19 Board complaints and investigation materials are confidential and shall not be
20 subject to public disclosure, nor shall they be admissible as evidence in any judicial
21 proceeding. This order, however, is a public document.

22 ~~IT IS SO ORDERED~~ this 24th day of July, 2013

23 BOARD OF CHIROPRACTIC EXAMINERS

24 State of Oregon

Original signatures are available in OBCE office

25 By: _____

1 Dave McTeague / Executive Director
Original signatures are available in OBCE office

26 By: _____

Sam Moursalian, DC

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of)	
)	NOTICE OF PROPOSED
Sam S. Moursalian DC)	
License No. 3607)	DISCIPLINARY ACTION
)	
Licensee.)	Case # 2013-1006, 2013-3002, 2013-3003
)	2013-3004, 2013-3005 and 2013-3006
_____)	

The Oregon Board of Chiropractic Examiners (hereafter “Board” or “OBCE”) is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Sam S. Moursalian DC (hereafter “Licensee”) is a licensed chiropractic physician in Oregon. The Board proposes to discipline Licensee for the following reasons:

1.

In February 2013 the Board received complaints from previous patients who were now employees that Licensee had engaged in sexual encounters with them in the clinic after hours. Other complaints included a pattern of unprofessional conduct, including sexual harassment and intimidation by Licensee. On July 24, 2013 Licensee signed a Temporary Stipulated Order to not provide treatment to female patients unless chaperoned, to have no personal relationships with female staff, and to not provide treatment to female staff pending the ongoing investigation.

2.

Patient 1 began to see Licensee as a motor vehicle accident patient prior to becoming a chiropractic assistant for him in his office in March 2012. Soon after beginning to work for him, Patient 1 noticed that Licensee would act in a romantic way towards her. He would ask her to massage him or let him give her a massage. He would give her gifts and assisted with a down payment on a vehicle for her. Licensee asked Patient 1 to see him outside of the office. While she was in the office, she recalled being grabbed on the buttocks or breast area, once in front of another employee. Licensee would complain about his marriage and tell Patient 1 personal information and how lonely he was. On several occasions he asked if she would date him. On one patient encounter Licensee was asking another patient about her 16 year old daughter. The patient was upset and asked Patient 1 why Licensee was paying so much attention to her daughter. Another time, Licensee would ask Patient 1 about a new patient, asking if Patient 1 thought she would be interested in dating him, and asking personal questions about the patient, as if he were interested in her romantically.

Licensee asked Patient 1 to come to the office after hours in the evening and on three occasions this resulted in sexual intercourse. Once in the clinic, Licensee would ask her to provide a massage and stripped into his shorts. He later flipped over and pulled out his penis and told her it had been a long time since he had had sex. He asked her to grab his penis. Patient 1 became scared if she didn't do what he wanted that something may happen to her. He started caressing and kissing her and soon after intercourse occurred. The second time they met at the clinic Licensee asked for her to perform oral sex on him. They also had intercourse on the second encounter. On some occasions, they would talk while in the office. During these encounters Licensee would try to get Patient 1 to have sexual intercourse with him. The final time they came to the office Patient 1 performed oral sex and they also had intercourse. Licensee asked Patient 1 to record another co-worker (Patient 3) while she was getting waxing services in the clinic. He wanted to have nude photos of her. Patient 1 did not agree to do this. Patient 1 was afraid of Licensee as he talked about owning guns and that no one would believe her since he was a doctor. Patient 1 had nightmares and lost sleep and eventually left employment due to her fears of Licensee.

In a board interview, Licensee admitted to sexual contact with Patient 1 after hours in the clinic, but denied she was a current patient at the time.

3.

Patient 2 became a patient of Licensee when she began working for him. She began working for him in 2012 as a chiropractic assistant and received treatment regularly. Licensee would complement her appearance and would often hug her. He told her he was in a bad marriage to elicit sympathy. One day he asked if she could stay late at the clinic to go over exercises, she, thinking it was work related agreed. Once they were at the clinic Licensee asked her to give him a massage. He was facedown on the table and Licensee asked her to straddle him and get on top of him on the table. He then flipped over and was face up and he asked if she thought his penis was large while pulling it out of his shorts. As she began to get off he grabbed her hand and put it on his penis, while she tried to resist. At some point he put her hand on his penis and she was rubbing it for a few minutes. She eventually pulled her hand away. She was nervous and feared losing her job, and told him she needed some alcohol before she could do that. He then provided her with a shot of whiskey to calm her fears. Licensee then pulled her onto the top of him. Patient 2 told him no and he tried to kiss her and told her he had desired her sexually for a while. He pulled her shirt and bra down and kissed her breast putting his mouth on her nipple. He asked her to touch his penis and she said no. He asked her to take her clothes off, and she said no. He began to rub his penis on her vaginal area over her clothing. Patient 2 noticed he was becoming angry at her refusals to do what he requested. Licensee told her to get off the table and to clean the treatment room while he took a shower. Patient 2 went home extremely upset and did not immediately tell any of the other staff. Patient 2 soon left employment at the clinic.

