

DEPARTMENT OF HEALTH  
DIVISION OF MEDICAL QUALITY ASSURANCE  
Bureau of Operations, Licensure Services-Profiling Section  
Summary Narrative

John Andrew Lieurance, CH 7524

Date Action Taken:

July 17, 2009

**DOH Case Number: 2007-12659**

Allegation:

Allegations: failing to comply with minimal record keeping standards; exploiting patient for financial gain; failing to preserve the identity of funds or property of patient.

Action:

Pursuant to a Stipulation Agreement with licensee, the following was imposed: Fine \$4,000.00. Patient refund; Cost \$3,797.27; 8 Hours of C.E.; Letter of Concern; 2 years probation.

**STATE OF FLORIDA  
BOARD OF CHIROPRACTIC MEDICINE**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

vs.

**Case No.: 2007-12659**

**License No.: CH 7524**

**JOHN ANDREW LIEURANCE, D.C.,**

**Respondent,**

**FINAL ORDER**

THIS MATTER came before the Board of Chiropractic Medicine (hereinafter “Board”) at a duly-noticed public meeting on June 26, 2009, in Orlando, 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 Order. Petitioner was represented by Joanna Daniels, Assistant General Counsel. Respondent was present with his counsel, Wilson Jerry Foster.

Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties and otherwise being advised in the premises, the Stipulation was rejected and the Board offered a counter Settlement Agreement. An Order Rejecting Settlement Stipulation and Offering Counter Settlement Agreement was filed on July 7, 2009; a copy of which is attached as Exhibit A and incorporated by reference hereto. On or about July 14, 2009, a letter accepting the terms of the Order Rejecting Settlement Stipulation and Offering Counter Settlement Agreement was

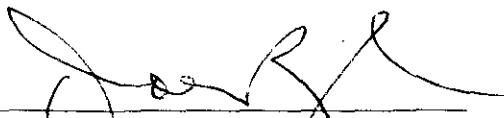
received from Respondent. A copy of the acceptance letter is attached hereto as Exhibit B.

IT IS HEREBY ORDERED AND ADJUDGED, that the terms outlined in the Order Rejecting Settlement Stipulation and Offering Counter Settlement Agreement filed on July 7, 2009, are hereby approved and adopted in toto and incorporated by reference herein. Accordingly all parties shall adhere to and abide by all the terms and conditions stated in the Order Rejecting Settlement Stipulation and Offering Counter Settlement Agreement.

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

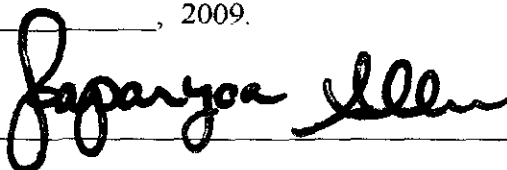
DONE AND ORDERED this 16<sup>th</sup> day of July, 2009.

**BOARD OF CHIROPRACTIC MEDICINE**

  
\_\_\_\_\_  
Joe Baker, Jr., Executive Director  
on behalf of Ronald Wellikoff, D.C., CHAIR

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by **Certified U.S. Mail** to: **John Lieurance, D.C.**, 2222 South Tamiami Trail, Suite C, Sarasota, Florida 34239 and to his attorney of record, **W. Jerry Foster**, 1342 Timberlane Road, Suite 102-A, Tallahassee, Florida 32312; and by interoffice mail to **Deborah B. Loucks**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Joanna Daniels**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on July 17, 2009.

  
\_\_\_\_\_

**Deputy Agency Clerk**

7004 0550 0000 9645 1132

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Street, Apt. No., or PO Box No.		
City, State, ZIP+4		
PS Form 3800, June 2002		See Reverse for Instructions

**Law Office of Wilson Jerry Foster**

1342 Timberlane Road - Suite 102-A  
Tallahassee, FL 32312

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(850) 894-1569  
(850) 894-1620 FAX  
foster@wjfoster.com

July 14, 2009

Joe Baker, Board Executive Director  
Board of Chiropractic Medicine  
DOH  
Tallahassee, FL  
Via email and telefax this date

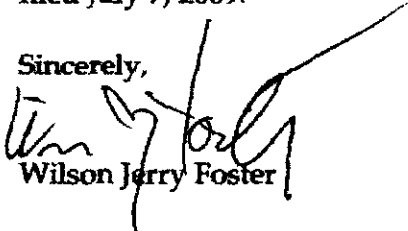
joefr\_baker@doh.state.fl.us // 922-8876

Re: John Andrew Lieurance, D.C.: Case No. 2007-12659

Dear Mr. Baker:

This letter confirms Dr. Lieurance's acceptance of the Counter Settlement Agreement filed July 7, 2009.

