

By: Alina Stoffo
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2005-70174

License No.: CH 7891

WILLIAM LABONTE, D.C.,

Respondent.

FINAL ORDER

THIS MATTER came before the Board of Chiropractic Medicine (hereinafter "the Board") at a duly noticed public meeting on November 3, 2006, in West Palm Beach, Florida, for a hearing not involving disputed issues of material fact pursuant to Respondent's completion of an Election of Rights form requesting a hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes. 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 Final Order.

Petitioner was represented by Cynthia L. Jakeman, Assistant General Counsel, with the Department of Health. Respondent was present.

The prosecuting attorney offered the investigative file into evidence to prove the facts as alleged in the Administrative Complaint. The investigative file was received into evidence and the Board finds that the uncontested facts adequately support the

allegations. After a complete review of the record in this matter, including consideration of the Administrative Complaint, any written evidence or testimony, and any mitigating or aggravating circumstances, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. The allegations of fact set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the findings of fact by the Board.

2. There is competent, substantial evidence to support the Board's findings and conclusions.

CONCLUSIONS OF LAW

1. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law of the Board.

2. The violations set forth in the Administrative Complaint warrant disciplinary action by the Board.

3. Based upon the Findings of Fact, the Board concludes that the licensee violated: Section 460.413(1)(e), Florida Statutes and Section 460.413(1)(d), Florida Statutes by violating Rule 64B2-15.001(2)(c), Florida Administrative Code.

4. The Board is empowered by Sections 460.413(2) and 456.072(2), Florida Statutes, to impose a penalty against the licensee. Therefore it is

ORDERED AND ADJUDGED that:

1. **Letter of Concern.** Respondent shall receive a Letter of Concern from the Board.

2. **Administrative Fine.** Respondent must pay an administrative fine of two thousand five hundred dollars (**\$2, 500.00**), payable within **one (1) year** of the filing date of this Final Order.

3. **Continuing Education.** Within **one (1) year** of the filing date of this Final Order, Respondent shall attend and successfully complete **five (5) hours** of continuing education, **two (2) hours** of which must be related to the area of the laws and rules governing the practice of chiropractic medicine in the State of Florida. These continuing education 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 of completion, Respondent shall mail a copy of the continuing education certificate of completion to the Chiropractic Physician Compliance Officer.

4. **Modification of Advertising.** To the extent that it is feasible, Respondent shall arrange to have all of his current advertisements modified to comply with the laws and rules governing advertising in the State of Florida.

5. **Compliance Address.** The address for submission of monetary payments (including fine & costs) and continuing education completion documents is: DOH/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, attn: Board of Chiropractic Medicine Compliance Officer.

RULING ON MOTION TO ASSESS COSTS


- The Board reviewed Petitioner's Motion to Assess Costs. Respondent did not

file any objections to Petitioner's Motion. Petitioner's Motion is granted and the Board imposes the costs associated with this case in the amount of nine hundred eighty-eight dollars and forty-one cents (**\$988.41**), to be paid within **one (1) year** of the filing date of this Final Order.

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

DONE AND ORDERED this 15th day of Nov, 2006.

BOARD OF CHIROPRACTIC MEDICINE



Joe Baker, Jr.
Executive Director *on behalf of*
Salvatore LaRusso, CHAIR

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF THE FILING DATE OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **William LaBonte, D.C.**, 4 Pearl Drive, Suite 1, Ormond Beach, Florida 32174; and by interoffice mail to **Deborah Bartholow Loucks**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and **Cynthia L. Jakeman**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on 14th November, 2006.

Rachel Blum

Deputy Agency Clerk

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

DEPARTMENT OF HEALTH,

Petitioner,

Case Number: 2005-70174

vs.

WILLIAM LABONTE, D.C.

