

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
BOARD ACTION NO. 12-013B
ADMINISTRATIVE ACTION NO. 13-KBCE-00152

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KENTUCKY BOARD OF
CHIROPRACTIC EXAMINERS

COMPLAINANT

V.

ZACHARY W. PAPPAS, D.C.

RESPONDENT

SETTLEMENT AGREEMENT

This Settlement Agreement and Release ("the Agreement") is made, by and among the Kentucky Board of Chiropractic Examiners ("Board) and Zachary W. Pappas, D.C. ("Respondent").

Witnesseth

WHEREAS, on or about May 10, 2013, the Board filed an Administrative Complaint in Board Action No. 12-13 and Administrative Action No. 13-KBCE-00152, alleging that the Respondent: (1) violated KRS 312.150(1)(f) by being guilty of deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic; (2) violated KRS 312.150(1)(g) by violating KRS 312.150(1)(f), KRS 312.150(2)(e), and 201 KAR 21:100 Section 1(2)(e); (3) violated KRS 312.150(2)(e) by perpetrating a fraud upon patients, third-payers, or others, relating to the practice of chiropractic, including violations for federal Medicaid and Medicare law when he billed for services not rendered; and (4) violated 201 KAR 21:015 Section 1(2) by failing to render care that is consistent with treatment and care that would be rendered by a reasonably prudent chiropractor licensed in the Commonwealth of Kentucky to each patient and give a candid account of a patient's condition to the patient or to those responsible for the patient's care.

Whereas, the parties mutually desire to settle the matter in an expeditious manner without resorting to a disciplinary hearing; and

Whereas, the Respondent has had the opportunity at all times to seek advice from competent counsel of choice, and no coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this Settlement Agreement; and

Whereas, the Respondent freely and voluntarily enters into this Settlement Agreement, motivated by a desire to resolve the issues addressed herein, and the Respondent has executed this Settlement Agreement only after a careful reading of it and a full understanding of all of its terms.

Terms of Agreement

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

1. The Respondent acknowledges that the Board alleges he (1) violated KRS 312.150(1)(f) by being guilty of deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic; (2) violated KRS 312.150(1)(g) by violating KRS 312.150(1)(f), KRS 312.150(2)(e), and 201 KAR 21:100 Section 1(2)(e); (3) violated KRS 312.150(2)(e) by perpetrating a fraud upon patients, third-payers, or others, relating to the practice of chiropractic, including violations for federal Medicaid and Medicare law when he billed for services not rendered; and (4) violated 201 KAR 21:015 Section 1(2) by failing to render care that is consistent with treatment and care that would be rendered by a reasonably prudent chiropractor licensed in the Commonwealth of Kentucky to each patient and give a candid account of a patient's condition to the patient or to those responsible for the patient's care. By entering into

this Agreement, the Respondent recognizes that if he were to go to an administrative hearing, the evidence would likely have been sufficient to sustain the Board's disciplinary action against him. Nevertheless, he desires to settle the matter in an expeditious manner without resorting to a disciplinary hearing but in doing so, he does not admit to any wrongdoing or liability.

2. The Respondent agrees to accept a two-year suspension that shall be probated for two years.

3. The Respondent further agrees to:

✓(a) Pay a \$545.65 fine no later than six (6) months of execution of this Agreement;

(b) Successfully complete the ethics and boundaries exam within six (6) months of execution of this Agreement; and

(c) Successfully complete the Special Purpose Exam for Chiropractors (SPEC Exam) within six (6) months of execution of this Agreement.

4. The Board agrees to:

(a) Issue a two-year suspension;

(b) Probate the suspension for two years so long as Respondent satisfies Paragraph 2 above; and

(c) Not seek additional disciplinary action.

5. All payments shall be by certified check or money order made payable to "Kentucky State Treasurer" and mailed or tendered to the: Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142-0183.

6. The parties agree to execute all documents necessary to settle and dismiss Board Action No. 12-13 and Administrative Action No. 13-KBCE-00152.