In Board interview, Licensee initially refused to discuss Patient 2. In the second interview, Licensee said he was unable to discuss Patient 2 per the Civil Compromise which legally bound him to confidentiality.

4.

Patient 3 was a prior patient and then staff for 3 years. Patient 3 was aggressively sexually harassed at work and would be offered gifts by Licensee. Licensee kept asking her if she would be his girlfriend. He would always ask her to exchange massages with him. He would often tell her he was in an unhappy marriage and ask her to meet him at the office on Sunday afternoons. Patient 3 never agreed to meet him in the office or provide massages to him. Other staff observed Licensee constantly flirting with Patient 3 in the office. In the Board interview, Licensee denied being inappropriate with Patient 3.

5.

Patient 4 was a prior patient who became staff. Licensee had her provide massage to him at least once per week and Licensee would often provide massage to her in the clinic. Several staff saw Licensee massaging Patient 4 with her gown on in an open position. Licensee had told Patient 3 while she was straddling him on the massage table, that Patient 4 does that for him. Licensee purchased a gym membership for her and they often went to lunch together. In the Board interview, Licensee denied being inappropriate with Patient 4.

6.

Other prior patients who had become staff were given money and gifts from Licensee during this time period. Licensee admitted to talking about inappropriate sexual topics, including strippers while at the clinic. Many of them witnessed Licensee's interactions with Patient 1, Patient 2 and Patient 3.

7.

On May 1, 2013 Licensee was arrested by Marion County Sheriff and was charged on May 3, 2013 with two counts of Sexual Abuse 3 in violation of ORS 163.415. This was in relation to conduct with Patient 2. On March 14, 2014 the criminal matter was dismissed on an Order for Civil Compromise. The Board received a redacted agreement entitled a Civil Compromise Agreement whereby Licensee agreed to with Patient 2 to pay her money in exchange for the signature on the agreement. Licensee also had reciprocal confidentiality requirements between the parties.

8.

The Board finds that Licensee's conduct as described herein constitutes unprofessional conduct. Licensee's conduct, as described above, in regards to Patients 1, 2, 3, and 4 constitutes

violations of ORS 684.100 (1)(f)(A) and (q); and OAR 811-035-0015(1)(a)-(e). The Board finds that there was a doctor/patient relationship with Patients 1 through 4 prior to sexual contact and that the doctor/patient relationship had not been appropriately terminated prior to sexual contact pursuant to OAR 811-010-0005(4).

9.

Due to the aforementioned violations, the OBCE proposes to:

- A) Suspend Licensee's License for a one year period.
- B) Require licensee to pay a \$15,000 civil penalty within 90 days.
- C) Attend and complete the ProBE ethics program or a Board approved equivalent program within six months of the date of the final order, and provide a certificate of successful completion of the program to the Board within 30 days of completion along with a final report as required by that program.
- D) Take and pass the NBCE Ethics and Boundaries exam within one year of this order being final.
- E) Submit to Board interviews when requested.
- F) Be placed probation for 5 years from the time the suspension is over.
- G) During the period of probation be required to have a board approved male chaperone for all female patients for the period of probation. The patients shall sign a statement that they understand they are required to have a chaperone and that the requirement cannot be waived by any patient. The chaperone shall not be related to the Licensee or involved in the past or current personal relationship with Licensee. The chaperone shall meet with representatives of the Board to be interviewed and approved. The Licensee shall provide the chaperone with a copy of this Final Order and obtain the chaperone's agreement to inform the Board if the chaperone has any concerns that Licensee has violated the conditions of this order or is engaging in behavior that may put patients at risk. The chaperone will provide quarterly written updates to the Board and discuss Licensee's compliance. There must be a signed agreement between Licensee and the chaperone stipulating no harm or retribution will occur for reporting to the Board. A copy of this agreement with each chaperone using the Board's template will be provided to the Board. The chaperone shall initial the patient's chart at the time of each visit to confirm presence during treatment. The chaperone must be provided for all female patients regardless of age.
- H) Licensee must agree to not to have personal relationships with his staff outside of professional and business capacity. He will not socialize with them, nor provide them with gifts, material items or meals.
- I) All current and incoming staff must receive classroom setting sexual harassment prevention training, including the associate doctor.
- J) Within 90 of the effective date of the final order, licensee must enter into counseling/ psychological therapy with a licensed mental health provider for a minimum of two years with a therapist approved by the Board. Licensee must agree to complete all recommendations of the therapist. Licensee must provide the Board and the therapist

