

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
BOARD COMPLAINT NO. 2020KBCE00013

KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS, PETITIONER

V.

LARRY A. SEARS, D.C. RESPONDENT

AGREED ORDER

This matter having come before the Kentucky Board of Chiropractic Examiners (the “Board”) based upon information received by the Board from complainant William Reynolds, Respondent Larry A. Sears and the Board hereby agree to resolve this matter under the following terms:

1. A review of the Board’s records establishes that William Reynolds complained to the Board regarding Respondent’s failure to refund payment for treatment that the Complainant did not receive.
2. The Board is authorized under KRS 312.150 to take disciplinary action against licensees. Sufficient evidence exists in this matter for the Board to take disciplinary action under KRS 312.150.
3. Respondent has at all times relevant to these proceedings had the opportunity to seek advice from competent legal counsel of his choice. Respondent has not been Coerced in any respect to enter into this Agreement, nor have any promises been made other than those reflected in this Agreement.
4. Respondent freely and voluntarily enters into this Agreement for the purposes of resolution of the issues presented herein, and has executed this Agreement only after a careful reading and understanding of all of its terms.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

5. Respondent shall refund William Reynolds in the amount of \$1,500.00 and shall provide written confirmation to the Board within five (5) business days of the execution of this agreed order.
6. Respondent shall refund the Board for the cost of its investigator, by check payable to the Kentucky State Treasurer, in the amount of \$285.00, within five (5) business days of the execution of this agreed order.

7. Upon receipt of written confirmation of items specified in Paragraphs 5 and 6 above, the Board shall:
 - a. Dismiss Complaint No. 2020KBCE00013, without any disciplinary finding; and
 - b. Not seek any additional disciplinary action against the Respondent based on the factual allegations in this Agreed Order.
8. Respondent recognizes that if this matter was to go to an Administrative Hearing, there may exist sufficient evidence to sustain a disciplinary action against Respondent. Respondent nevertheless desires to settle this matter in an expeditious manner without resorting to an administrative hearing, and in doing so he does not admit to, and expressly denies any wrongdoing or liability.
9. All Parties and their undersigned representatives warrant and represent that they have the requisite power and authority to enter into this Agreement and to effectuate the purposes herein, and that this Agreement shall be legally binding and enforceable against each Party in accordance with terms of the Agreement.
10. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky. Any disputes arising under this Agreement shall be resolved in the Circuit Court of Franklin County, Kentucky; the Parties consent and agree to the *in personam* jurisdiction of such Court.
11. This Agreement may not be modified except by a written agreement executed by all Parties.

RELEASE OF LIABILITY

12. In consideration of execution of this Agreement, the Respondent, together with any of his executors, administrators, agents, successors and assigns, do hereby release and forever discharge the Complainants, Commonwealth of Kentucky, the Board of Chiropractic Examiners, the Department of Professional Licensing, and each of their members, agents, and employees in both their individual and representative capacities, of and from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known or unknown, in law or equity, which Respondent ever had, now has, may have or claim to have against any or all of the entities or persons named in this paragraph arising out of or by reason of this investigation, this settlement, or its administration.

ACCEPTANCE BY THE BOARD

13. Respondent acknowledges that this Agreement, after his execution of same, shall be presented to the Board with a recommendation for approval from the Board's Counsel and Case Manager at the next regularly scheduled meeting of the Board following receipt of the executed agreement. The Agreement shall not become effective until it has been approved by the Board and endorsed by the Chair of the Board. Respondent understands the Board is

under no obligation to accept or reject this Agreement, and hereby waives any right he may have had to challenge, based upon the presentation of this Agreement to the Board, the impartiality of the Board to hear an administrative action if this Agreement is rejected. If this Agreement is rejected by the Board, it shall be regarded as null and void, and of no effect. No statement or term contained in this Agreement will be regarded as evidence in any subsequent disciplinary hearing, nor shall any inference be taken from Respondent's willingness to enter into this Agreement.

OPEN RECORDS

14. Respondent acknowledges this Agreed Order is subject to disclosure under the Kentucky Open Records Act, may be reportable under Federal law, and may be shared with any professional organization or licensing board as the Board deems appropriate, in its discretion.

COMPLETE AGREEMENT

15. This Agreed Order embodies the entire agreement between the Board and Respondent. It may not be altered, amended, or modified without the express written agreement of both parties. The effective date of this Agreed Order shall be the date of its acceptance by the Board, as signified by the signature of the Board Chair.

FINAL ORDER

Pursuant to KRS 13B.110(5), after having reviewed the administrative record, the Board adopts and incorporates by reference the statements made above as Findings of Fact for purposes of this Final Order;

IT IS HEREBY ORDERED THAT:

16. Respondent shall refund William Reynolds in the amount of \$1,500.00 and shall provide written confirmation to the Board within five (5) business days of the execution of this agreed order.
17. Respondent shall refund the Board for the cost of its investigator, by check payable to the Kentucky State Treasurer, in the amount of \$285.00, within five (5) business days of the execution of this agreed order.
18. Upon receipt of written confirmation of items specified in Paragraphs 16 and 17 above, the Board shall:
 - a. Dismiss Complaint No. 2020KBCE00013, without any disciplinary finding; and
 - b. Not seek any additional disciplinary action against the Respondent based on the factual allegations in this Agreed Order.

THIS IS A FINAL AND APPEALABLE ORDER. A party may institute an appeal of this Final Order by filing a Petition in the appropriate court within thirty (30) days after the Final Order is mailed or delivered by personal service.

HAVE SEEN AND AGREED:

Jeff Smith, DC 7/27/21
Dr. Jeffrey Smith, D.C. Date
President, Kentucky Board of Chiropractic Examiners

L A Sears 7/10/21
Larry A. Sears, D.C. Date
Respondent

Ben Weigel 7/10/21
Benjamin J. Weigel Date
Counsel for Respondent

/s/ August Lincoln Pozgay June 17, 2021
August Lincoln Pozgay Date
Board Counsel