Sincerely,



Wilson Jerry Foster

Via telefax to 245-4682, and  
Email: Tobey\_Schultz@doh.state.fl.us

Via telefax to 922-6425, and  
Email: Deborah\_Loucks@oag.state.fl.us

STATE OF FLORIDA  
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2007-12659

License No.: CH 7524

JOHN ANDREW LIEURANCE, D.C.,

Respondent,

\_\_\_\_\_ /

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CLERK Rachel  
DATE 7 7 09

**ORDER REJECTING SETTLEMENT STIPULATION AND OFFERING  
COUNTER SETTLEMENT AGREEMENT**

THIS MATTER came before the Board of Chiropractic Medicine (hereinafter "Board") at a duly-noticed public meeting on June 26, 2009, in Orlando, 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 Order. Petitioner was represented by Joanna Daniels, Assistant General Counsel. Respondent was present with his counsel, Wilson Jerry Foster, Attorney at Law.

Petitioner and Respondent 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 reject the Settlement Agreement. The Board offered a counter Settlement Agreement incorporating all of the terms of the original Settlement Agreement with the following changes:

1. **Probation.** Respondent's license to practice as a chiropractic physician shall be placed on probation for a period of **two (2) years**. The probationary terms are

the same as in the original Settlement Agreement with the following change in the Monitor's responsibilities:

**Monitor's Responsibilities:**

a. During the first **three (3) months** of the probationary period, the monitor shall review a minimum of **five (5)** files of Respondent's active patient records **every month** for the purpose of ascertaining whether proper care and treatment is provided and proper documentation is maintained. During each monitoring visit, the monitor retains the authority to review any business records he or she deems appropriate for the purpose of determining if there are any signs of over-utilization.

b. Provided that Respondent successfully completes the initial **three (3) months** of the probationary period, for the remainder of the first year of probation, the monitor shall be required to review a minimum of **five (5)** files of Respondent's active patient records **every other month**.

c. Provided that Respondent successfully completes the initial **year** of the probationary period, for the second year of probation, the monitor shall be required to review a minimum of **five (5)** files of Respondent's active patient records **once per quarter**.

d. All of the other terms and conditions of probation set forth in the Settlement Agreement are hereby incorporated into this Counter offer and adopted.

2. **Continuing Education.** Within one year of the filing date of any Final Order incorporating this Counter Settlement Agreement, Respondent shall complete **eight (8) hours** of additional Board approved continuing education. **Six (6)** of the additional eight (8) hours shall be in the areas of recordkeeping, documentation, and coding

administered by either the Florida Chiropractic Association or the Florida Chiropractic Society. The remaining **two (2) hours** of continuing education shall be in the area of the laws and rules governing the practice of chiropractic medicine in the State of Florida. These hours shall be in addition to the hours required for license renewal. 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.

3. **Patient Refund**. Respondent shall refund 100% of the monies paid by the patient in this matter. Payment shall be made to the patient within **thirty (30) days** of the filing date of any Final Order that incorporates this Counter Settlement Agreement. Respondent shall submit a copy of the cancelled check or other acknowledgement from the patient stating that the refund has been paid.

4. **Administrative Costs**. 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 in the amount of **three thousand seven hundred ninety-seven dollars and twenty-seven cents (\$3,797.27)**. The costs shall be paid within **one (1) year** of the filing date of any Final Order that incorporates this Counter Settlement Agreement.

The Board's counter Settlement Agreement must be accepted or rejected in writing within **seven (7) days** of the filing of this order by correspondence addressed to Deborah B. Loucks, Board Counsel at the address listed below, or Joe Baker, Jr., Board Executive Director, Board of Chiropractic Medicine, Department of Health, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257. If the counter Settlement




Agreement is accepted, such acceptance shall be incorporated into a Final Order.

The parties shall be governed accordingly.

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

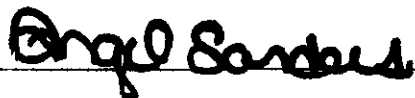
**DONE AND ORDERED** this 6<sup>th</sup> day of July, 2009.

