

4707

**COMMONWEALTH OF KENTUCKY  
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS**

**IN RE: CHIROPRACTIC LICENSE #4767 HELD BY MICHAEL A.  
SCIORTINO, D.C.**

**MICHAEL A. SCIORTINO, D.C.  
2869 US Hwy 41 N Ste B  
Henderson, KY 42420**

**AGREED ORDER**

***Parties***

**WHEREAS**, the parties to the Agreed Order herein are the Kentucky Board of Chiropractic Examiners , hereinafter referred to as the "Board," and Michael A. Sciortino, D.S., hereinafter referred to as the "Respondent," through Counsel, Hon. James C. Puszczewicz.

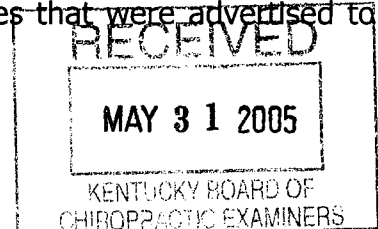
***Jurisdiction***

**WHEREAS**, the Board has jurisdiction over this matter pursuant to KRS Chapter 312 and its related administrative regulations.

***History***

**WHEREAS**, by letter dated September 12, 2004, Ms. Tara M. Black alleged that the Respondent wrongly charged her for services that were advertised to be free, in apparent violation of KRS 312.150(1)(b), (d), (f), (g), and (2)(d), and (e), and 201 KAR 21:015, Section 1(6), 201 KAR 21:065, Sections 1-3, and 201 KAR 21:080, Section 2; and

**WHEREAS**, by letter dated September 13, 2004, Ms. Kimberly A. Creamer alleged that the Respondent wrongly charged her for services that were advertised to



be free, in apparent violation of KRS 312.150(1)(b), (d), (f), (g), and (2)(d), and (e), and 201 KAR 21:015, Section 1(6), 201 KAR 21:065, Sections 1-3, and 201 KAR 21:080, Section 2; and

**WHEREAS**, on or about October 12, 2004, the Respondent replied to the Board by letter stating that he did not have ill intent and that "no person or third party provider was charged for any service which was not completely and competently performed"; and

**WHEREAS**, the Respondent stated in his response that all patients and health insurers have been refunded; and

**WHEREAS**, the Respondent has provided copies to the Board of letters of apology to the complainants; and

**WHEREAS**, the parties mutually desire to settle the issues in an expeditious manner, without the need for a formal hearing.

#### ***Terms of Agreement***

**THEREFORE, it is hereby agreed** between the undersigned parties that this matter shall be settled and resolved upon the following terms:

1) The Respondent has carefully reviewed the Agreed Order herein and enters into this Agreed Order knowingly, willingly and voluntarily and after having reviewed the due process rights afforded to him under KRS Chapter 312 and the accompanying regulations;

2) The Respondent, Michael A. Sciortino, D.C., admits violating the aforementioned statutes and administrative regulations;

3) The Respondent shall serve a one (1) month (30 day) **suspension** to begin June 11<sup>th</sup>, 2005 and to conclude on July 10<sup>th</sup>, 2005;

4) Upon completion of the thirty (30) day suspension, the Respondent, Michael A. Sciortino, D.C., shall immediately be placed on **probation** for a period of two (2) years;

5) During the first year of the probationary period, the Respondent shall:

(a) successfully complete (pass) the SPEC exam of the NBCE; and

(b) successfully complete (pass) the Ethics and Boundaries section of the national exam;

6) In the event the Respondent, Michael A. Sciortino does not successfully complete the tests specified in paragraph 5 above during the first year of the probationary period, he will be required to take a class in physical examination or ethics and boundaries, approved by the Board, prior to taking the SPEC or Ethics and Boundaries exams again;

7) Failure to pass the exams specified in paragraph 5 above in the two year probationary period would result in automatic suspension of the Respondent's license until such time as he successfully completes each examination;

8) The Respondent, Michael A. Sciortino, D.C., shall pay a fine to the Board in the amount of three thousand two hundred fifty dollars (\$3,250.00), i.e., fifty dollars for each of the sixty-seven patients affected. Said fine shall be made by certified check or money order payable to the "Kentucky Board of Chiropractic Examiners," and must be received on or before the completion of the first year of the probationary period;

9) The Respondent, Michael A. Sciortino, D.C. shall refund any and all charges billed to Ms. Tara Black, Ms. Kim Creamer and Ms. Tamitra Gray. Proof of the aforesaid refunds shall be submitted to the Board on or before July 1, 2005;

