

STATE OF FLORIDA  
BOARD OF CHIROPRACTIC MEDICINE

By [Signature]

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2007-35133

License No.: CH 2266

HARRY HARGETT, D.C.,

Respondent.

\_\_\_\_\_ /

FINAL ORDER

THIS MATTER came before the Board of Chiropractic Medicine (hereinafter "Board") at a duly-noticed public meeting on August 22, 2008, in Kissimmee, Florida. Petitioner filed an Administrative Complaint seeking disciplinary action against Respondent's license to practice as a chiropractic physician. A copy of the Administrative Complaint is attached to and incorporated as part of this Final Order. Petitioner was represented by Tobey Schultz, Assistant General Counsel. Respondent was required to appear, but his appearance was waived. Therefore, Respondent was neither present nor represented by counsel.

Petitioner and Respondent have stipulated to a disposition of this case. After considering the presentation of the parties and reviewing the record of the case, the Board voted to adopt the Settlement Agreement as an appropriate settlement of the case. A copy of the Settlement Agreement is attached to and made a part of this Final Order.

The parties shall be governed accordingly.

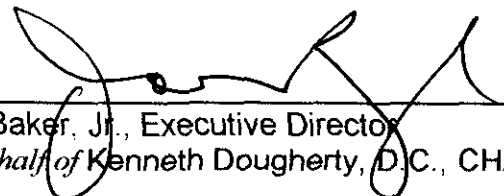
Pursuant to Section 456.072(4), Florida Statutes, the Department is authorized to collect costs for investigation and prosecution. The evidence presented to the Board was that the costs associated with this matter are **seven hundred thirteen dollars and seventy-seven cents (\$713.77)**. Payment shall be made to the Department of Health, Compliance Management Unit, Board of Chiropractic Medicine Compliance Officer, P.O. Box 6320, Tallahassee, FL 32324-6320, within **one (1) year** of the filing date of this Final Order.

**IT IS THEREFORE ORDERED** that the Settlement Agreement is adopted and Respondent is hereby ordered to reimburse the Department costs in the amount of **\$713.77**.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

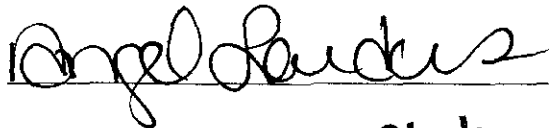
**DONE AND ORDERED** this 1<sup>st</sup> day of Oct, 2008.

**BOARD OF CHIROPRACTIC MEDICINE**

  
\_\_\_\_\_  
Joe Baker, Jr., Executive Director  
*on behalf of* Kenneth Dougherty, D.C., CHAIR

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **Harry Hargett, D.C.**, 905 State Street, Emmetsberg, Iowa 50536; and by interoffice mail to **Deborah B. Loucks**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Tobey Schultz**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on Oct. 2<sup>nd</sup>, 2008.



**Deputy Agency Clerk**

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH  
BOARD OF CHIROPRACTIC MEDICINE**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NO. 2007-35133**

**HARRY HARGETT, D.C.,**

**RESPONDENT.**

\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

Harry Hargett, D.C., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following settlement and to the entry of a Final Order of the Board of Chiropractic Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is a state agency charged with regulating the practice of chiropractic medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 460, Florida Statutes.

**STIPULATED FACTS**

1. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint
2. At all times material hereto, Respondent was a licensed chiropractic physician/ within the State of Florida, having been issued license number CH 2266.

3. The Department properly served Respondent with an Administrative Complaint that charged Respondent with alleged violations of Chapter 456/460, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the proposed Administrative Complaint is attached hereto as Exhibit A.

### **STIPULATED CONCLUSIONS OF LAW**

1. Respondent admits that in his/her capacity as a chiropractic physician he/she is subject to the provisions of Chapters 456 and 460, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 456/460, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is acceptable to Respondent.

### **STIPULATED DISPOSITION**

1. **Reprimand-** Respondent shall receive a reprimand from the Board of Chiropractic Medicine with regard to this incident.

2. **Fine** - The Board of Chiropractic Medicine shall impose an administrative fine of **five thousand dollars (\$5,000.00)** against the license of Respondent, to be paid by Respondent within one year of the issuance of a Final Order accepting this agreement to the Department of Health, Division of MQA/Compliance Mgmt Unit, Post Office Box 6320, Tallahassee, Florida 32312-6320, Attention: Board of Chiropractic Medicine Compliance Officer. All fines shall

be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

3. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's Probation, if any. Respondent will pay costs within one year of the issuance of a final order accepting this agreement to the Department of Health, Division of MQA/Compliance Mgmt Unit, Post Office Box 6320, Tallahassee, Florida 32312-6320, Attention: Board of Chiropractic Medicine Compliance Officer. Any post-Board costs, such as the costs associated with Probation, are not included in this agreement.

4. **Probation:** Respondent's chiropractic license will be placed on Probation for a period of five years following the issuance of an order approving this agreement. During the period of Probation, Respondent agrees not to practice in Florida until such time as he requests an appearance before the Board of Chiropractic Medicine and presents a practice plan. Respondent will be responsible for requesting such an appearance by contacting the Department of Health Compliance Unit at: Division of Medical Quality Assurance, Compliance Management Unit, Bin C 01, ATTN: Chiropractic Compliance Officer, 4052 Bald Cypress Way, Tallahassee, FL 32399-3251. The Board shall have the authority to require additional terms of as a condition of

approving Respondent's request to practice in Florida including the authority to reject Respondent's request to practice in Florida.

