

By: Racine Blue
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 1999-62114

License No.: CH 2775

LLOYD WRIGHT, D.C.,

Respondent.

FINAL ORDER

This matter appeared before the Board of Chiropractic Medicine (hereinafter "Board") at a duly-noticed public meeting on January 26, 2007, in Port Orange, 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 not represented by counsel.

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 two thousand five hundred dollars (**\$2,500.00**).

3. **Administrative Costs.** Respondent shall pay the costs of investigation and prosecution of this matter in the amount of five thousand dollars (**\$5,000.00**).

4. **Payment of Fine and Costs.** The fine and the costs are payable prior to the completion of the **two (2)** year probationary period imposed in this Final Order. Payments shall be sent on a quarterly basis, to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attn: Board of Chiropractic Medicine Compliance Officer.

5. **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 continuing education hours shall be in the areas of: documentation care and coding, ethics and the prevention of medical errors, CPT coding and medical necessity. 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.

6. **Article.** Within **thirty (30)** days of the filing date of this Final Order, Respondent shall submit to the Board of Chiropractic Medicine an article discussing the documentation that must be contained in patients' records when ordering tests. The article must be suitable for publication by the Florida

Chiropractic Association or the Florida Chiropractic Society and should be no less than 500 hundred words. The article should describe the deficiencies in Respondent's record-keeping and explain the disciplinary process. The article must be acceptable to and approved by the Chair of the Probation Committee.

7. **Probation.** Respondent's license to practice chiropractic medicine shall be placed on probation for a period of **two (2) years** commencing on the filing date of this Final Order. 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.

b. **Monitor's Responsibilities:**

1. After the initial appearance before the Board and during the first **six (6)** months of the probationary period, the Monitor shall review every other month a minimum of **five (5)** of Respondent's active patient records for the purpose of ascertaining whether proper care and treatment is provided and proper documentation is maintained.

2. During the remainder of the probationary period, the Monitor shall review on a quarterly basis a minimum of **five (5)** of Respondent's active patient records in for the purpose of ascertaining whether proper care and treatment is provided and proper documentation is maintained.

3. **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.

4. **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.

5. **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.

6. 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 when 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.

8. **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.

9. **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.

10. **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.

11. **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.

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

13. **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.

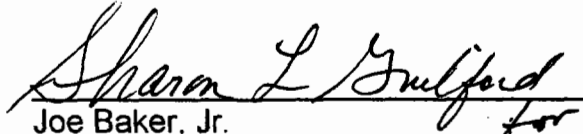
Respondent accepted the counter Settlement Agreement on the record at the January 2007 meeting.

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

DONE AND ORDERED this 15 day of February, 2007.

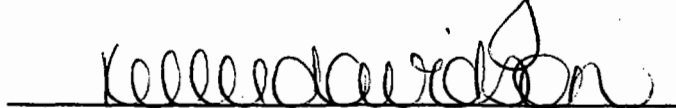
BOARD OF CHIROPRACTIC

MEDICINE


Joe Baker, Jr.
Executive Director *for* 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 **Lloyd Wright, D.C.**, 4 Fernwood Trail, Ormand Beach, Florida 34452; 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 14th February 2007.



Deputy Agency Clerk

Causey, Sherra

From: Baker, Joe Jr
Sent: Wednesday, February 14, 2007 12:06 PM
To: Bess Maxwell; Buzzelli, Lauren; CH; clp; Deby; DL MQA Board of Chiropractic/Optomety/Med Physicist/Podiatry/O&P/Clinical Lab/NHA; DL MQA Management Team; jm; june; Knepton, Jim; 'ladasiah_jackson@oag.state.fl.us'; lag; Lois; McManus, Cassandra; nha; o&p; pod; Sanders, Sylvia (MQA)
Subject: Delegation of Authority

During my absence tomorrow, 2/15/07 thru COB Friday, 2/16/07, Sharon Guilford (POA) is delegated authority for the board office. Sharon can be reached at 245-4396.

I will at Board of Optometry meetings in Jacksonville. Thx.

