BEFORE THE STATE OF ARIZONA BOARD OF CHIROPRACTIC EXAMINERS

1	BOARD OF CHIROPRACTIC EXAMINERS	
2	In the Matter of:) Case Nos.: 2018-013 and 2018-016
3)
4	Troy D. Scheible, D.C.	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF
5	Holder of License No. 5432	REVOCATION
6	For the Practice of Chiropractic In the State of Arizona))
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	INTRODUCTION On January 23, 2019, the State of Arizona Board of Chiropractic Examiners ("Board")	
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10	convened to hold an Administrative Hearing. Assistant Attorney General Mona Baskin	
11	represented the State. Respondent did not appear and was not represented by legal counsel.	
12	Assistant Attorney General Marc Harris, of the Licensing and Enforcement Section of the	
13	Attorney General's Office, appeared in person to provide independent legal advice to the Board	
14	At issue was the State's Motion to Deem Allegations Admitted regarding the Complaint and	
	Notice of Hearing in this matter and the imposition of the appropriate disciplinary action(s)	
15	pursuant to A.R.S. § 32-924. The Board, after considering the State's Motion, granted the	
16	Motion to Deem the Allegations Admitted and issued the following Findings of Fact,	
17	Conclusions of Law and Order:	
18	<u>PARTIES</u>	
19	1. The State of Arizona Board of C	Chiropractic Examiners ("Board") is the agency
20	responsible for licensing and regulating the practice of chiropractic in the State of Arizona.	
21	2. Troy D. Scheible ("Respondent"	") holds License No. 5432, for the practice of
22	chiropractic in the State of Arizona, which was placed on Administrative Suspension as of	
23	January 1, 2018, for nonrenewal.	
24	FINDINGS OF FACT	
25	Case # 2018-013	
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- 1. Respondent provided chiropractic services to patient SH on May 3, 2017, and beginning the following morning she experienced right-sided neck pain.
 - 2. On May 10, 2017, SH returned to Respondent to address her pain.
- 3. SH's pain persisted through May 11, 2017, accompanied by dizziness and numbness in her right arm and hand, and nausea.
 - 4. SH visited the ER that day and was diagnosed with right-sided arterial dissection.
- 5. On May 31, 2017, SH requested that Respondent provide her copies of her medical records, and she made several verbal and written follow up requests thereafter.
- 6. On August 24, 2017, the Board notified Respondent of SH's complaint and requested a response. The Board also issued a subpoena to Respondent for SH's medical records. Staff confirmed delivery of this notification to Respondent.
- 7. As of December 4, 2018, Respondent has not responded to SH's complaint or the Board's subpoena, nor has he provided SH with copies of her medical records.

Case # 2018-016

- 8. Respondent provided chiropractic services to patient AT in or around August 2016 through January 2017.
 - 9. At the conclusion of her treatment, AT requested copies of her medical records.
- 10. Respondent did not provide AT with copies of her medical records pursuant to her request, or after she had subpoenaed the records, had a court determine that Respondent was in contempt of court for not providing the records, and having that same court threaten Respondent with arrest.
- 11. While under the threat of arrest for contempt, Respondent provided some records in October, 2017, approximately ten months after AT's request, but the records were incomplete and reflected billing irregularities including billing for treatments that Respondent did not provide.

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- 12. In September 2017, Board staff mailed a copy of AT's complaint to Respondent and confirmed receipt at his address of record. The Board also issued a subpoena to Respondent for AT's records.
- 13. In early 2018, Respondent inquired with the Board about the status of his license and staff reminded him of SH's & AT's complaint. Respondent requested that staff email him duplicate copies of the complaint, which occurred, but as of December 4, 2018, Respondent still did not respond.