### **STANDARD PROVISIONS**

1. **Appearance**: Respondent is required to appear before the Board at the meeting of the Board where this Stipulation is considered, and Respondent is required to answer any questions from the Board regarding this case and its disposition.

2. **No force or effect until final order** - It is expressly understood that this Stipulation is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Stipulation.

3. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within fifteen (15) days of any changes of said addresses.

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456 or 460, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice chiropractic medicine. Prior to signing this stipulation, the Respondent shall read Chapters 456 and 460, Florida, Statutes, and the Rules of the Board of Chiropractic Medicine, at Chapter 64B2, Florida Administrative Code.

5. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Stipulation shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 460, Florida Statutes.

6. **Purpose of Stipulation** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Stipulation. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Stipulation. Respondent agrees to support this Stipulation at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this Stipulation and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

7. **No waiver of Formal Hearing Rights**- This agreement is not meant to waive Respondent's right to formal hearing pursuant to Chapter 120 in the event that this agreement is rejected by the Board.

8. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board



and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

9. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Stipulation, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

10. **Waiver of further procedural steps** - Upon the Board's adoption of this Stipulation, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Stipulation and the Final Order of the Board incorporating said Stipulation.

SIGNED this 6<sup>th</sup> day of June, 2008.



Harry Hargett, D.C.

Before me, personally appeared \_\_\_\_\_, whose identity is known to me by \_\_\_\_\_ (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 6 day of June, 2008.


  
NOTARY PUBLIC

My Commission Expires:



APPROVED this 9<sup>th</sup> day of June, 2008.

Ana M. Viamonte Ros, M.D., M.P.H.  
State Surgeon General

  
\_\_\_\_\_  
By: Tobey Schultz  
Assistant General Counsel  
Department of Health

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2007-35133

HARRY HARGETT, D.C.

RESPONDENT,

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MAY 19 2008

**ADMINISTRATIVE COMPLAINT**

Petitioner, Department of Health, by and through its undersigned counsel, files this Administrative Complaint before the Board of Chiropractic Medicine against Respondent, Harry Hargett, D.C. In support Petitioner alleges:

1. Petitioner is the state department charged with regulating the practice of Chiropractic Medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 460, Florida Statutes.

2. At all times material to this Complaint, Respondent was a chiropractic physician within the State of Florida, having been issued license number CH 2266.

3. Respondent's address of record is Spine Injury & Pain Center, Great Lakes Mall, Spirit Lake, Iowa 51360-1027

4. On or about January 25, 2006, the Iowa Board of Chiropractic Examiners, the licensing authority for chiropractic medicine in Iowa, approved a Settlement Agreement that Respondent signed in order to resolve disciplinary allegations. The terms of the agreement required that Respondent placed his license in inactive status until such time as he is reinstated by the Board and pays a \$1,000 fine.

5. The Consent Agreement resolved allegations that the Respondent represented himself as a medical doctor and practiced outside the scope of his licensure by providing a patient with prescription medication.

6. The Iowa Board of Chiropractic Examiner's January 25, 2006, Settlement Agreement constitutes disciplinary action against Respondent's license to practice chiropractic medicine.

7. Respondent failed to report this discipline to the Florida Department of Health within 45 days.

#### Count One

8. Petitioner re-alleges and incorporates paragraphs one (1) through seven (7) as if fully set forth herein.

00231

9. Section 460.413(1)(b), Florida Statutes (2005), subjects a licensee to discipline for having a license to practice chiropractic revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

10. The Iowa Board of Chiropractic Examiner's January 25, 2006, Settlement Agreement which required Respondent to place his license in inactive status until such time as he was reinstated by the Board constitutes disciplinary action against Respondent's license to practice chiropractic medicine.

11. Based on the foregoing, Respondent has violated Section 460.413(1) (b), Florida Statutes (2005), by having a license to practice chiropractic revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

#### Count Two

12. Petitioner re-alleges and incorporates paragraphs one (1) through seven (7) as if fully set forth herein.

13. Section 456.039(1)(a)(8), Florida Statutes (2005)-(2007), requires that each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460 or chapter 461, and each

00232

physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, except for a person registered pursuant to ss. 458.345 and 459.021, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health must furnish the department a description of any final disciplinary action taken within the previous 10 years against the applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction.

14. Further, Section 456.039(3), Florida Statutes (2005)-(2007), provides that each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported in subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes grounds for disciplinary action under each respective licensing chapter and under chapter 456.

15. Section 456.072(1)(v), Florida Statutes (2005), and Section 456.072(1)(w), Florida Statutes (2006)-(2007), provides that failing to comply with the requirements for profiling and credentialing, including but not limited to, failing to provide initial information, failing to timely provide

updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or renewal licensure application is grounds for disciplinary action by the Board of chiropractic medicine.


16. Respondent failed to inform the Florida Department of Health within 45 days of the filing of the Settlement Agreement approved by the Iowa Board of Chiropractic Examiners.


17. Based on the foregoing, Respondent has violated Section 456.072(1)(v), Florida Statutes (2005) and/or Section 456.072(1)(w) Florida Statutes (2006)-(2007), by failing to comply with the requirements for profiling and credentialing.

**WHEREFORE**, the Petitioner respectfully requests that the Board of Chiropractic Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 16<sup>th</sup> day of May, 2008.

Ana M. Viamonte Ros M.D., MPH  
State Surgeon General

  
\_\_\_\_\_  
Tobey Schultz  
Assistant General Counsel  
DOH Prosecution Services Unit  
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Florida Bar # 0542131  
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tobey\_schultz@doh.state.fl.us

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK:   
DATE 5.19.08

PCP: 5/13/08 Permon + LaRusso

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## NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

## NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.