Joe Baker, Jr.

Board Executive Director

Chiropractic Medicine, Clinical Laboratory Personnel, Medical Physicist, Nursing Home Administrators, Optometry, Orthotists & Prosthetists, and Podiatric Medicine

- Florida Department of Health*Division of Medical Quality Assurance*Bureau of Health Care Practitioner Regulation
850.245.4355 (board office switchboard); 850.922.8876 [board office fax]
- 850.245.4393 (direct line); 954.848.0401 [direct fax]
- www.doh.state.fl.us/mqa; joejr_baker@doh.state.fl.us

DOH Mission: To promote and protect the health and safety of all people in Florida through the delivery of quality public health services and promotion of health care standards.

MQA Mission: The Division of Medical Quality Assurance protects the public through healthcare licensure, enforcement, and information.

MQA Vision: MQA will be the nation's leader in quality healthcare regulation.

How am I communicating? Please contact my manager

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

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

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 1999-62114

LLOYD WRIGHT, D.C.

RESPONDENT.

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 2775.
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 admits the allegations of fact contained in the Administrative Complaint for the purposes of these administrative proceedings only.

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 **five hundred dollars (\$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** - The Respondent shall reimburse the Board of Chiropractic Medicine **\$5,000.00** for the costs of investigation and prosecution of this case. Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Chiropractic Medicine Compliance Officer within twelve months from the entry of the Final Order in this cause.

4. **Continuing Education** - Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend 5 hours of Continuing Education administered by either the Florida Chiropractic Association or the Florida Chiropractic Society. Respondent shall take courses in the following subjects: 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 Board of Chiropractic Medicine, 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 two years. The purpose of probation is not to prevent Respondent from practicing chiropractic medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another chiropractic physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the following obligations and requirements:

A) **Restrictions during Probation** - During the period of probation, Respondent's license shall be restricted as follows:

i. **Supervision** - Respondent shall practice only under the indirect supervision of a Board-approved chiropractic 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 first six months of probation, the Monitor shall review a minimum of 5 of Respondent's active patient records once every other month for the purpose of ascertaining whether proper care and treatment is provided and whether there are any signs of over-utilization. The monitor shall go to Respondent's office, shall review Respondent's calendar and patient log, and shall select the records to be reviewed. Provided that the Respondent

successfully completes the first six months of probation, the monitor shall only be required to review a minimum of 5 of Respondent's active patient files every other quarter during the remainder of the probation period (six additional reviews).

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

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

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 ensure the appearance of Respondent's monitor to appear as requested or directed. If the approved monitor inexcusably fails to appear as

requested or directed by the Board, **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 review, 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 probation;
- 2) A description of practice location;
- 3) A description of current practice (type and composition);
- 4) A brief statement of compliance with probationary 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.

G) **Other Obligations/Requirements of Probation** - During the period of probation, 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 probation.

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 Respondent's probation shall be tolled and shall remain in a tolled status until Respondent returns to active practice in the State of Florida.

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.

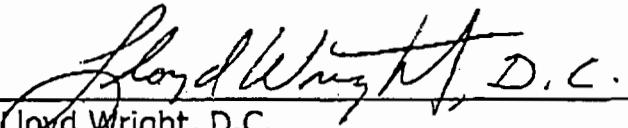
7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically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

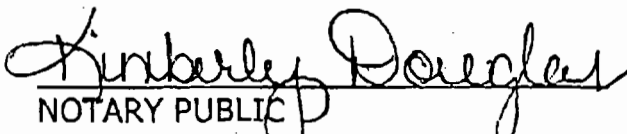
9 **Waiver of further procedural steps** - Upon the Board's adoption of this Stipulation, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Stipulation and the Final Order of the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

SIGNED this 17th day of Oct., 2006.

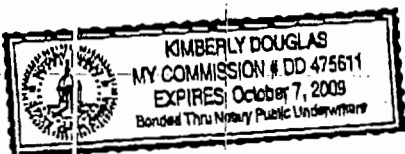

Lloyd Wright, D.C.