**BOARD OF CHIROPRACTIC MEDICINE**

  
\_\_\_\_\_  
Joe Baker, Jr., Executive Director  
on behalf of Ronald Wellikoff, D.C., CHAIR

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by **Certified U.S. Mail** to: **John Lieurance, D.C.**, 2222 South Tamiami Trail, Suite C, Sarasota, Florida 34239 and to his attorney of record, **W. Jerry Foster**, 1342 Timberlane Road, Suite 102-A, Tallahassee, Florida 32312; and by interoffice mail to **Deborah B. Loucks**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Joanna Daniels**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on July 07, 2009.

  
\_\_\_\_\_

**Deputy Agency Clerk**

STATE OF FLORIDA  
DEPARTMENT OF HEALTH  
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2007-12659

JOHN ANDREW LIEURANCE, D.C.

RESPONDENT.

\_\_\_\_\_ /

SETTLEMENT AGREEMENT

John Andrew Lieurance, D.C., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Settlement Agreement 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. At all times material hereto, Respondent was a licensed chiropractic physician within the State of Florida, having been issued license number CH 7524.
2. The Department presented 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.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

#### 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 and/or 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 **four thousand dollars (\$4,000.00)** against the license of Respondent, to be paid by Respondent within one year to the Department of Health, Division of MQA/Compliance Mgmt 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 - The Respondent shall reimburse the Board of Chiropractic Medicine for the actual costs of investigation and prosecution of this case. Respondent will pay costs to the Department of Health, Division of MQA/Compliance Mgmt Unit, P.O. Box 6320, Tallahassee, Florida 32312-6320, Attention: Board of Chiropractic Medicine Compliance Officer within one year from the entry of the Final Order in this cause.

4. Patient Refund: Respondent agrees to refund any and all fees paid by patient MV.

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. It is expressly understood that Respondent will implement any changes to his practice

suggested by Respondent's monitor and that the failure to do so constitutes a violation of this agreement that will result in disciplinary action and/or suspension.

B) **Responsibilities of the Monitor**- During the first six months of 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 other month, shall review Respondent's calendar and patient log, and shall select the records to be reviewed. Provided Respondent successfully completes the first six months of probation, the monitor shall only be required to review a minimum of 5 patient files at least every quarter.

C) **Monitoring Reports**- The Monitor shall also submit reports **quarterly**, 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 **quarterly**, 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.

3) In the event, that the Board or the Disciplinary Compliance Chairman or the Board determines that that Respondent's or his monitor's reports are unacceptable, the Board shall have the authority to extend Respondent's probationary term indefinitely. This authority is addition to the Board's authority to suspend Respondent's license or file new charges based on the non-compliance with this agreement.

**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 Settlement Agreement 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.

r insurance company.

6. Continuing Education - - Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend 8 hours of Continuing Education in record keeping, documentation, and coding. 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 year of the entry of the Final Order in this matter. All such documentation shall be sent to the Board of

Chiropractic Medicine Compliance Officer, 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.

#### STANDARD PROVISIONS

1. Appearance: The Respondent shall be present during the Board meeting in which the agreement is presented and agrees to answer all questions directed to him by the Board under oath.
2. No force or effect until final order - It is expressly understood that this Settlement Agreement 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 Settlement Agreement.
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 Settlement Agreement, 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 Settlement Agreement 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 Settlement Agreement - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Settlement Agreement. 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 Settlement Agreement. Respondent agrees to support this Settlement Agreement 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 Settlement Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Settlement Agreement 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.

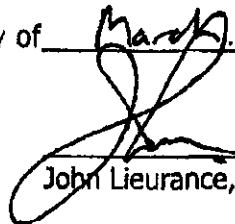
7. No preclusion of additional proceedings - Respondent and the Department fully understand that this Settlement Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the

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 Settlement Agreement, 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 Settlement Agreement, 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 Settlement Agreement and the Final Order of the Board incorporating said Settlement Agreement.

SIGNED this 11 day of March, 2009.

  
\_\_\_\_\_  
John Lieurance, D.C.

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

Sworn to and subscribed before me this 11<sup>th</sup> day of March, 2009.

  
\_\_\_\_\_  
NOTARY PUBLIC

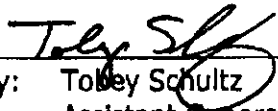


JUDITH W. DEVANEY  
MY COMMISSION # DD 433145  
EXPIRES: August 18, 2009  
Bonded Thru Budget Notary Services

My Commission Expires:

APPROVED this 7<sup>th</sup> day of April, 2009.

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

  
By: Tolley Schultz  
Assistant General Counsel  
Department of Health

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2007-12659

JOHN ANDREW LIEURANCE, D.C.,

RESPONDENT.

