

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

**IN RE: CHIROPRACTIC LICENSE # 4590
 HELD BY SHAWN SIZEMORE, D.C.**

SHAWN SIZEMORE, D.C.

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 Shawn Sizemore, 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 February 6, 2003, the Respondent began providing chiropractic services in his capacity as a licensed doctor of chiropractic in the Commonwealth of Kentucky to _____ as his client. The treatments received by _____ from the Respondent's office consisted of

massage therapy performed by his assistant, . Said treatments continued periodically until approximately September 20, 2004; and

WHEREAS, the Respondent submitted claims for services rendered to health insurance company, Blue Cross Blue Shield, for services allegedly rendered on June 18, 2003 in order to receive payment for these services; and

WHEREAS, the Respondent did not provide chiropractic services to on June 18, 2003, nor were massage therapy services provided to by the Respondent or any member of his staff on said date, and thus the Respondent failed to represent the facts truthfully to a third party payor regarding services rendered; and

WHEREAS, the Respondent maintains his billing for services not rendered to on June 18, 2003 was a clerical error, and not an intentional act, resulting from being billed for chiropractic services rendered to a client with a similar name to who did receive but was not billed for chiropractic services rendered by the Respondent on June 18, 2003; and

WHEREAS, the Respondent billed health insurance company for the chiropractic and massage therapy services rendered between February 6, 2003 and September 20, 2004 at an excessive rate and not in accordance with standard billing practices employed by chiropractors in the Commonwealth of Kentucky, thereby failing to represent the facts truthfully to a third party payor regarding services rendered. Specifically, the Respondent

submitted bills containing codes for various chiropractic services, including but not limited to therapeutic exercise, mechanical traction, and neuromuscular re-education, which upon review the Respondent admits were not performed; and

WHEREAS, the Respondent maintains that any violations of law were unintentional; 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, Shawn Sizemore, D.C., admits violating KRS 312.150(2)(c) and (e) as he believes that there is enough evidence to prove said violations, but the Respondent denies that the violations were intentional;

3) The Respondent shall serve a three (3) month (90 day) **suspension** effective from the date of the Respondent's signing of the Agreed Order herein. Said suspension shall be probated for two (2) years, or until the conditions of the probation are satisfied, whichever is longer;

4) Before the completion of the probationary period, the Respondent shall:

(a) Successfully complete (pass) the Ethics and Boundaries examination of the National Board of Chiropractic Examiners;

(b) Successfully complete (pass) the SPEC Exam of the National Board of Chiropractic Examiners;

(c) Successfully complete twelve (12) hours of continuing education courses, approved by the Board, in the subject area of record keeping and billing and submit proof of attendance to the Board. Said continuing education requirement shall be in addition to the annual continuing education requirement set forth in KRS 312.175(1) and 201 KAR 21:041 Section 3;

(d) Successfully complete twelve (12) hours of continuing education courses, approved by the Board, in the subject area of adjunctive care and submit proof of attendance to the Board. Said continuing education requirement shall be in addition to the annual continuing education requirement set forth in KRS 312.175(1) and 201 KAR 21:041 Section 3;

(e) The Respondent's practice of chiropractic shall be monitored by a Board-approved mentor for a period of two years, subject to the following terms and conditions:

(i) The mentor shall be either a current member of the Chiropractic Peer Review Committee or a chiropractor registered with the Board to perform

peer review services, and shall meet with the Respondent on a quarterly basis during the probationary period;

- (ii) The mentor shall file a report with the Board following each meeting detailing his observations;
- (iii) The Respondent shall be responsible for reimbursing the mentor for his/her travel expenses in accordance with the provisions of state law, and pay an hourly wage agreed upon in writing between the parties; and
- (iv) The Board shall review the mentor's reports and after one (1) year of probation, determine and vote as to whether or not to continue requiring the mentoring relationship for the second year;

(f) The Respondent agrees that further violations of any laws, statutes or administrative regulations governing the practice of chiropractic in the Commonwealth of Kentucky shall result in the automatic suspension of the Respondent's license pending an administrative hearing on the charges;

5) The Respondent, Shawn Sizemore, D.C., shall reimburse all third party payors for improper billing within two (2) years from the date of entry of the Agreed Order herein, or as agreed to with the third party payors, or as ordered by a court of law. A copy of any such agreement or order outside the Agreed Order herein must be provided to the Board within thirty (30) days of entry as proof of reimbursement;

a) The Respondent shall notify (provide a list to) all potential third party payors, including but not limited to Medicare, Medicaid and private insurance companies, of the names of all patients who received similar chiropractic and/or massage therapy services during the period in question (February 6, 2003 through September 20, 2004), utilizing the same improper billing codes; and

b) The Respondent shall simultaneously submit a copy of the list of patients affected by the improper billing practices to the Board; and

6) The original, executed Agreed Order must be received in the office of the board, *postmarked no later than January 5, 2006*; and

7) The board shall make no referral of this matter for any criminal proceeding; and

8) The Respondent, Shawn Sizemore, 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 charges 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 accusation 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.

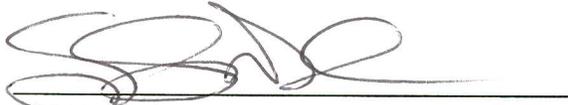
Publication of Settlement Agreement

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 be reportable under federal law.

Complete Agreement

This Settlement Agreement consists of eight (8) pages and embodies the entire agreement between the Kentucky Board of Chiropractic Examiners and Shawn Sizemore, D.C. The Agreed Order herein resolves all similar charges that may arise with other patients seen during the period of time that received services from Dr. Sizemore. The Board is not precluded from bringing charges of other violations of law against the Respondent. This Agreed Order may not be altered, amended or modified without the express written consent of both parties.

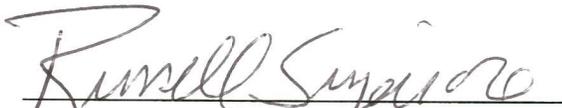
Have Seen, Understood and Approved:



SHAWN SIZEMORE, D.C.
License No. 4590
Respondent

1/4/06

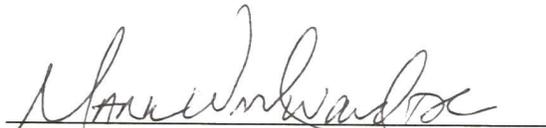
Date



RUSSELL SIZEMORE, ESQ.
Counsel for the Respondent

JAN 4, 2006

Date



MARK WOODWARD D.C.
President
Kentucky Board of Chiropractic
Examiners

01/09/05

Date

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 10th day of January, 2006:

RUSSELL SIZEMORE, ESQ.

Counsel for the Respondent

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

HON. MICHAEL HEAD
Hearing Officer
Div. of Administrative Hearings
Office of the Attorney General
1024 Capitol Center Dr., Ste. 200
Frankfort KY 40601-8204

And the original shall be maintained by the Board



Beverley K. White
Board Administrator
Kentucky Board of Chiropractic Examiners