Before me, personally appeared Lloyd Wright, D.C., whose identity is known to me by FLDL 5/09 (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 17th day of October, 2006.

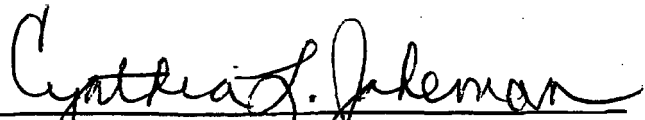

NOTARY PUBLIC

My Commission Expires:



APPROVED this 15th day of December, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health



Cynthia L. Jakeman
COUNSEL FOR PETITIONER:
Cynthia L. Jakeman
Assistant General Counsel

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH

Petitioner

vs.

CASE NUMBER: 1999-62114

LLOYD WRIGHT, D.C.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, hereinafter referred to as "Petitioner", files this Administrative Complaint before the Board of Chiropractic Medicine against LLOYD WRIGHT, hereinafter referred to as "Respondent", and alleges:

1. Petitioner is the state agency charged with regulating the practice of chiropractic medicine pursuant to Section 20.43, Chapter 456 (formerly Chapter 455, Part II, Florida Statutes) and Chapter 460, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed chiropractor in the State of Florida, having been issued license number CH 0002775. Respondent's last known address is 801 W. Granada Blvd. Suite 301, Ormond Beach, Florida 32174-5940.

3. On or about April 13, 1999, Patient SW presented to Respondent with complaints of back pain resulting from a slip and fall accident that occurred on or about April 10, 1999. Patient SW continued under Respondent's care until on or about June 21, 1999.

4. During Patient SW's initial visit, on or about April 13, 1999, Respondent indicated in the chiropractic medical records that a course of conservative care was recommended.

5. During the course of Respondent's treatment of Patient SW, Respondent ordered and/or conducted multiple diagnostic tests, including but not limited to, somatosensory evoked potentials (SSEP) and nerve conduction velocities (NCV).

6. On or about April 30, 1999, Respondent ordered the SSEP and NCV tests. Respondent ordered three different NCV tests: NCV-Motor and F-wave, NCV-sensory, and H-reflex. The total amount billed for this testing was one thousand five hundred and ninety-five dollars (\$1595.00).

7. Respondent signed a typed form on or about April 30, 1999, that stated "Rationale for Diagnostic Study". That form indicated: "The patient's complaints have lasted more than four weeks since onset of treatment."

8. Respondent did not treat the patient for four weeks before ordering the SSEP and NCV tests; Respondent had only treated the patient three times, on April 13, 1999, on April 20, 1999 and on April 21, 1999, before ordering the tests on April 30, 1999.

9. Respondent did not give Patient SW an adequate trial of conservative treatment prior to ordering the SSEP and NCV tests.

10. Respondent did not indicate, in Patient SW's chiropractic medical records, the rationale for or necessity of obtaining multiple diagnostic tests, including but not limited to SSEP and NCV, before determining whether or not Patient SW would respond to conservative treatment.

11. Respondent provided Patient SW with appropriate conservative treatment modalities throughout the course of his treatment. Respondent treated Patient SW with manipulation, hot and cold packs, electrical muscle stimulation, and traction.

12. Respondent did not change his treatment approach as a result of the multiple diagnostic studies, including but not limited to SSEP and NCV in that Respondent continued the same treatment modalities throughout his care.

13. On or about June 21, 1999, Respondent typed a Case Summary.

14. In that Case Summary, Respondent stated that a possible consultation with a neurologist was indicated. Respondent did not refer Patient SW for a neurological consultation.

15. In the Case Summary, Respondent also indicates that the prognosis for Patient SW was good and that Patient SW should be re-evaluated in four to six weeks.

16. Respondent did not justify in his medical records why multiple diagnostic testing was necessary so early in Patient SW's treatment when the results of the tests did not change Respondent's plan of care. On or about April 13, 1999, Respondent planned a course of conservative care and on or about June 21, 1999, Respondent planned to continue conservative care for an additional four to six weeks.