10) The Respondent, Michael A. Sciortino, D.C. agrees to refund any and all monies received for the first day of services, plus any other charges for services that were advertised as free. All refunds shall be paid on or before the completion of the first year of the probationary period. Proof of said refunds shall be submitted to the Board within thirty (30) days of completion of the first year of the probationary period. In addition, a copy of the letter of rescission shall be submitted to the Board within thirty (30) days of completion of the first year of the probationary period;

11) The original, executed Agreed Order must be received in the office of the Board, *postmarked no later than May 23, 2005*;

12) The Board shall make no referral of this matter for any criminal proceeding; and

13) The Respondent, Michael A. Sciortino, D.C., agrees that his failure to comply with any of the terms and conditions of this Agreed Order may result in the Board setting the matter for an administrative hearing in accord with KRS Chapter 13B.

### ***Voluntary Waiver of Rights***

No coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this Agreed Order.

The Respondent is fully aware of his rights to contest the Board's denial of his application for renewal in a formal hearing. These rights include: representation by an

attorney at the Respondent's own expense, the right to confront and cross-examine witnesses called to testify against the Respondent, the right to present evidence on the Respondent's own behalf, the right to testify on his own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the accusations and the right to obtain judicial review of the Board's decision. All of these rights are being voluntarily waived by the Respondent in exchange for the Board's acceptance of this Agreed Order.


***Publication of Settlement Agreement***

The Respondent acknowledges that, once adopted by the Board, this Agreed Order may be considered a public document, available for inspection at any time by any member of the public under the Kentucky Open Records Act, and may also be reportable under federal law.


***Complete Agreement***

This Settlement Agreement consists of five (5) pages and embodies the entire agreement between the Kentucky Board of Chiropractic Examiners and Michael A. Sciortino, D.C. It may not be altered, amended or modified without the express written consent of both parties.

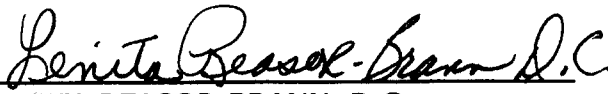
**Have Seen, Understood and Approved:**

  
MICHAEL A. SCIORTINO, D.C.  
License No. 4767  
*Respondent*

5/23/05  
Date

  
\_\_\_\_\_  
JAMES C. PUSZCZEWICZ, ESQ.  
*Counsel for the Respondent*

5/23/05  
Date

  
\_\_\_\_\_  
LENITA REASOR-BRANN, D.C.  
President  
Kentucky Board of Chiropractic Examiners

5-25-05  
Date

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Agreed Order** was sent via U.S. Mail, postage prepaid, and facsimile to the following this 23<sup>rd</sup> day of May, 2005.

HON. DIANE SCHULER FLEMING  
Assistant Attorney General  
Office of the Attorney General  
700 Capitol Ave., Suite 118  
Frankfort, KY 40601  
*Counsel for Kentucky Board  
of Chiropractor Examiners  
(502) 564-2894 - Fax*

Ms. Beverley K. White  
Board Administrator  
Kentucky Board of Chiropractic Examiners  
P.O. Box 183  
Glasgow, KY 42142-0183  
*(270) 651-8784 - Fax*

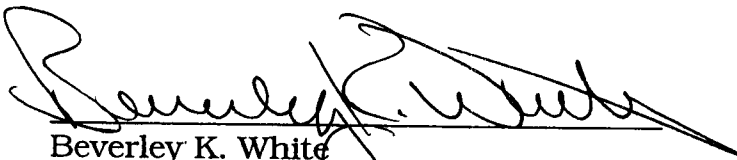
## Certificate of Service

I hereby certify that a true and correct copy of the foregoing **Agreed Order** was mailed via U.S. mail, postage pre-paid to the following this 1st day of June, 2005:

MICHAEL A. SCIORTINO, D.C.  
c/o James C. Puszczewicz, Esq.  
O'Bryan, Brown and Toner  
The Starks Bldg  
455 S. Fourth Ave., Ste. 1500  
Louisville KY 40202

HON. DIANE SCHULER FLEMING  
Office of the Attorney General  
700 Capitol Ave., Ste. 118  
Frankfort KY 40601  
*Board Counsel*

And the original shall be maintained by the Board

  
Beverley K. White  
Board Administrator  
Kentucky Board of Chiropractic Examiners