with the appropriate release of protected health information for the Board to obtain regular progress reports and the recommendations of the therapist. The Board has authority to review the progress of Licensee prior to being released from requirement for regular therapy attendance.

- K) Prior to return to practice, licensee is required to have paid his civil penalty in full.
- L) Failure to complete this stipulated final order with the terms so stated, may result in further discipline, up to and including revocation.

10.

Licensee shall pay costs of this disciplinary proceeding, including investigative costs and attorney fees pursuant to ORS 684.100(9)(g). Pursuant to ORS 293.241 the Board will refer amounts owed to collection if it has received no payment on the account for more than 90 days. Thereafter, the Board will consider assignment to the Oregon Department of Revenue or a private collection agency for collection. Final fees may include additional percentages for any increase in the amount you owe due to the accrual of interest on the unpaid principal amount.

11.

Licensee has the right, if Licensee requests, to have a formal contested case hearing before the OBCE or its Administrative Law Judge to contest the matter set out above. At the hearing, Licensee may be represented by an attorney and subpoena and cross-examine witnesses. That request for hearing must be made in writing to the OBCE, must be received by the OBCE within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and must be accompanied by a written answer to the charges contained in this notice.

12.

The answer shall be made in writing to the OBCE and shall include an admission or denial of each factual matter alleged in this notice, and a short plain statement of each relevant affirmative defense Licensee may have. Except for good cause, factual matters alleged in this notice and not denied in the answer will be considered a waiver of such defense; new matters alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on any issue not raised in the notice and answer.

13.

If Licensee requests a hearing, before commencement of that hearing, Licensee will be given information on the procedures, rights of representation and other rights of the parties relating to the conduct of the hearing as required under ORS 183.413-415.

14.

If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the hearing, the OBCE may issue a final order by default and impose the above sanctions against Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file regarding the subject of this automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a prima facie case.

15.


NOTICE TO ACTIVE DUTY SERVICE MEMBERS:


Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

Dated June 2, 2014

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures are available in OBCE office

By: 

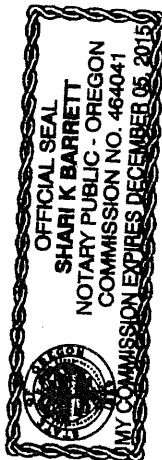
Dave McTeague
Executive Director 

In the Matter of)	
)	NOTICE OF PROPOSED
Sam Moursalian DC)	
License No. 3607)	DISCIPLINARY ACTION
)	
Licensee.)	Case # 2013-1006, 2013-3002, 2013-3003
)	2013-3004, 2013-3005 and 2013-3006
)	

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Oregon Board of Chiropractic Examiners, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice of Proposed Disciplinary Action is true to the best of my knowledge as I verily believe.

Original signatures are available in OBCE office

 Dave McTeague, Executive Director
 Oregon Board of Chiropractic Examiners



SUBSCRIBED AND SWORN to before me
 this 2nd day of June, 2014

Original signatures are available in OBCE office

 NOTARY PUBLIC FOR OREGON
 My Commission Expires: Dec 5, 2015

Certificate of Service

I, Dave McTeague, certify that on June 2, 2014, I served the foregoing Notice of Proposed Disciplinary Action upon the party hereto by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

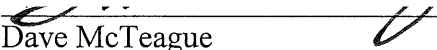
Sam Moursalian, DC
Pure Health Chiropractic
3455 Lancaster Dr NE
Salem, OR 97305

By regular mail to:

Frank Moscato AAL
1001 SW Fifth Ave, 16th Floor
Portland, Oregon 97204-1116

James W. Hendry AAL
Brownstein, Rask et. al.
1200 SW Main St.
Portland, Oregon 97205-2040

Original signatures are available in OBCE office



Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners