

1 **BEFORE THE STATE OF ARIZONA**
2 **BOARD OF CHIROPRACTIC EXAMINERS**

3 In the Matter of:) Case No.: 2016-047
4 Mack Family Chiropractic)
5 Holder of a Chiropractic Business Entity) **CONSENT AGREEMENT AND**
6 Registration No. 2015015-BE) **FINDINGS OF FACT, CONCLUSIONS**
7 In the State of Arizona) **OF LAW AND ORDER FOR**
) **VOLUNTARY SURRENDER**

8 **CONSENT AGREEMENT**

9 **RECITALS**

10
11 In the interest of a prompt and judicious settlement of the above-captioned matter before
12 the Arizona Board of Chiropractic Examiners (“Board”) and consistent with the public interest,
13 statutory requirements and responsibilities of the Board and pursuant to A.R.S. § 41-1092.07
14 (F)(5) and A.R.S. § 32-924 *et seq.*, Mack Family Chiropractic, with owner Clifton G. Mack,
15 (“Respondent”), holder of Chiropractic Business Entity Registration No. 2015015-BE in the
16 State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions
17 of Law and Order (Consent Agreement) as the final disposition of this matter.
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19 1. Respondent has read and understands this Consent Agreement as set forth herein, and
20 has had the opportunity to discuss this Consent Agreement with an attorney or has waived the
21 opportunity. Respondent voluntarily enters into this Consent Agreement for the purpose of
22 avoiding the expense and uncertainty of an administrative hearing.
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24 2. Respondent understands that the entity has a right to a public administrative hearing
25 concerning each and every allegation set forth in the above-captioned matter, at which
26 administrative hearing he could present evidence and cross-examine witnesses. By entering into
27 this Consent Agreement, Respondent freely and voluntarily relinquishes all rights to such an
28 administrative hearing, as well as all rights of rehearing, review, reconsideration, appeal, judicial

1 review or any other administrative and/or judicial action, concerning the matters set forth herein.

2 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

3
4 3. Respondent agrees that the Board may adopt this Consent Agreement or any part of
5 this agreement, under A.R.S. § 32-924. Respondent understands that the Board may consider
6 this Consent Agreement or any part of it in any future disciplinary action against him.

7 4. Respondent understands that this Consent Agreement does not constitute a dismissal
8 or resolution of other matters currently pending before the Board, *if any*, and does not constitute
9 any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
10 other pending or future investigation, action or proceeding. Respondent also understands that
11 acceptance of the Consent Agreement does not preclude any other agency, subdivision or officer
12 of this state from instituting other civil or criminal proceedings with respect to the conduct that
13 is the subject of this Consent Agreement.

14 5. All admissions Respondent makes in this Consent Agreement are made solely for the
15 final disposition of this matter, and any related administrative proceedings or civil litigation
16 involving the Board and Respondent. This Consent Agreement is not to be used for any other
17 regulatory agency proceedings, or civil or criminal proceedings, whether in the State of Arizona
18 or any other state or federal court, except related to the enforcement of the Consent Agreement
19 itself.

20 6. By agreeing to allow the Board to impose the discipline ordered herein, Respondent
21 acknowledges that the Board has evidence from which it could impose discipline under A.R.S.
22 § 32-924 (G).

23 7. Respondent acknowledges and agrees that, upon signing this Consent Agreement and
24 returning this document to the Board, Respondent may not revoke his acceptance of the Consent
25 Agreement or make any modifications to the document. Any modification to this original
26 document is ineffective and void unless mutually approved by the parties in writing.
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1 8. Respondent understands that the foregoing Consent Agreement shall not become
2 effective unless and until the Board adopts it and the Chairperson signs it.
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4 9. Respondent understands and agrees that if the Board does not adopt this Consent
5 Agreement, he will not assert as a defense that the Board's consideration of it constitutes bias,
6 prejudice, prejudgment or other similar defense in any future disciplinary action.

7 10. Respondent understands that this Consent Agreement is a public record of a
8 disciplinary action that may be publicly disseminated as a formal action of the Board, and shall
9 be reported as required by law to the National Practitioner Data Bank.

10 11. Respondent understands that any violation of this Consent Agreement constitutes
11 unprofessional conduct pursuant to A.R.S. § 32-924 (A) (16), "Violating or attempting to violate,
12 directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of
13 the provisions of this chapter or any Board order," and may result in disciplinary action pursuant
14 to A.R.S. § 32-914.
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16
17 7-10-2017

18 DATED

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Mack Family Chiropractic
Clifton G. Mack, Owner
Respondent

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the
practice of chiropractic in the State of Arizona.

2. The Board issued Orders, incorporated by reference herein, for case numbers 2013-
016; 2009-074; and 2012-050 on or about May 18, 2007 and November 15, 2010, respectively.