17. Respondent exercised influence over Patient SW for financial gain by engaging in overutilization by ordering excessive tests, including but not limited to SSEP and NCV, before those tests were indicated or necessary.

18. Respondent exercised influence over Patient SW for financial gain by engaging in overutilization by ordering excessive diagnostic tests, including but not limited to SSEP and NCV, without justifying, in his chiropractic medical records, the need for those tests before determining Patient SW's response to conservative treatment.

19. Respondent exercised influence over Patient SW for financial gain by engaging in overutilization by ordering excessive diagnostic tests, including but not limited to SSEP and NCV,

without justifying, in his chiropractic medical records, how his treatment approach would be or was modified as a result of the findings from the diagnostic tests.

20. Rule 64B2-17.005, Florida Administrative Code (new 4-1-80) defines overutilization and states:

(2) Overutilization of chiropractic services or practice is defined as services or practices rendered, or goods or appliances sold by a chiropractic physician to a patient for financial gain of the chiropractic physician or a third party which are excessive in quality or quantity to the justified needs of the patient.

(3) Overutilization occurs when:

(a) The chiropractic records, required to be kept by subsection 460.413(1)(m), Florida Statutes, do not justify or substantiate the quantity or number of chiropractic services, practices rendered, or goods or appliances sold by a chiropractic physician to a patient;

(b) A claim or claims for chiropractic services, practice, goods or appliances is submitted to that patient or third party payor representing multiple charges for one specific chiropractic diagnostic service or treatment practice, good or appliance.

21. Respondent failed to practice chiropractic medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractic physician as being acceptable under similar circumstances in that Respondent ordered excessive diagnostic tests, including but not limited to SSEP and NCV prematurely, before determining the effectiveness of his treatment approaches.

22. In the chiropractic medical records Respondent maintained for Patient SW, Respondent failed to justify the course of treatment in that he failed to document the necessity of diagnostic tests, including but not limited to SSEP and NCV so early in the treatment of Patient SW, before determining Patient SW's response to conservative treatment.

23. In the chiropractic medical records Respondent maintained for Patient SW, Respondent failed to justify the course of treatment in that he failed to document how his treatment approach would be or was modified as a result of the findings of the diagnostic tests.

COUNT ONE

24. Petitioner realleges paragraphs one (1) through twenty-three (23) as if fully set forth herein this Count One.

25. Based on the foregoing, Respondent violated Section 460.413(1)(n), Florida Statutes (1998 Supp.), exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or a third party which shall include, but not be limited to, the promotion or sale of services, goods or appliances, or drugs.

COUNT TWO

26. Petitioner realleges paragraphs one (1) through twenty-three (23) as if fully alleged herein this Count Two.

27. Based on the foregoing, Respondent violated Section 460.413(1)(r), Florida Statutes (1998 Supp.), gross or repeated malpractice or the failure to practice chiropractic medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractic physician as being acceptable under similar conditions or circumstances.

COUNT THREE

28. Petitioner realleges paragraphs one (1) through twenty-three (23) and paragraphs as if fully set forth herein this Count Three.


29. Based on the foregoing, Respondent violated Section 460.413(1)(m), Florida Statutes (1998 Supp.), failing to keep legibly written chiropractic medical records that identify

clearly by name and credentials the licensed chiropractic physician rendering, ordering, supervising, or billing for each examination or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and diagnosis of a disease, condition or injury.


WHEREFORE, Petitioner respectfully requests the Board of Chiropractic Medicine to enter an order imposing one or more of the following penalties: revocation or suspension of Respondent's license, restriction of Respondent's practice, imposition of an administrative fine and costs, issuance of a reprimand, placement of Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 15 day of August, 2002.

John O. Agwunobi, M.D., M.B.A.
Secretary, Department of Health


BY: Nancy M. Snurkowski, Chief Attorney
DOH Bureau of Health Care
Practitioner Regulation-Legal

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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Kenon
DATE 8/14/02

Case No. CH 1999-62114 (Wright)
PCP: Vogel, Hoffman
DATE: July 21, 2000