Respondent.
_____ /

**PETITIONER'S MOTION FOR FINAL ORDER BY HEARING
NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT**

Petitioner moves the Board of Chiropractic Medicine for a final order by hearing not involving disputed issues of material fact, and in support thereof states:

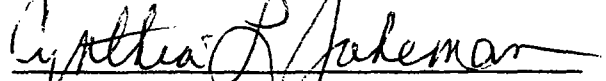
1. An Administrative Complaint was filed against Respondent on August 8, 2006, alleging that Respondent violated Chapter 456 and/or 460 Florida Statutes, as set forth therein. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

2. Respondent filed an election of rights form requesting an informal hearing not involving disputed issues of material fact before the Board of Chiropractic Medicine. A true and correct copy the election of rights form is attached hereto and incorporated herein as Exhibit B.

3. Respondent has been informed by this Motion that the Board will review the investigative file prepared in this matter for the purpose of determining penalty prior to the entry of a Final Order.

WHEREFORE, Petitioner respectfully requests the Board of Chiropractic Medicine to enter a Final Order after allowing the Respondent the opportunity to present oral and or written evidence in mitigation of the charges in the Administrative Complaint.

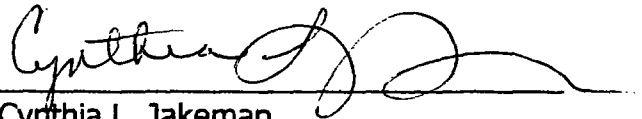
Respectfully submitted,



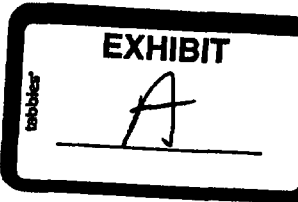
Cynthia L. Jakeman
Assistant General Counsel
Florida Bar Number 0714690
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin # C-65
Tallahassee, Florida 32399-3265
(850) 245-4640 ext. 8133
(850) 245-4682 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion has been provided to: William LaBonte, D.C., 4 Pearl Drive, Suite 1, Ormond Beach, Florida, 32174, by certified U.S. Mail this 3 day of October 2006.



Cynthia L. Jakeman
Assistant General Counsel



ELECTION OF RIGHTS

DOH v. William LaBonte, D.C. Case No. 2005-70174

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. [X] I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. _____ I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. _____ I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, I also elect the following:

[X] ()

- I accept the terms of the Settlement Stipulation, and I have signed and am returning the Settlement Stipulation or I am interested in settling this case.
I do not accept the terms of the settlement agreement, but am interested in settling the case.
I do not wish to continue practicing, and I have signed and returned the voluntary relinquishment of licensure form, if it has been provided.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and complete all the information below.)

Respondent's signature: [Signature]
Address: 4 Pacific Drive Suite #1
Ormond Beach, FL 32174
Lic. No. CH 7891
Phone No 386-677-2522
Fax No. 386-677-9065

STATE OF FLORIDA
COUNTY OF Volusia

Before me, personally appeared William LaBonte whose identity is known to me by drivers license (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 30 day of August

[Signature]
Notary Public State of Florida
Type or Print Name: Pauline D Miller

March 22, 2009
My Commission Expires



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Tobey Schultz, Esquire, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4640, FAX (850) 245-4661.

Prosecution Services Unit - 4052 Bald Cypress Way, Bin # C-65 - Tallahassee, FL 32399-3265
Phone (850) 245-4640 Fax (850) 245-4681

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF CHIROPRACTIC MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

Case Number: 2005-70174

vs.

WILLIAM LABONTE, D.C.

Respondent.

MOTION TO ASSESS COSTS
IN ACCORDANCE WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Chiropractic Medicine ("Board") for the entry of a Final Order ~~assessing costs against the Respondent for the investigation and prosecution of this~~ case in accordance with Section 456.072(4), Florida Statutes (2005). As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled ~~meeting,~~ the Board will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes (2005),¹ states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant

¹ Ch. 2003-416, § 19, Laws of Fla., effective September 15, 2003, amended Section 456.072(4), Florida Statutes (2003), to include the underlined language.

to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. . . .