CONCLUSIONS OF LAW

- 1. The conduct and circumstances described in the above Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. § 32-924(A)(5) ("Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit profession."), defined A.A.C. the as those terms are in R4-7-902(5) ("Failing to create an adequate patient record that includes the patient's health history, clinical impression, examination findings, diagnostic results, x-ray films if taken, x-ray reports, treatment plan, notes for each patient visit, and a billing record. The notes for each patient visit shall include the patient's name, the date of service, the chiropractic physician's findings, all services rendered, and the name or initials of the chiropractic physician who provided services to the patient."). The conduct and circumstances described above in the Findings of Fact constitute a violation of these rules. Respondent's actions, described above, could provide the Board with sufficient factual basis to suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).
- 2. The conduct and circumstances described in the above Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. § 32-924(A)(5) ("Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession."), as those terms are defined in A.A.C. R4-7-902(7) ("Failing to: a. Release a copy of all requested patient records under subsection (5), including the original or diagnostic physician,

the patient, or the authorized agent of the patient, within 10 business days of the receipt of a written request to do so. b. Release a copy of any specified portion or all of a patient's billing record to the patient or the authorized agent of the patient, within 10 business days of the receipt of a written request to do so. c. In the case of a patient or a patient's authorized agent who has verbally requested the patient record: i. Provide the patient record, or ii. Inform the patient or patient's authorized agent that the record must be provided if a written request is made under subsection (7)(a) or (b)."). Respondent's actions, described above, could provide the Board with sufficient factual basis to suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).

- 3. The conduct and circumstances described in the above Findings of Fact constitute grounds for discipline pursuant to A.R.S. § 32-924(A)(5) ("Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession.") as it relates to A.A.C. R4-7-902(14) ("Failing to timely comply with a board subpoena pursuant to A.R.S. § 32-929 that authorizes Board personnel to have access to any document, report, or record maintained by the chiropractic physician relating to the chiropractic physician's practice or professional activities."). Respondent's actions, described above, could provide the Board with sufficient factual basis to suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).
- 4. The conduct and circumstances described in the above Findings of Fact constitute grounds for discipline pursuant to A.R.S. § 32-924(A)(5) ("Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession.") as it relates to A.A.C. R4-7-902(28) ("Providing substandard care due to an intentional or negligent act or failure to act regardless of whether actual injury to the patient is established."). Respondent's actions, described above, could provide the Board with sufficient factual basis to suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).

- 5. The conduct and circumstances described in the above Findings of Fact constitute grounds for discipline pursuant to A.R.S. § 32-924(A)(15) ("Any conduct or practice contrary to recognized standards in chiropractic or any conduct or practice that constitutes a danger to the health, welfare or safety of the patient or the public or any conduct, practice or condition that impairs the ability of the licensee to safely and skillfully practice chiropractic."). Respondent's actions, described above, could provide the Board with sufficient factual basis to suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).
- 6. The conduct and circumstances described in the above Findings of Fact constitute grounds for discipline pursuant to A.R.S. § 32-924(A)(22) ("Billing or otherwise charging a patient or third-party payor for services, appliances, tests, equipment, an x-ray examination or other procedures not actually provided."). Respondent's actions, described above, could provide the Board with sufficient factual basis to suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).
- 7. The conduct and circumstances described in the above Findings of Fact constitute grounds for discipline pursuant to A.R.S. § 32-924(A)(23) ("Intentionally misrepresenting to or omitting a material fact from the patient or third-party payor concerning charges, services, appliances, tests, equipment, an x-ray examination or other procedures offered or provided."). Respondent's actions, described above, could provide the Board with sufficient factual basis to suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).

ORDER

Based upon the above Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED:**

1. Chiropractic License No. **5432**, issued to Respondent to practice chiropractic in the State of Arizona is **Revoked.**

- 2. Within **90 days** of the effective date of this order, Respondent shall return to the Board the license no. **5432** to the Board issued to the Respondent on August 29, 1995.
- 3. Within **90 days** of the effective date of this order, Respondent shall return to the Board the Physical Medicine Modalities & Therapeutic Procedures certificate no. **3101** issued to the Respondent on August 29, 1995.
- 4. Within **90 days** of the effective date of this order, Respondent shall **reimburse** the Board for the cost of the investigation and formal hearing in the amount of **\$1,897.56**.

NOTICE: This Order constitutes a formal decision and order of the Board. If the Respondent desires to challenge the Order, Respondent shall file a written motion for rehearing with the Board's Executive Director within thirty (30) days after service of the Order. Service of the Order is effective five days after the date of mailing to Respondent. Under A.A.C. R4-7-305 (C), the motion for rehearing must state with specificity the grounds for rehearing. Failure to file a motion for rehearing or review has the effect of prohibiting judicial review of the Board's Order, according to A.R.S. § 41-1092.09 (B) and A.R.S. § 12-904 et seq.