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Final Order No. DOH-07-0684-5-MOA
FILED DATE - 4.28.07
Department of Health
By: Rachelle
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2005-68704
License No.: CH 2730

RODERIC LACY, D.C.,

Respondent.

_____ /

FINAL ORDER

This matter appeared before the Board of Chiropractic Medicine (hereinafter "Board") at a duly-noticed public meeting on April 13, 2007, in Tampa, Florida, for consideration of a Settlement Stipulation. 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 made a part of this Order. Petitioner was represented by Tobey Schultz, Assistant General Counsel. Respondent was present and represented by counsel, Laurie Levin.

Upon consideration of the Settlement Stipulation, the documents submitted in support thereof, the arguments of the parties and otherwise being advised in the premises, the proposed Settlement Stipulation was rejected. The Board offered a counter settlement agreement with the following terms:

1. **Letter of Concern**. Respondent shall receive a Letter of Concern from the Board.
2. **Administrative Fine**. The Board shall impose a fine in the amount of ten thousand dollars (**\$10,000.00**), payable within **one (1) year** of the filing date of this Final

Order.

3. **Administrative Costs.** Respondent shall pay the costs of investigation and prosecution of this matter in the amount of four thousand two hundred twenty dollars and eleven cents (**\$4,220.11**). The costs shall be paid within **two (2) years** of the filing date of this Final Order.

4. **Continuing Education.** Within **one (1) year** of the filing date of this Final Order, Respondent shall complete **ten (10) hours** of additional continuing education offered by the Florida Chiropractic Association or the Florida Chiropractic Society. These hours shall be in addition to the hours required for license renewal. The additional hours shall be obtained from courses addressing the subject areas of: ethics, coding, documentation, and recordkeeping. Within **ten (10) days** of completion of the course(s) and/or receipt of the certificate(s) of completion, Respondent shall mail a copy of the continuing education certificate(s) of completion to the Board of Chiropractic Medicine Compliance Officer.

5. **Probation.** For a period of **two (2) years** from the filing date of this Final Order, Respondent's license to practice as a chiropractic physician shall be placed on probation. The probationary terms are:

a. **Supervision:** Respondent shall practice only under the indirect supervision of a Board-approved chiropractic physician, hereinafter referred to as the "monitor." Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent's practice. The Monitor shall be approved by the Chair of the Disciplinary Compliance Committee prior to the start of the probationary period.

b. **Monitor's Responsibilities:**

1. Every other month, the Monitor shall review a minimum of **five (5)** of Respondent's active patient records (randomly selected by the Monitor) for the purpose of ascertaining whether proper care and treatment is provided and proper documentation is maintained.

2. Monitor Reports. The Monitor shall submit reports after every record review, in affidavit form, which shall include:

- a. A brief statement of why Respondent is on probation;
- b. A description of Respondent's practice (type and composition);
- c. A statement addressing Respondent's compliance with the terms of probation;
- d. A brief description of the monitor's relationship with Respondent;
- e. A statement advising the Board of any problems that have arisen; and
- f. A summary of the dates the monitor went to Respondent's office, the number of records reviewed, the overall quality of the records reviewed, and the dates Respondent contacted the monitor.

3. Obligation to report. The Monitor is required to report immediately to the Board any violations by Respondent of Chapters 456 or 460, Florida Statutes, or the rules promulgated pursuant thereto.

4. Appearances. The Monitor shall appear before the Board at such times as requested or directed by the Board. It is Respondent's responsibility to ensure that Respondent's monitor appears as requested or directed by the Board. If Respondent's approved monitor inexcusably fails to appear as requested by the Board,

Respondent shall immediately cease practicing chiropractic medicine until such time as Respondent's approved monitor or alternate monitor appears before the Board, unless the monitor's failure to appear was beyond the control of the monitor or Respondent.

5. Change in Monitor. In the event that Respondent's monitor is unable or unwilling to fulfill the responsibilities of a monitor, Respondent shall immediately notify the Board office. Respondent shall obtain another Board approved monitor within two weeks (fourteen days) of the cessation of supervision by the previous monitor. In the event that Respondent has difficulty obtaining a Board approved monitor because of a lack of monitors in his area, Respondent shall contact the Board office who will notify the chair of the Disciplinary Compliance Committee. The Board staff or Committee Chair will seek additional monitors. Regardless of the circumstances, Respondent agrees to refrain from practice in the event that he is without a monitor for more than one month. Respondent may resume practice once he obtains another Board approved monitor.

