

SETTLEMENT AGREEMENT

This Settlement Agreement and Release ("the Agreement") is made this 22nd day of November, 2013, by and among the Kentucky Board of Chiropractic Examiners ("Board") and Kyle Wellington, D.C. ("Respondent").

Witnesseth

WHEREAS, on or about July 23, 2012, the Board filed an Administrative Complaint in Board Action No. 10-025D and Administrative Action No. 12-KBCE-00255, alleging that the Respondent: (1) paid or received compensation for the referral of patients; (2) performed unnecessary services; (3) directly or indirectly engaged in dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment; (4) perpetrated a fraud upon patients, third-party payors, or others, relating to the practice of chiropractic; (5) accepted services to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment; (6) failed 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 shall give a candid account of a patient's condition to the patient or to those responsible for the patient's care; and (7) caused an accident victim to be contacted by his employee, agent, contractor, telemarketer, or anyone in concert with the chiropractor in violation of the Consumer Protection Laws of the Commonwealth of Kentucky.

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 Board will take no further action against the Respondent so long as he is truthful and fully cooperates with any Board's investigation of Cane Run Chiropractic Clinic or any associated chiropractor including, but not limited to, providing a statement to the Board or its designee, and testifies in any future administrative/judicial proceedings. Upon completion of its investigation and administrative/judicial action (if any) against Cane Run Chiropractic Clinic or any associated chiropractor with information provided by the Respondent, the Board will dismiss the Administrative Complaint filed in Board Action No. 10-025D and Administrative Action No. 12-KBCE-00255.

2. By entering into this Agreement, the Respondent does not admit to any wrongdoing or liability, and this Agreement shall not be evidence of any violation of any law, regulation, ethics rule, policy or standard of practice.

3. The Respondent agrees to:

- (a) Pay a \$500 fine, with half of the fine being probated for six (6) months;
- (b) Successfully complete the ethics and boundaries exam within six (6) months of execution of this Agreement;
- (c) Provide a statement to the Board or its designee of all personal knowledge that he has regarding Cane Run Chiropractic Clinic, including:
 - i. His understanding of how “runners” such as “Leroy” were hired and paid and who hired/paid them;
 - ii. His understanding of whether, and to what extent, gas cards were given to patients; and
 - iii. His knowledge of how the clinic was operated.
- (d) Cooperate in any investigation concerning Cane Run Chiropractic Clinic or any associated chiropractor; and
- (e) Testify in any future administrative/judicial proceedings resulting from any such investigation.

4. The parties agree to execute all documents necessary to settle and dismiss Board Action No. 10-025D and Administrative Action No. 12-KBCE-00255.

5. The Respondent expressly understands failure to comply with and complete all terms of this Settlement Agreement shall constitute a default of the Agreement and may result in the Board proceeding in Board Action No. 10-025D and Administrative Action No. 12-KBCE-00255 and failure to comply with this Agreement may result in additional penalties.

6. 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.

7. 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.

8. 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.

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

10. 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 may otherwise be 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 the Board's investigation, the Complaint, or the Administrative Action at issue in this Agreement.

Acceptance by the Board

The Settlement Agreement shall not become effective until it has been endorsed by the Chair of the Board.

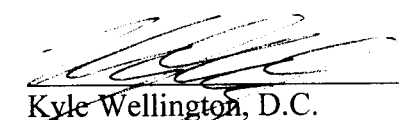
The Respondent understands the Board is free to accept or reject this Settlement Agreement. The Respondent hereby agrees to waive any right the Respondent might have to challenge, based solely on the presentation of this Settlement Agreement to the Board, the impartiality of the Board to hear this administrative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

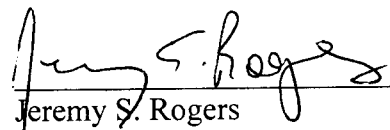
This Settlement Agreement consists of six (6) pages and embodies the entire agreement between the Board and the Respondent. This Settlement Agreement shall constitute a binding contract between the Respondent and the Board, subject only to approval by the Board as set forth above. The Respondent shall 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:



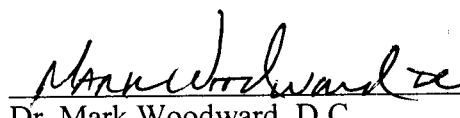
Kyle Wellington, D.C.
Respondent

10-31-13
Date




Jeremy S. Rogers
Counsel for the Respondent

11/4/13
Date



Dr. Mark Woodward, D.C.
Chairman
Kentucky Board of Chiropractic Examiners

11-22-13
Date



Brian T. Judy
Assistant Attorney General

11-15-13
Date

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
BOARD ACTION NO. 10-025D
ADMINISTRATIVE ACTION NO. 12-KBCE-0255

KENTUCKY BOARD OF
CHIROPRACTIC EXAMINERS

COMPLAINANT

v.

KYLE WELLINGTON, D.C.

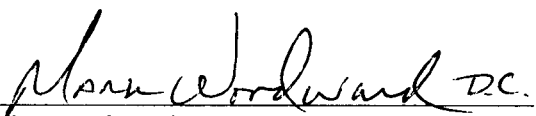
RESPONDENT

FINAL ORDER

This matter is before the Kentucky Board of Chiropractic Examiners, pursuant to KRS 13B.120. Having reviewed the Recommended Order entered by the Hearing Officer on November 26, 2013, to which no exceptions were filed thereto, the Board hereby adopts as its own the decision of the Hearing Officer. Therefore, Board Action No. 10-025D and Administrative Action No. 12-KBCE-00255 are hereby **DISMISSED AS SETTLED**.

This is a final and appealable order. Pursuant to KRS 13B.140(1), a party may institute an appeal of this Final Order by filing a petition in the appropriate court of venue within thirty (30) days after the Final Order is mailed or delivered by personal service.

Issued this 24 day of January 2014.


Mark Woodward, D.C.
Chair
Kentucky Board of Chiropractic Examiners

CERTIFICATE OF SERVICE

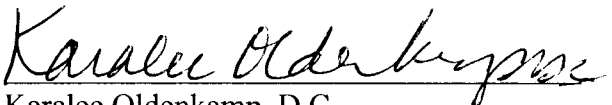
Served by certified mail, return receipt requested, and by regular mail to:

Hon. Brian T. Judy
Assistant Attorney General
Civil & Environmental Law
Office of the Attorney General
Capitol Building, Suite 118
700 Capitol Avenue
Frankfort, Kentucky 40601-3449
Attorney for the Board

Mr. Jeremy Rogers
Dinsmore & Shohl, LLP
101 South Fifth Street, Suite 2500
Louisville, KY 40202
Counsel for Respondent

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

This 24 day of January 2014.


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