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AZ BOARD OF
CHIROPRACTIC EXAMINERS

1 3. On or about March 26, 2014, Chiropractic License No. 6098, issued to Respondent to
2 practice chiropractic in the State of Arizona was revoked by the State of Arizona Board of
3 Chiropractic Examiners order # 2013-016; 2009-074; and 2012-050.
4

5 4. On or about December 2, 2014, the Board received a business entity application from
6 Mack Family Chiropractic, listing Clifton G. Mack as the Owner/Officer/Director (Respondent).
7 The application listed two Arizona licensed chiropractors, CM, D.C. and RD, D.C., as those
8 authorized to provide chiropractic services for the business entity. At the December 19, 2014
9 Board meeting, the Board approved Respondent's application. The Board advised Respondent
10 in writing that in accordance with A.R.S. § 32-934 (D), Respondent was required to notify the
11 Board of any changes, including doctors of chiropractic, authorized to provide services, within
12 30 days of the change.
13

14 5. On or about June 1, 2015, Respondent submitted a verified renewal business entity
15 application, indicating there were no changes to the chiropractic physicians registered for the
16 business entity.
17

18 6. On or about April 29, 2016, Respondent submitted a verified renewal business entity
19 application, indicating the addition of another chiropractic physician, MM, D.C., registered for
20 the business entity. Respondent retained CM, D.C. and RD, D.C., as chiropractic physicians
21 registered with Mack Family Chiropractic.

22 7. On March 16, 2016, Clifton G. Mack submitted an application for licensure. On June
23 15, 2016, the Board denied Clifton Mack's application for chiropractic licensure citing multiple
24 instances of unprofessional conduct including A.R.S. § 32-921(C)(2), A.R.S. § 32-921(C)(3),
25 A.R.S. § 32- 921(C)(5), A.R.S. §32-924(A)(5), A.R.S. § 32-924(A)(16), A.A.C. R4-7-902(5),
26 A.A.C. R4-7-902(13)(C) and A.A.C. R4-7-902(13)(E). The Board based its denial on multiple
27 factors including his disciplinary history with the Board and a complaint received from Banner
28 Health which, following an investigation revealed multiple instances of improper billing.

1 Applicant had been previously licensed with the Board and had a disciplinary history resulting
2 in the March 26, 2014, revocation of his chiropractic license, in Case No. 2013-016.
3
4 Additionally, Respondent improperly billed Banner Health for services provided by a
5 chiropractor, CM, D.C., after the chiropractor had left the practice, and improperly submitted
6 claims electronically signed by: “Clifton Guy Mack, D.C.” after the revocation of his
7 chiropractic license.

8 8. On or about May 10, 2016, Banner Health filed a complaint with the Board against
9 Respondent alleging that over multiple years Respondent engaged in improper billing by billing
10 for another chiropractic provider after the chiropractor no longer was providing services, and
11 billing as a chiropractic provider on a revoked license.

12 9. Banner Health conducted an in-depth audit of Respondent’s patient files, which
13 revealed significant documentation and billing deficiencies. The Banner and Board
14 investigations included a review of chiropractic records and billing records for Patient MB,
15 Patient NC, Patient SD, Patient ML, Patient AT, and Patient TL. The investigation revealed
16 documentation and billing irregularities that included: billing for CM, D.C. after he had left the
17 practice; discrepancies in the provider name in the patient notes that did not match the submitted
18 claim; electronic patient notes containing the electronic signature, “Clifton Guy Mack, D.C.”
19 after his chiropractic license had been revoked; patient electronic medical record lacking a
20 provider signature; hand written SOAP notes lacking a signature or the signature/initials were
21 illegible; billing claim records lacking a corresponding treatment record; and subsequent claims
22 submitted by Respondent that failed to correct original billing errors.