c. **Respondent's reports.** Respondent shall submit quarterly reports, in affidavit form, which shall include:

1. A brief statement of why Respondent is on probation;
2. A description of Respondent's practice location;
3. A description of Respondent's current practice (type and composition);
4. A brief statement of compliance with probationary terms;
5. A description of the relationship with Respondent's monitoring chiropractic physician;

6. A statement advising the Board of any problems which have arisen;
and

7. A statement addressing compliance with any restrictions or requirements imposed.

d. **Other Obligations/Requirements of Probation**

1. Failure to Comply: Respondent agrees that upon a finding by the Board that Respondent failed to comply with any of the terms of this Order, the Board may **SUSPEND** Respondent's license to practice chiropractic medicine until Respondent demonstrates to the Board that he is in compliance with all probationary terms.

2. Appearance Requirements: Respondent shall appear before the Board prior to the end of his probationary period and at any other time requested or directed by the Board. Board staff shall notify Respondent of the date, time, and place of the Board meeting at which Respondent's attendance is required. Inexcusable failure of Respondent to appear as requested or directed shall be considered a violation of the terms of this Order and may subject Respondent to disciplinary action, unless Respondent's appearance was excused in advance by the Board or the failure to appear was beyond Respondent's control.

e. **Continuity of Practice**

1. Tolling Provisions. In the event that Respondent leaves the State of Florida for a period of **thirty (30) days** or more or otherwise does not engage in the active practice of chiropractic medicine in the State of Florida, the following probationary provisions shall be tolled and shall remain tolled until Respondent

returns to the active practice of chiropractic medicine in the State of Florida:

- a. The time period of probation;
- b. The indirect supervision, including the file review and submission of quarterly monitor reports; and
- c. Preparation of investigative reports detailing compliance with the probationary terms.

During any time period when Respondent's probation is tolled, Respondent shall continue to submit reports to the Compliance Officer in the manner directed by the Compliance Officer.

2. **Active Practice.** In the event that Respondent leaves the active practice of chiropractic medicine for a period of one (1) year or more, the Board may require that Respondent appear before the Board and demonstrate his ability to practice chiropractic medicine with skill and safety to patients prior to resuming the practice of chiropractic medicine in Florida.

6. **Address.** Respondent shall keep his residential address and practice location address(es) on file with the Board. Respondent shall notify the Board within **ten (10) days** of any address change.

7. **Future Conduct.** Respondent shall not violate Chapter 456 or Chapter 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.

8. **Violation of Order.** Respondent understands that a violation of the terms of this Order 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.

9. **No preclusion of additional proceedings.** Respondent and the Department understand that this Final Order will in no way preclude additional proceedings by the Board and/or Department against Respondent for acts or omissions not specifically set forth in the attached Administrative Complaint.

10. **Waiver of attorney's fees and costs.** Respondent waives his right to seek attorney's fees and costs.


11. **Compliance Address.** The address for submission of documents and/or monetary payments (including fines & costs) is: Department of Health, HMQ/AMS, Client Services, PO Box 6320, Tallahassee, Florida 32314-6320, attn: Chiropractic Medicine Compliance Officer.

Respondent accepted the counter settlement agreement on the record at the April 2007 meeting.

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

DONE AND ORDERED this 24th day of April, 2007.

BOARD OF CHIROPRACTIC MEDICINE



Joe Baker, Jr.
Executive Director on behalf of
Salvatore LaRusso, 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 **Roderic Lacy, D.C.**, 107 Shore Drive, Dunedin, Florida 34698; his attorney of record, **Laurie Levin, Baker & Hostetler, LLP**, SunTrust Center, Suite 2300, 200 South Orange Avenue, Orlando, Florida 32801-3432; and by interoffice mail to **Deborah Bartholow 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 25 of April, 2007.

Koolee Davidson

Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF CHIROPRACTIC MEDICINE

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Killie Myland*
DATE 3/2/07

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2005-68704

RODERIC A. LACY, D.C.,

RESPONDENT.

MOTION FOR FINAL ORDER BY STIPULATION

Petitioner, Department of Health, by and through its undersigned counsel, moves the above case be scheduled before the Board of Chiropractic for consideration of the stipulation entered into between the parties as settlement of this cause.

Respectfully submitted,

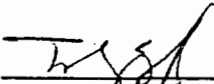
Tobey Schultz

Tobey Schultz
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin #C-65
Tallahassee, FL 32399
(850) 245-4640 ext. 8176
Fax: (850) 245-4682
Florida Bar No. 0542131

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to: Laurie Levin, Esquire, Baker & Hostetler, LLP, SunTrust Center, Suite 2300, 200 South Orange Avenue, Orlando, Florida 32801-3432, this 28th day of February, 2007.