MAY 19 2008

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Chiropractic Medicine against Respondent, John Andrew Lieurance, D.C., and in support thereof 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 licensed chiropractic physician within the State of Florida, having been issued license number CH 7524 on or about September 23, 1998.

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3. Respondent's address of record is 2222 S. Tamiami Trail, Suite C, Sarasota, Florida 34239.

4. On or about March 17, 2006, MN, a 73 year old female patient, presented to the Respondent seeking treatment for fatigue, neck pain, tinnitus and sleep apnea.

5. On or about March 23, 2006, Patient MN purchased a pre-payment package plan. A pre-payment package plan is when a patient pays in advance for one or a series of visits.

6. On March 23, patient MN paid \$642.00 towards the pre-payment package plan. On March 28, 2006, patient MN paid \$905.00 towards the pre-payment package plan.

7. Respondent did not utilize a separate escrow bank account to keep the funds received from patient MN.

8. On March 23, 2007, only after patient MN signed up for the pre-payment package plan, did Respondent conduct an examination of patient MN. Accordingly, Respondent failed to record and/or maintain sufficient records to justify the medical necessity of the treatment plan sold to patient MN.

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9. The examination of patient MN recorded or maintained by the Respondent was insufficient to be considered minimally adequate.

10. The medical history of patient MN recorded or maintained by Respondent was insufficient to be considered minimally adequate.

11. The examination and medical history of patient MN did not justify the treatment plan that patient MN purchased.

12. Respondent's notes provide no specific diagnosis for patient MN.

13. Patient MN returned to the Respondent's office for treatment on the following dates: March 28, 29, 30; April 5, 6, 10, 17, 28; May 1, 2, 3, 8; June 5 and 6, 2006.

14. According to the billing records, MN was generally provided with some combination of the following treatments on each date of service: chiropractic manipulative therapy, manual therapy, mechanical therapy, cold laser therapy and neuromuscular reeducation.

15. Respondent failed to maintain daily treatment notes in SOAP format. Instead, Respondent utilized a check off sheet which indicated the treatments rendered.

00824



16. The daily treatment notes utilized by the Respondent did not provide any information regarding patient MN's subjective or objective symptoms.

17. The daily treatment notes utilized by the Respondent did not provide an assessment of patient MN.

18. The daily treatment notes utilized by the Respondent failed to adequately describe the treatments rendered. For instance, the records failed to indicate which spinal segments were adjusted, and failed to contain the settings used for the laser treatment, or how the treatment was applied.

19. The daily treatment notes utilized by the Respondent contained abbreviated expressions such as "CL for bladder" without providing an abbreviation key.

21. The daily treatment notes utilized by the Respondent failed to indicate the name and credentials of the licensed chiropractic physician rendering, ordering, supervising, or billing for each examination or treatment procedure.

22. The daily treatment notes utilized by the Respondent failed to justify the care provided to patient MN.

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Count One

23. Petitioner re-alleges and incorporates paragraphs one (1) through twenty-two (22) as if fully set forth herein.

24. Section 460.413(1)(m), Florida Statutes (2005)-(2007), provides that 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, X-rays, and diagnosis of a disease, condition, or injury is grounds for disciplinary action by the Board of Chiropractic Medicine.

25. Section 460.413(1)(ff), Florida Statutes (2005)-(2007), provides that violating any provision of chapter 456 or chapter 460, or any rules adopted pursuant thereto is grounds for disciplinary action by the Board of Chiropractic Medicine.

26. Rule 64B2-17.0065, Florida Administrative Code (F.A.C.), sets forth the minimal recordkeeping standards as set forth below in pertinent part:

a. Rule 64B2-17.0065(3), F.A.C. states that medical records

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shall be legibly maintained and shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; examination results; test results; records of drugs dispensed or administered; reports of consultations and hospitalizations; and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient. Initial and follow-up services (daily records) shall consist of documentation to justify care. If abbreviations or symbols are used in the daily recordkeeping, a key must be provided.

b. Rule 64B2-17.0065(4), F.A.C., states that all patient records shall include a patient history; symptomatology and/or wellness care; examination finding(s), including X-rays when medically or clinically indicated; a diagnosis; a prognosis; assessment(s); a treatment plan; and, treatments provided.

c. Rule 64B2-17.0065(5), F.A.C., states all entries made into the medical records shall be accurately dated. The treating physician must be readily identifiable either by signature, initials, or printed name on the

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record. Late entries are permitted, but must be clearly and accurately noted as late entries and dated accurately when they are entered into the record.

d. Rule 64B2-17.0065(6), F.A.C., states that once a treatment plan is established, daily records shall include: (a) Subjective complaint(s); (b) Objective finding(s); (c) Assessment(s); (d) Treatment(s) provided, and (e) Periodic reassessments as indicated.