3. The investigation and prosecution of this case has resulted in costs in the total amount of **nine hundred eighty-eight dollars and forty-one cents (\$988.41)**, based on the following itemized statement of costs:

Complaint: \$ 59.69

Investigation: \$ 327.62

Legal: \$ 601.10

Expenses: \$ 0.00

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of **nine hundred eighty-eight dollars and forty-one cents (\$988.41)**, as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based

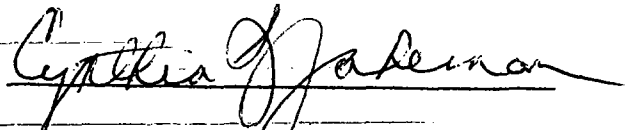
upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of **nine hundred eighty-eight dollars and forty-one cents (\$988.41)**, as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2005).

WHEREFORE, the Department of Health requests that the Board enter a Final Order assessing costs against the Respondent in the amount of **nine hundred eighty-eight dollars and forty-one cents (\$988.41)**.

DATED this 3rd day of October, 2006.


Respectfully submitted,



Cynthia L. Jakeman
Assistant General Counsel
Florida Bar Number 0714690
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin # C-65
Tallahassee, Florida 32399-3265
(850) 245-4640 ext. 8133
(850) 245-4682 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion has been provided to: William LaBonte, D.C., 4 Pearl Drive, Suite 1, Ormond Beach, FL 32174, by regular U.S. Mail this 3rd day of October, 2006.

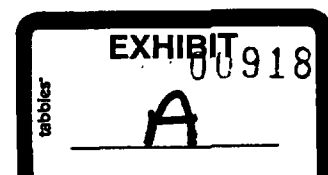

Cynthia Jakeman
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

BEFORE ME, the undersigned authority, personally appeared **JAMES R. COOKSEY**, who was sworn and states as follows:

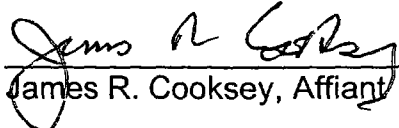
- 1) My name is James R. Cooksey.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399-3275.
- 4) As a Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time-Tracking-System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number 2005-70174 (Department of Health v. WILLIAM LABONTE, D.C.) are NINE HUNDRED EIGHTY- EIGHT dollars and FORTY-ONE cents (\$988.41).
- 6) The costs for DOH case number 2005-70174 (Department of Health v. WILLIAM LABONTE, D.C.) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH-case numbers 2005-70174 (Department of Health v. WILLIAM LABONTE, D.C.) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services



Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

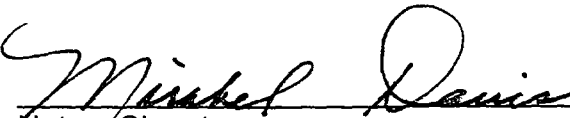
- 9) James R. Cooksey, first being duly sworn, states that he has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NOT.


James R. Cooksey, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 1 day of September, 2006,
by James R. Cooksey, who is personally known to me.


Notary Signature

MIRABEL DAVIS

Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Mirabel Davis
MY COMMISSION # DD221102 EXPIRES
September 7, 2007
BONDED THRU TROY FAIN INSURANCE, INC.

Complaint Cost Summary

Complaint Number:200570174

Complainant's Name: ANONYMOUS
 Subject's Name: WILLIAM LABONTE

| ***** Cost to Date ***** | | |
|-----------------------------|--------------|-----------------|
| | Hours | Costs |
| Complaint: | 1.20 | \$59.69 |
| Investigation: | 5.10 | \$327.62 |
| Legal: | 4.80 | \$601.10 |
| | ***** | ***** |
| Sub Total: | 11.10 | \$988.41 |
| Expenses to Date: | | \$0.00 |
| Prior Amount: | | \$0.00 |
| Total Costs to Date: | | \$988.41 |