Respectfully submitted,



Tobey Schultz

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

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2005-68704

RODERIC LACY, D.C.

RESPONDENT.

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FRANCHISE REGULATION
LEGAL

SETTLEMENT STIPULATION

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Stipulation to the Board of Chiropractic Medicine as disposition of the Administrative Complaint, attached hereto as Exhibit "A," in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting the Settlement Stipulation is issued by the Board and filed. In considering this Stipulation, the Board may review all investigative materials regarding this case. If this Stipulation is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed chiropractic physician within the State of Florida, having been issued license number CH 2730.
2. The Department properly served the Respondent with an administrative complaint alleging violations of Chapter 456/460, Florida Statutes, and the rules adopted pursuant thereto.

3. Respondent neither admits nor denies the allegations contained in the administrative complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that in his capacity as a chiropractic physician he 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. **Letter of Concern**- The Respondent shall receive a letter of concern from the Board of Chiropractic Medicine with regard to this incident.

2. **Fine** - The Board of Chiropractic Medicine shall impose an administrative fine of **Seven thousand five hundred dollars (\$7,500.00)** against the license of Respondent, to be paid by Respondent over a period of twelve (12) months to: Department of Health, Compliance Management Unit, 4052 Bald Cypress Way, Bin C-01, Tallahassee, Florida 32399, 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 to: Department of Health, Compliance Management Unit, 4052 Bald Cypress Way, Bin C-01, Tallahassee, Florida 32399, Attention: Board of Chiropractic Medicine Compliance Officer, within two years from the entry of the Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement

4. **Continuing Education** - Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend 10 hours of Continuing Education administered by either the Florida Chiropractic Association or the Florida Chiropractic Society. Respondent shall take courses in the following subjects: Ethics, Documentation Care and Coding and/or CPT Coding Documentation and Medical Necessity. Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as recognition awards, documenting completion of this course within one (1) year of the entry of the Final Order in this matter. All such documentation shall be sent to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, regardless of whether some or any of such documentation was

provided previously during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing education course shall consist of a formal, live lecture format.

5. **PROBATION:** Respondent's license shall be placed on probation for a period of one year following the issuance of an order approving this agreement. During the period of Monitoring Agreement, Respondent shall comply with the following obligations and requirements:

A) **Restrictions during Probation-** During the period of Probation, Respondent shall:

i. **Supervision** - Respondent shall be responsible to provide records to a Board-appointed chiropractic monitoring physician, hereinafter referred to as the "monitor", whose responsibilities are set by the Board. The Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent as detailed below.

B) **Responsibilities of the Monitor-** During the Monitoring Agreement, the Monitor shall review a minimum of 5 files of Respondent's active patient records once every other month for the purpose of ascertaining whether proper care and treatment is provided, whether there are any signs of over-utilization, and to determine if the Respondent is maintaining proper patient and/or billing records. The monitor shall go to Respondent's office once every month, shall review Respondent's calendar and patient log, and shall select the records to be reviewed. Provided the monitor agrees,

it shall also be acceptable to have the Respondent provide the monitor with an active patient roster and have the monitor randomly pick files to be reviewed from the roster.

C) **Monitoring Reports**- The Monitor shall also submit reports after each monitoring session, in affidavit form, which shall include:

- 1) A brief statement of why Respondent is on Monitoring Agreement;
- 2) A description of Respondent's practice (type and composition);
- 3) A statement addressing Respondent's compliance with the terms of

Monitoring Agreement;

- 4) A brief description of the monitor's relationship with Respondent;
- 5) A statement advising the Board of any problems which have arisen;

and

6) A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed, and the dates Respondent contacted the monitor as referenced above.

More detailed information regarding the content of the Monitoring report will be provided to the monitor by Board's compliance officer or the Department's compliance unit. The monitor will be expected to utilize the forms and comply with the guidelines contained in these materials.

D) **Obligation to Report Violations**- The Monitor is required to report immediately to the Board any violations by Respondent of Chapters 456 or 460, Florida Statutes, and the rules promulgated thereto.

E) **Appearances**- Respondent's monitor shall appear before the Board at the termination of probation and at such other times as directed by the Board. It shall be Respondent's responsibility to give adequate notice to the monitor to appear as requested or directed. If the approved monitor inexcusably fails to appear as requested or directed by the Board due to lack of notice by the Respondent, Respondent shall immediately cease practicing chiropractic medicine until such time as the approved monitor or alternate monitor appears before the Board, unless such failure is beyond the control of the Monitor or the Respondent.

