

STATE OF TENNESSEE  
DEPARTMENT OF HEALTH

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IN THE MATTER OF: )  
 )  
GARY D. O'SHAUGHNESSY, III, D.O. )  
Respondent )  
 )  
KNOXVILLE, TENNESSEE )  
TENNESSEE LICENSE NO. 682 )

BEFORE THE TENNESSEE BOARD OF STATE  
OF OSTEOPATHIC EXAMINATION

Docket No. 17.21-119955A

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AGREED ORDER

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This matter came to be heard before the Tennessee Board of Osteopathic Examination (hereinafter the "Board") on the 15<sup>th</sup> day of May, 2013, pursuant to a Notice of Charges issued against Gary D. O'Shaughnessy, III, D.O. (hereinafter "Respondent") by the Division of Health Related Boards of the Tennessee Department of Health, (hereinafter the "State"). The State was represented by Alex Munderloh, Assistant General Counsel. Neither Respondent nor Respondent's counsel were present for presentation of this Agreed Order. After consideration of the Notice of Charges and presentation of counsel, the Board finds as follows:

1. Respondent agrees that presentation to and consideration of this Agreed Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this order not be ratified.
2. Respondent understands the nature of the charges herein alleged and that if proved at hearing, such charges and allegations would constitute cause for imposing discipline upon Respondent's license issued by the Board.

3. Respondent is aware of each of Respondent's rights, including the right to a hearing on the charges and allegations, the right to appear personally and by counsel, the right to confront and cross-examine witnesses who would testify against Respondent, the right to testify and present evidence on Respondent's own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to contest the charges and allegations, and other rights which are accorded Respondent pursuant to the Administrative Procedures Act and other applicable laws, including the right to seek reconsideration, review by the Chancery Court and appellate review.
4. In order to avoid the expense and uncertainty of a hearing, Respondent freely and voluntarily waives each and every one of these rights set forth above and agrees that cause exists to discipline his license.
5. Respondent understands that by signing this Agreed Order, Respondent is enabling the Board to issue its order without further process. In the event that the Board rejects this Agreed Order for any reason, it will be of no force or effect for either party.

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**I. FINDINGS OF FACT**

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6. Respondent has been at all times pertinent hereto licensed by the Board as an osteopathic doctor in the State of Tennessee, having been granted Tennessee osteopathic license number 682 by the Board on December 4, 1984, which has a current expiration date of March 31, 2014.
7. On July 30, 2012, Respondent agreed to and signed a Consent Order (hereinafter the "August 2012 Consent Order"), which was subsequently entered by the Board of

Osteopathic Examination on August 15, 2012. The August 2012 Consent Order reprimanded Respondent's Tennessee license to practice osteopathic medicine for violations of the Osteopathic Practice Act. The Board also required Respondent to pay civil penalties in the amount of two thousand dollars (\$2,000.00), and case costs in the amount of one hundred twenty dollars and thirty-eight cents (\$120.38). Respondent's violations included unprofessional, dishonorable or unethical conduct; habitual intoxication or personal misuse of drugs or alcohols; and inappropriate prescribing.

8. As an additional condition to the reprimand referenced in paragraph seven (7), *supra*, Respondent was required to contact the Tennessee Medical Foundation (hereinafter the "TMF"), receive an evaluation for potential substance abuse issues by an evaluator recommended by TMF, and comply with all recommendations of that evaluation. The August 2012 Consent Order further required that the Respondent get any additional evaluations as deemed necessary by TMF or the evaluators recommended by TMF. The Consent Order required the respondent to release the results of the evaluation and any suggested recommendations to the Board of Osteopathic Examination.
9. After assessment by a TMF recommended evaluator and a TMF recommendation, Respondent entered treatment at Pine Grove Behavioral Health and Addiction Services in Hattiesburg Mississippi on September 6, 2012.
10. On or about October 1, 2012, Respondent was discharged from Pinegrove for inappropriate behavior.
11. On October 1, 2012, TMF withdrew its advocacy for Respondent.

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## II. CONCLUSIONS OF LAW

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The facts as found in the Finding of Fact are sufficient to establish that Respondent has violated the following statutes or rules which are part of the Tennessee Osteopathic Practice Act, (TENN. CODE ANN. § 63-9-101, *et seq.*) for which disciplinary action before and by the Board is authorized:

12. The allegations of fact in paragraphs 10 and 11 constitute a violation of TENN. CODE ANN. § 63-9-111(b)(2):

Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any lawful order of the board issued pursuant thereto or any criminal statute of the state of Tennessee.