7. The Respondent expressly understands failure to comply with and complete all terms of this Settlement Agreement shall constitute failure to comply with an Order of the Board under KRS 312.150(f) for which the Board may impose additional penalties available under law after notice and opportunity to be heard.

8. The Parties agree to take all actions necessary that would cause the conditions and obligations under this Agreement to become effective upon the date of this Agreement, or, in the event that additional documents may need to be executed after the date of this Agreement, the Parties agree to cooperate with each other and execute such additional documents to effectuate the purposes as stated herein.

9. Each of the Parties represents and warrants to the other that it has taken all requisite action to authorize the execution, delivery and performance of its obligations hereunder, and that each party has all requisite power and authority to enter into this Agreement and to effectuate the purposes herein and that the Agreement will in fact be legally binding and will constitute the valid and legally binding obligation of each party and will be enforceable against each party in accordance with the respective terms hereof.

10. This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, in accordance with the laws of the Commonwealth of Kentucky without reference to its choice of law rules. Any dispute arising hereunder shall be settled by a state court of appropriate jurisdiction in Franklin County, Kentucky. The Parties irrevocably consent to the personal jurisdiction and venue of such court.

The Parties agree that any such litigation shall be by bench trial only, each of the Parties irrevocably waiving its right to jury trial in any dispute arising hereunder.

11. This Agreement may not be modified except by a written agreement signed by all Parties.

12. The Parties represent, agree, and acknowledge that they have read this Agreement in its entirety and fully understand and agree to its terms.

Costs

The Board and the Respondent shall each bear their own costs, expenses and attorney fees incurred in this matter, except as provided herein.

Release of Liability

In consideration of execution of this Settlement Agreement, the Respondent, for the Respondent individually, the Respondent's executors, administrators, successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, Kentucky Board of Chiropractic Examiners, and the Kentucky Attorney General, and each of their members, agents and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, the Complaint, or this Settlement Agreement.

Acceptance by the Board

This Settlement Agreement, when executed by the Respondent, shall be presented to the Kentucky Board of Chiropractic Examiners at the next regularly scheduled meeting of the Board following receipt of the executed Settlement Agreement. The Settlement Agreement shall not

become effective until it has been approved by a majority of the Board and endorsed by the Chair of the Board, which will constitute the effective date of this Settlement Agreement.

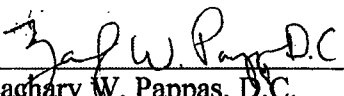
The Respondent understands the Board is free to accept or reject this Settlement Agreement. The Respondent hereby agrees to waive any right the Respondent might have to challenge, based solely on the presentation of this Settlement Agreement to the Board, the impartiality of the Board to hear this administrative action if, after review by the Board, this Settlement Agreement is rejected.

If the Settlement Agreement is not accepted by the Board, it shall be regarded as null and void. Representations and/or admissions by the Respondent in the Settlement Agreement, or other settlement proposals, will not be regarded as evidence against the Respondent at any subsequent disciplinary hearing. The Respondent will be free to defend and no inferences against the Respondent will be made from the willingness to have entered into this Settlement Agreement.

Complete Agreement


This Settlement Agreement consists of six (6) pages and embodies the entire agreement between the Board and the Respondent. This Settlement Agreement shall constitute a binding contract between the Respondent and the Board, subject only to approval by the Board as set forth above. The Respondent shall not rescind, revoke, withdraw, or attempt to modify this Settlement Agreement prior to or during its presentation to the Board at a meeting of the Board. It may not be altered, amended or modified without the express written consent of both parties.

IN WITNESS WHEREOF, the undersigned have seen, approved and agreed:



Zachary W. Pappas, D.C.
Respondent

9/6/13
Date



J. Christian Lewis
Counsel for the Respondent

9/6/13
Date

Mark Woodward 09/27/13
Dr. Mark Woodward, D.C. Date
Chairman
Kentucky Board of Chiropractic Examiners

B. Judy 9-27-13
Brian T. Judy Date
Assistant Attorney General