00920



Time Tracking Report

Itemized Cost by Complaint

Complaint 200570174

Report Date: 09/01/2006

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|---|----------------|------------|-----------------|---------------|---------------|--|
| BUREAU OF CONSUMER COMPLAINTS | | | | | | |
| HA22 | 1.20 | \$49.74 | \$59.69 | 12/21/2005 | 78 | INITIAL REVIEW AND ANALYSIS OF COMPLAINT |
| Sub Total | 1.20 | | \$59.69 | | | |
| BUREAU OF INVESTIGATIVE SERVICES | | | | | | |
| J185 | 1.00 | \$64.24 | \$64.24 | 12/28/2005 | 4 | ROUTINE INVESTIGATIVE WORK |
| J185 | 0.50 | \$64.24 | \$32.12 | 01/03/2006 | 4 | ROUTINE INVESTIGATIVE WORK |
| J185 | 0.50 | \$64.24 | \$32.12 | 01/10/2006 | 4 | ROUTINE INVESTIGATIVE WORK |
| J185 | 1.00 | \$64.24 | \$64.24 | 02/23/2006 | 4 | ROUTINE INVESTIGATIVE WORK |
| J185 | 0.50 | \$64.24 | \$32.12 | 02/28/2006 | 58 | TRAVEL TIME |
| J185 | 0.30 | \$64.24 | \$19.27 | 02/28/2006 | 4 | ROUTINE INVESTIGATIVE WORK |
| J185 | 0.30 | \$64.24 | \$19.27 | 03/02/2006 | 4 | ROUTINE INVESTIGATIVE WORK |
| J185 | 1.00 | \$64.24 | \$64.24 | 03/06/2006 | 76 | REPORT PREPARATION |
| Sub Total | 5.10 | | \$327.62 | | | |
| BUREAU OF LEGAL SERVICES | | | | | | |
| HLL36B | 1.40 | \$123.94 | \$173.52 | 03/16/2006 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| HLL49B | 0.40 | \$126.00 | \$50.40 | 07/06/2006 | 25 | REVIEW CASE FILE |
| HLL49B | 0.10 | \$126.00 | \$12.60 | 07/06/2006 | 35 | TELEPHONE CALLS |
| HLL49B | 0.50 | \$126.00 | \$63.00 | 07/07/2006 | 35 | TELEPHONE CALLS |
| HLL49B | 0.60 | \$126.00 | \$75.60 | 07/07/2006 | 36 | PREPARATION OR REVISION OF LETTER |
| HLL49B | 0.20 | \$126.00 | \$25.20 | 07/10/2006 | 40 | PREPARATION OF OR REVISION OF A PLEADING |
| HLL49B | 0.50 | \$126.00 | \$63.00 | 07/10/2006 | 79 | STIPULATION |
| HLL49B | 0.30 | \$126.00 | \$37.80 | 07/10/2006 | 37 | REVIEW LETTER |

00921



Time Tracking Report
Itemized Cost by Complaint
Complaint 200570174

Report Date: 09/01/2006

| Staff Code | Activity Hours | Staff Rate | Cost | Activity Date | Activity Code | Activity Description |
|-------------------|----------------|------------|-----------------|---------------|---------------|--|
| HLL49B | 0.30 | \$126.00 | \$37.80 | 07/10/2006 | 41 | REVIEW PLEADING |
| HLL49B | 0.10 | \$126.00 | \$12.60 | 07/24/2006 | 35 | TELEPHONE CALLS |
| HLL36B | 0.40 | \$123.94 | \$49.58 | 07/28/2006 | 28 | PREPARE OR REVISE ADMINISTRATIVE COMPLAINT |
| Sub Total | 4.80 | | \$601.10 | | | |
| Total Cost | 11.10 | | \$988.41 | | | |

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2005-70174

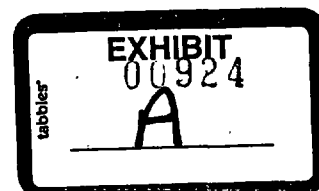
WILLIAM LABONTE, D.C.

RESPONDENT.

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, William Labonte, 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 order, Respondent was licensed to practice chiropractic medicine in the State of Florida, having been issued license number CH 7891 on or about January 26, 2000.
3. Respondent's address of record is 4 Pearl Drive, Suite 1,



Ormond Beach, Florida 32174.

4. Respondent ran advertisement in December 12, 2005 edition of the Daytona Beach News-Journal offering a free report about a space age discovery for the treatment of low back and disk pain. The advertisement failed to identify the Respondent as a chiropractic physician.

