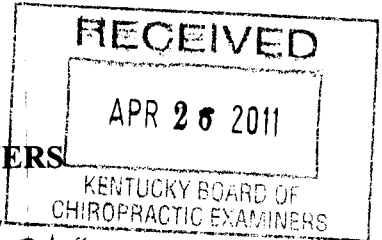


COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
BOARD ACTION NO. 10-018
ADMINISTRATIVE ACTION NO. 10-KBCE-0347



Paid 3,000 cash on 7-14-11
Paid 5,000 cash on 7-14-11
COMPLAINANT

KENTUCKY BOARD OF
CHIROPRACTIC EXAMINERS

V.

G. HAROLD BYERS, JR., D.C.
License # 3736

RESPONDENT

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 G. Harold Byers, Jr., D.C., hereinafter referred to as the "Respondent."

Jurisdiction

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

History

WHEREAS, the Board filed an Administrative Complaint and Notice of Hearing against the Respondent;

WHEREAS, in that complaint, the Board charged the Respondent with violations of KRS 312.150(1)(g), 201 KAR 21:015(1)(11), KRS 312.150(1)(g), 201 KAR 21:015(1)(12)(b), KRS 312.150(2)(c), and KRS 312.150(1)(f);

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 shall carefully review 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; and
- 2) The Respondent admits charges #1 and #2 listed in the Complaint. The Respondent admits that he violated KRS 312.150(1)(g) and 201 KAR 21:015(1)(11) by paying compensation for the referral of patients. The Respondent admits that he violated KRS 312.150(1)(g) and 201 KAR 21:015(1)(12)(b) by contacting or causing an accident victim to be contacted by his employee, agent, or contractor. Charges #3 and #4 listed in the Complaint are hereby dismissed; and
- 3) The Respondent shall be suspended for a period of six (6) months. This suspension shall be probated for a period of three (3) years from the date of this Agreed Order as signified by the date of the Chairman's signature. The Respondent shall serve the suspension if and only if he violates KRS 312 within the three-year probationary period and is convicted by the Board for that violation pursuant to the processes for disciplinary action resolution delineated in 201 KAR 21:051; and
- 4) The Respondent shall pay a fine to the Board in the amount of Five Thousand Dollars (\$5,000). The payment for this fine shall be made by certified check or money order made payable Kentucky Board of Chiropractic Examiners and shall be received at the Board Office within 90 days of the entry of this Agreed Order; and

5) Within six (6) months of the entry of the Agreed Order herein, as signified by the date of the Chairman's signature, Respondent shall successfully complete and achieve a passing score on the Ethics and Boundaries examination of the National Board of Chiropractic Examiners, with proof submitted to the Board; and

6) Within 90 days of the entry of the Agreed Order herein, as signified by the date of the Chairman's signature, the Respondent shall reimburse the Board for costs and attorney's fees accrued related to this action in an amount not to exceed Three Thousand Dollars (\$3,000.) The Board shall submit itemized proof of these costs to Respondent's counsel. The payment for these costs shall be made by certified check or money order made payable Kentucky Board of Chiropractic Examiners and shall be received at the Board Office within the referenced 90 day period; and

7) The Respondent agrees that his failure to comply with any of the terms and conditions of this Agreed Order shall be considered an independent violation of KRS 312.150 and he shall be subject to discipline under that provision for such a failure. In addition, if the Respondent fails to comply with any of the terms and conditions of this Agreed Order the charges that constitute the basis for this action may be reinstated. In the event that the Board determines that probable cause for such a failure exists, the Respondent shall be entitled to an administrative hearing held pursuant to KRS 13B on that issue.

Voluntary Waiver of Rights

The Respondent, G. Harold Byers, Jr. D.C., has had the opportunity at all times to seek advice from competent counsel of choice and the Respondent has exercised that right. No coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this Agreed Order. The Respondent waives his right to appeal to the Circuit

Court from this final order of the Board.

Release of Liability

In consideration of execution of this Agreed Order, the Respondent and the Respondent's executors, administrators, successors and assigns, hereby release and forever discharge the Commonwealth of Kentucky, the 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 the 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, this disciplinary action, this Agreed Order, or its administration.

Acceptance by the Board

The Respondent understands that the Board is free to accept or reject this Agreed Order, and if rejected by the Board, a formal disciplinary hearing on the accusation against the Respondent may be rescheduled thereafter. The Respondent hereby agrees to waive any right the Respondent might have to challenge the impartiality of the Board, based solely upon the presentation of this Agreed Order, and to hear the disciplinary accusation if, after review by the Board, this Agreed Order is rejected.

If the Agreed Order is not accepted by the Board, it shall be regarded as null and void. Admissions by the Respondent in the Agreed Order will not be regarded as evidence against the Respondent at the subsequent disciplinary hearing. The Respondent will be free to defend, and no inferences against the Respondent will be made from the Respondent's willingness to have entered into this agreement.

The Agreed Order will not be submitted for Board consideration until after it has been agreed to and executed by the Respondent. The Agreed Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

Cooperation with the Board and Indemnity

The Respondent agrees to permit and cooperate with the Board, its members, agents, and employees to monitor the Respondent's compliance with the terms and conditions of this Agreed Order. The Respondent agrees to indemnify the Board for its costs, including reasonable attorney's fees, if the Board finds, after notice and opportunity to be heard, that the Respondent has failed to comply with any provision of this Agreed Order.

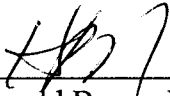
Publication of Settlement Agreement

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 be reportable under state or federal law. This Agreed Order may at any time be published on the Board's website, www.kbce.ky.gov.

Complete Agreement

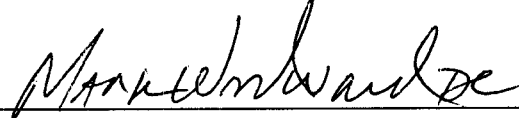
This Agreed Order consists of seven (7) pages, inclusive of the Certificate of Service and embodies the entire agreement between the Kentucky Board of Chiropractic Examiners and G. Harold Byers, Jr., D.C.. It may not be altered, amended or modified without the expressed written consent of both parties.

Have Seen, Understood and Approved:




Harold Byers, Jr., D.C. Date
License No. 3736
Respondent

4-20-11



MARK WOODWARD, D.C. Date
Chairman
Kentucky Board of Chiropractic Examiners



Hon. Andrew White Date
Counsel for the Respondent

4-20-11

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 26th day of April,


2011:

J. Andrew White
Attorney for Respondent
Marion Wesley White Building
734 South First Street
Louisville, KY 40202
Attorney for Respondent

Stuart Cobb
Office of the Kentucky Attorney General
Administrative Hearings Division
1024 Capitol Center Drive, Ste. 200
Frankfort, KY 40601
Hearing Officer

Mr. Michael West
Office of the Attorney General
700 Capitol Ave., Ste. 118
Frankfort KY 40601
Board Counsel

And the original shall be maintained by the Board



Karalee P. Oldenkamp, D.C.
Executive Director
Kentucky Board of Chiropractic Examiners