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### III. REASONS FOR DECISION

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The Tennessee Board of Osteopathic Examination takes the following action in order to protect the health, safety and welfare of the citizens of the State of Tennessee by ensuring that practitioners are mentally and physically able to safely practice medicine.

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### IV. ORDER

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**NOW THEREFORE**, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

13. **IT IS THEREFORE ORDERED** that, pursuant to TENN. CODE ANN. § 63-9-111 and TENN. COMP. R. & REGS 1050-02-.10, the Tennessee osteopathic license of Gary D. O'Shaughnessy, D.O., license number 682, is hereby **SURRENDERED** effective the entry of this order.

14. Respondent shall not reapply for licensure for at least one year from the effective date of this order.
15. Respondent acknowledges that this surrender shall have the same effect as revocation.
16. Should the Respondent reapply for licensure, he must enter into a lifetime monitoring agreement with the Tennessee Medical Foundation (hereinafter "TMF").
  - a. Respondent must sign a lifetime monitoring contract TMF and maintain 100% compliance with the terms of this contract.
  - b. Respondent must get an evaluation for potential substance abuse issues with an evaluator recommended by TMF
  - c. Respondent must abide by all recommendation of this evaluation.
  - d. Respondent must get any additional evaluations as deemed necessary by TMF or the evaluators recommended by TMF.
  - e. Respondent must quarterly release the results of the evaluations and any suggested recommendations to the Board of Osteopathic Examination.
17. Respondent must pay the actual and reasonable costs associated with the investigation and prosecution of this case, in accordance with TENN. CODE ANN. §§ 63-1-144, 63-9-111 and TENN. COMP. R. & REGS 1050-02-.10(1)(j). These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum assessment of costs shall be limited to One Thousand Dollars (\$1000.00).
18. Respondent understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agency.

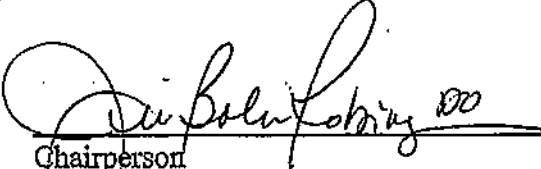
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V. NOTICE


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19. Any and all costs and/or civil penalties shall be paid in full within thirty (30) days from the issuance of the Assessment of Costs. Payment shall be made by **certified check, cashier's check, or money order**, payable to the State of Tennessee, Department of Health. Any and all payments shall be forwarded to the **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, Heritage Place Metro Center, 227 French Landing, Suite 201 Nashville, Tennessee 37243**. A notation shall be placed on said money order or such check that it is payable for the Costs and/or civil penalties of **Gary D. O'Shaughnessy, D.O., case numbers 2012018711 and 2012019951**.


This **AGREED ORDER** was approved by a majority of a quorum of the Tennessee Board of Osteopathic Examination at a public meeting of the Board and signed this 15<sup>th</sup> day of May, 2013.

  
Chairperson  
Tennessee Board of Osteopathic Examination


**APPROVED FOR ENTRY:**

  
\_\_\_\_\_  
Gary D. O'Shaughnessy, D.O.  
Respondent  
Tennessee License Number 682

5/7/13  
DATE

  
\_\_\_\_\_  
Frank J. Scablon (B.P.R. No. 003588)  
Attorney for Respondent  
214 Second Avenue North Suite 300  
Nashville, Tennessee 37201-1638


5/7/13  
DATE

  
\_\_\_\_\_  
Alex Munderloh (B.P.R. #030274)  
Assistant General Counsel  
Office of General Counsel  
Tennessee Department of Health  
220 Athens Way, Suite 210  
Nashville, Tennessee 37243  
(615) 741-1611

5/15/13  
DATE

**CERTIFICATE OF FILING**

This Order was received for filing in the Office of the Tennessee Secretary of State, Administrative Procedures Division, and became effective on the 15<sup>TH</sup> day of May, 2013.

  
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Thomas G. Stovall, Director  
Administrative Procedures Division 

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this Consent Order has been served upon Respondent, Gary D. O'Shaughnessy, III, D.O. by and through his attorney, Frank J. Scanlon, 214 2<sup>nd</sup> Avenue North, Suite 300, Nashville, Tennessee 37201, by delivering same in the United States regular mail and United States certified mail, numbers 7012 1640 0002 3921 9351, return receipts requested, with sufficient postage thereon to reach its destination.

This 16<sup>TH</sup> day of May, 2013.



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Alex Munderloh  
Assistant General Counsel  
Tennessee Department of Health