27. Respondent violated Section 460.413(1)(m), Florida Statutes (2005)-(2007) and/or Rule 64B2-17.0065, F.A.C., in one or more of the following ways:

(a) By failing to record or maintain an adequate initial examination for patient MN when she first presented for treatment;

(b) By failing to record or maintain an adequate medical history of patient MN when she first presented for treatment;

(c) By failing to record or maintain records showing a clear diagnosis for patient MN;

(d) By failing to record or maintain daily treatment notes indicating patient MN's subjective or objective symptoms;

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(e) By failing to record or maintain daily treatment notes for patient MN that adequately described the treatment rendered;

(f) By failing to record or maintain daily treatment notes for patient MN that contained an assessment;

(g) By recording or maintaining daily treatment notes for patient MN which utilized abbreviations without a key to explain the meaning of the abbreviations;

(h) By failing to record and/or maintain daily treatment notes which indicate the name and credentials of the licensed chiropractic physician rendering, ordering, supervising, or billing for each examination or treatment procedure; or,

(i) By failing to record and/or maintain legible written chiropractic medical records for patient MN that justified the course of treatment provided.

28. Based on the foregoing, Respondent violated Section 460.413(1)(m), Florida Statutes (2005)-(2007) and/or Rule 64B2-17.0065, F.A.C., by failing to comply with minimal record keeping standards.

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Count Two

29. Petitioner re-alleges and incorporates paragraphs one (1) through twenty-two (22) as if fully set forth herein.

30. Section 460.413(1)(n), Florida Statutes (2005)-(2007), subjects a chiropractic physician to discipline for 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 of a third party which shall include, but not be limited to, the promotion or sale of services, goods or appliances, or drugs.

31. Rule 64B2-17.005, F.A.C., states that overutilization of chiropractic services, goods, or testing, constitutes the exploitation of a patient for financial gain.

32. According to Rule 64B2-17.005, F.A.C., overutilization occurs when, among other things, the written 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.

33. Respondent violated Section 460.413(1)(n), Florida Statutes (2005)-(2007), through the following actions:

a) By selling a pre-payment plan to patient MN without sufficient medical records to justify the medical necessity of the treatment plan; or,

b). By billing patient MN for numerous treatments without maintaining sufficient chiropractic records that justified the need for the services provided.

34. Based on the Foregoing, Respondent has violated Section 460.413(1)(n), Florida Statutes (2005)-(2007), by exploiting patient MN for financial gain.

#### Count Three

35. Petitioner re-alleges and incorporates paragraphs one (1) through twenty-two (22) as if fully set forth herein.

36. Section 460.413(1)(y), Florida Statutes (2005)-(2007), provides that failing to preserve the identity of funds or property of a patient is grounds for disciplinary action by the Board of Chiropractic Medicine.

37. Rule 64B2-14.001(2), Florida Administrative Code (F.A.C.), states that the minimum trust accounting records which shall be maintained by all chiropractors practicing in Florida who receive or disburse trust money in the course of their professional practice are:

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a. A separate bank account other than the chiropractor's regular business or personal account designated for the deposit of such funds.

b. A journal, file or receipts, file of deposit slips, or checkbook stubs listing the source and date of all receipts of trust funds.

c. A journal which may consist of cancelled checks, showing the date and receipt of all trust funds disbursements.

d. A file or ledger containing an accounting for each person from whom or for whom trust money has been received.

e. All cancelled checks drawn on the trust account.

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38. Respondent failed to comply with requirements of Section 460.413(1)(y), Florida Statutes (2005)-(2006), by failing to keep a separate bank account for the deposit of trust fund monies he received from patient MN.

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39. Based on the foregoing, Respondent violated Section 460.413(1)(y), Florida Statutes (2005)-(2007), by failing to preserve the identity of funds or property of patient MN.


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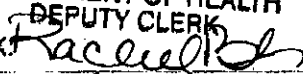


WHEREFORE, Petitioner respectfully requests that the Board of Chiropractic Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement 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., M.P.H.  
Secretary of Health

  
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**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK   
DATE 5-19-08

PCP: 5/13/08 Permen. LeRusso

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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.**

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