F) **Reports from Respondent** - Respondent shall submit reports after each monitoring session, in affidavit form, the contents of which the Board, may further specify, but which shall include:

- 1) A brief statement of why Respondent is on Monitoring Agreement;
- 2) A description of practice location;
- 3) A description of current practice (type and composition);
- 4) A brief statement of compliance with Monitoring Agreement terms;
- 5) A description of the relationship with monitoring chiropractic physician;
- 6) A statement advising the Board of any problems which have arisen;
and
- 7) A statement addressing compliance with any restrictions or requirements imposed.

More detailed information regarding the content of the Respondent's monitoring report may be provided to the Respondent by Board's compliance officer or the Department's compliance unit. The Respondent will be expected to utilize the forms and comply with the guidelines contained in these materials if provided.

G) **Other Obligations/Requirements of Monitoring Agreement** -

During the period of Monitoring Agreement, Respondent shall comply with the following obligations and requirements:

1) During the period of probation Respondent agrees that, upon notification to Respondent to appear at the next Board of Chiropractic Medicine meeting and be heard, upon a finding by the board that Respondent failed to comply with **any** of the terms of this agreement the Board may SUSPEND Respondent's license to practice chiropractic medicine until Respondent demonstrates to the Board that Respondent is in compliance with the terms of Monitoring Agreement. Notwithstanding the foregoing, Respondent shall have the opportunity to provide evidence to the Board to rebut any allegation of non-compliance and the Board shall provide reasonable notice of its concerns in advances of any meeting to allow the Respondent an opportunity to respond.


2) Respondent shall appear before the Board of Chiropractic Medicine at the last meeting of the board preceding scheduled termination of the probation, and at such other times as requested by the board. The Board staff shall notice Respondent of the date, time and place of the board meeting at which Respondent's appearance is required. Inexcusable failure of Respondent to appear

as requested or directed shall be considered a violation of the terms of this Agreement, and shall subject Respondent to disciplinary action, unless Respondent's appearance is excused in advance by the Board or the failure to appear is beyond Respondent's control.

H) **Continuity of Practice:**

a) **Tolling Provisions** - In the event Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not engage in the active practice of chiropractic medicine in the State of Florida, then certain provisions of Respondent's Monitoring Agreement (and only those provisions of the Monitoring Agreement) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida:

- 1) The time period of Monitoring Agreement shall be tolled;
- 2) The provisions regarding supervision whether direct or indirect by another chiropractic physician and required reports from the monitor/supervisor shall be tolled;
- 3) The provisions regarding preparation of investigative reports detailing compliance with this Stipulation shall be tolled; and

 b) **Active Practice** - In the event that Respondent leaves the active practice of chiropractic medicine for a period of one year or more, the Board may require Respondent to appear before the Board and demonstrate his ability to practice chiropractic medicine with skill and safety to patients prior to resuming the practice of chiropractic medicine in this State.

STANDARD PROVISIONS

1. **Appearance**: Respondent is required to appear before the Board at the meeting of the Board where this Stipulation is considered.

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.

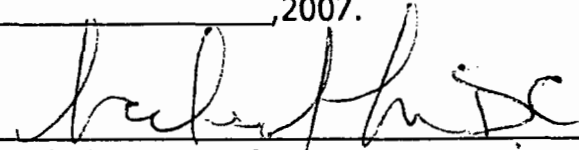
7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

8. **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.

9. **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.

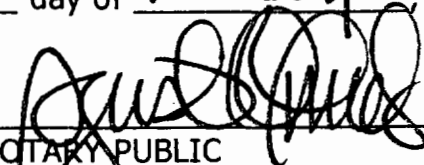
SIGNED this _____ day of _____, 2007.



Roderic Lacy, D.C.

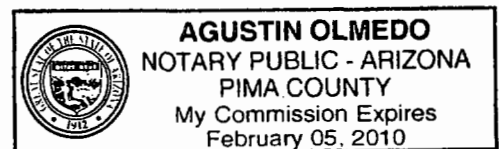
Before me, personally appeared Roderic Lacy, whose identity is known to me by Drivers License (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 21st day of February, 2007.




NOTARY PUBLIC

My Commission Expires: 02/05/2010



APPROVED this 26th day of February, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Florida Department of Health



COUNSEL FOR PETITIONER:
Tobey Schultz
Assistant General Counsel