5. When members of the public responded to the advertisement, they were mailed a letter requesting that they make an appointment with the Respondent. The response letter also made many claims concerning the DRX/9000 Spinal Decompression System which overstated the potential benefits of the DRX/9000 system to prospective patients. For instance, among other things, the letter stated that the Respondent "wants to give you the DRX 9000 experience before it's too late, before . . . you loose your career . . . become a statistic . . . end up in a wheel chair."

COUNT ONE

6. Petitioner re-alleges and incorporates paragraphs one (1) through five (5) as if fully set forth herein.

7. Section 460.413(1)(e), Florida Statutes (2005), provides that a practitioner is subject to discipline for when a practitioner causes to be advertised, by any means whatsoever, any advertisement which does not

contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

8. Respondent failed to identify himself as a chiropractic physician in his newspaper advertisement placed in the December 12, 2005 edition of the Daytona Beach New-Journal.

9. Based on the foregoing, Respondent has violated Section 460.413(1)(e), Florida Statutes (2005), by causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

COUNT TWO

10. Petitioner re-alleges and incorporates paragraphs one (1) through five (5) as if fully set forth herein.

00926

11. Section 460.413(1)(d), Florida Statutes (2005), provides that false, deceptive or misleading advertising is grounds for disciplinary action by the Board of Chiropractic Medicine.

12. Rule 64B2-15.001(2)(c), Florida Administrative Code (F.A.C.), provides that any advertisement or advertising shall be deemed by the Board to be fraudulent, false, deceptive, or misleading if it: "Creates false, or unjustified expectations of beneficial treatment or successful cures."

13. By advertising that without treatment from the DRX 9000 patients could lose their careers, become a surgical statistic, and end up in wheel chair," Respondent caused to be disseminated advertising which creates a false, or justified expectations of beneficial treatment or successful cures.

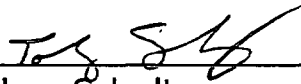
14. Based on the foregoing, Respondent has violated Section 460.413(1)(d), Florida Statutes (2005), through a violation of Rule 64B2-15.001(2)(c), F.A.C., by fraudulent, false, deceptive or misleading advertising.

WHEREFORE, the Petitioner respectfully requests that the Board of Chiropractic Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license,

restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 3rd day of August, 2006.

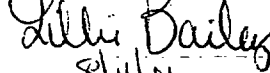
M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health



Tobey Schultz
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399
Florida Bar # 0542131
(850) 245-4640 ext. 8176

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: 
DATE: 8/4/06

PCP: 7/27/06 Dougherty & Jenkins

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.

ELECTION OF RIGHTS

DOH v. William LaBonte, D.C.

Case No. 2005-70174

PLEASE SELECT ONLY 1 OF THE 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. [X] I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. [] I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3. [] I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

In addition to the above selection, I also elect the following:

- () I accept the terms of the Settlement Stipulation, and I have signed and am returning the Settlement Stipulation or I am interested in settling this case.
[X] I do not accept the terms of the settlement agreement, but am interested in settling the case.
() I do not wish to continue practicing, and I have signed and returned the voluntary relinquishment of licensure form, if it has been provided.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action... Mediation under Section 120.573, Florida Statutes, is not available in this matter.

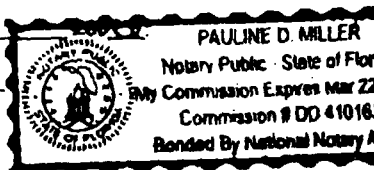
(Please sign and complete all the information below.)

Respondent's signature: [Handwritten Signature]
Address: 4 Pearl Drive Suite 111
Diamond Beach, FL 32174
Lic No. CH 7891
Phone No 386-677-2522
Fax No 386-677-9025

STATE OF FLORIDA
COUNTY OF Volusia

Before me, personally appeared William LaBonte whose identity is known to me by driver's license (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 30 day of August
Pauline D. Miller
Notary Public - State of Florida
Type or Print Name: Pauline D Miller
March 22, 2009
My Commission Expires



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Tobey Schultz, Esquire, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin# C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4640, FAX (850) 245-4681.

Prosecution Services Unit - 4052 Bald Cypress Way, Bin # C-65 - Tallahassee, FL 32399-3265
Phone (850) 245-4640 Fax (850) 245-4681

EXHIBIT B
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