

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
ADMINISTRATIVE ACTION NO. 10-KBCE-0126

JUL 12 2011

KENTUCKY BOARD OF
CHIROPRACTIC EXAMINERS

COMPLAINANT

V.

MARVIN E. POELING, D.C.
License # 3835

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 Marvin Poeling 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, on or about April 18, 2011, the Board filed an administrative complaint against the Respondent;

WHEREAS, in that complaint, the Board charged the Respondent with violating KRS 312.150(2)(e);

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 does not admit, nor does he deny, that he violated KRS 312.150(2)(e); and

3) The Respondent acknowledges that this Agreed Order constitutes a final disciplinary action; and

4) The Respondent's license to practice chiropractic shall be terminated as if revoked effective upon the date this Agreed Order is entered as signified by the date of the signature of the Board Chair; and

5) The Respondent shall not apply for licensure restoration for a period of five (5) years from the entry of this order as signified by the date of the signature of the Board Chair; and

6) 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, Marvin E. Poeling, D.C., has had the opportunity at all times to seek advice from competent counsel of choice. 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.

Publication of Agreed Order

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 five (5) pages, inclusive of the Certificate of Service and embodies the entire agreement between the Kentucky Board of Chiropractic Examiners and Marvin Poeling, D.C.. It may not be altered, amended or modified without the expressed written consent of both parties.

Have Seen, Understood and Approved:

Marvin Poeling 6/29/11
Marvin Poeling, D.C. Date
License No. 3835
Respondent

Mark Woodward 08/09/11
MARK WOODWARD, D.C. Date
Chairman
Kentucky Board of Chiropractic Examiners

John L. Smith
John L. Smith Date
Counsel for the Respondent

Certificate of Service

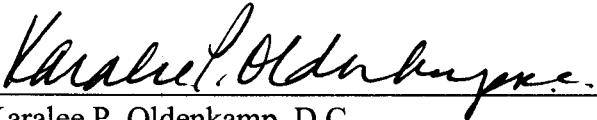
I hereby certify that a true and correct copy of the foregoing **Agreed Order** was mailed via U.S. mail, postage pre-paid to the following this 16th day of August, 2011:

Mr. John L. Smith
600 West Main Street, Suite 100
Louisville, KY 40202
Counsel for Respondent

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