23
24 10. Included in the Banner Health complaint was an August 1, 2015, letter from CM,
25 D.C. advising Banner that he had been employed by Respondent, but “no longer work[ed] for
26 Mack Chiro.” CM, D.C. stated that Respondent billed for patients in his name after he had ceased
27 employment. The Banner and the Board investigations revealed that Respondent continued to
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1 bill for CM, D.C. as a chiropractor provider after he had left Respondent's chiropractic practice
2 as of July 1, 2015. Respondent admitted that bills were submitted to Banner for CM, D.C., after
3 he had left the practice. After CM, D.C. left the practice Respondent failed to notify the Board
4 as required by A.R.S. § 32-934(D) (3). Respondent listed CM, D.C. on his business entity
5 renewal application received by the Board on April 29, 2016, after the chiropractic physician
6 ceased employment and association with Respondent. Additionally, the Board's investigation
7 revealed that Respondent failed to provide notification pursuant to A.R.S. § 32-934 (D) (3), that
8 Dr. F, D.C. provided chiropractic services at Mack Family Chiropractic.
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10 11. The Board's investigation noted that from the date Respondent's license was revoked
11 through October 16, 2015; Respondent submitted approximately 1,645 individual claims, totally
12 approximately \$206,935 in charges, under the provider name of Clifton Mack, D.C. and his
13 chiropractic NPI number. The name included on the electronic signature on the patient record
14 sent by Banner indicates, "Electronically Signed By: Clifton Guy Mack, D.C." The Board's
15 investigation also concluded that the owner, Clifton Mack, acting on behalf of Respondent,
16 altered patient records as evidenced by the significantly different handwritten patient records
17 compared to the electronically created patient records bearing the electronic signature of Clifton
18 Guy Mack, D.C., after the revocation of his chiropractic license.
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20 12. On August 30, 2016, a chiropractor expert consultant ("consultant") provided an
21 independent evaluation of the investigative patient treatment and billing records from the office
22 of Mack Family Chiropractic, Respondent, based on the May 10, 2016, complaint from Banner
23 Health alleging billing and documentation irregularities. The consultant identified multiple
24 irregularities in Respondent's billing and documentation, and determined that Respondent billed
25 for services under CM, D.C.'s name after he ceased employment with Respondent.
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27 13. The consultant identified that Owner Clifton Mack, on behalf of Respondent, created
28 and signed his name using the initials D.C., on numerous typed office notes for patient

1 encounters after the date his license was revoked. The consultant noted that the typed office notes
2 were significantly different than the handwritten office notes on each date of service. The
3 differences included clinically significant information including subjective complaints, objective
4 findings, assessment/diagnoses, and treatment plans. Additionally, in at least one case Clifton
5 Mack interviewed a patient regarding her current history and clinical status. Adding clinically
6 significant information to an office note is under the purview of a licensed doctor of chiropractic.
7 Owner, Clifton Mack admitted that he created the typed SOAP notes from the handwritten notes
8 using a computer program designed for that purpose and in an attempt to produce them in a better
9 form.
10

11 14. The consultant and Board investigation also noted that Respondent submitted CMS
12 1500 claim forms using Clifton Mack’s revoked chiropractic provider number. The patient and
13 billing records do not clearly designate the treating chiropractic physician and multiple CMS
14 1500 claim forms for identical dates of service were submitted with different chiropractic
15 providers.
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17 15. The consultant and Board investigation also concluded that Respondent submitted
18 improper billing for time-based procedures, specifically soft tissue manipulation, CPT# 97140-
19 59-52. The billing standard is that it is inappropriate to bill separately for manual therapy
20 techniques applied to the same spinal regions as CMT. Respondent’s billing is consistent with
21 “unbundling,” which refers to the practice of submitting for reimbursement separate CPT codes
22 for a variety of tasks rather than one CPT code which recognizes all of the tasks as one.
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24 16. The consultant and Board investigation also determined that Respondent’s patient
25 and billing records contain deficiencies, including failure to designate the treating physician,
26 discrepancies regarding treating physicians and dates of service. The consultant noted that,
27 “Based on the uncertainty of physician signatures and multiple CMS 1500 claim forms for
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1 identical dates of service containing ID#s and names of different physicians then the adequacy
2 of the billing records of any of the treating physicians cannot be established.”
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4 17. On or about June 23, 2017, Respondent through his attorney stated that he was
5 attempting to sell the practice and wished to resolve the complaint at this time.

6 **CONCLUSIONS OF LAW**

7 1. The conduct and circumstances described above in paragraph 3 in the Findings of
8 Fact could constitute grounds for denial of licensure pursuant to A.R.S. § 32-921 (C) (2)
9 specifically, “The Board may refuse to give an examination or may deny licensure to a
10 Respondent who: 2. Has had a license to practice chiropractic refused, revoked, suspended or
11 restricted by a regulatory Board in this or any other jurisdiction for any act that constitutes
12 unprofessional conduct pursuant to this chapter.”
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14 2. The conduct and circumstances described above in paragraphs 3-16 in the Findings of
15 Fact constitute a violation of A.R.S. § 32-924(A) (5), “Unprofessional or dishonorable conduct
16 of a character likely to deceive or defraud the public or tending to discredit the profession.”
17 Respondent’s actions, described above, provides the Board with sufficient factual basis to
18 suspend or revoke Respondent’s chiropractic license pursuant to A.R.S. § 32-924(G).

19 3. The conduct and circumstances described above in paragraphs 3-16 in the Findings
20 of Fact constitute a violation of A.R.S. § 32-924(A) (16), “Violating or attempting to violate,
21 directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of
22 the provisions of this chapter or any board order.” Respondent’s actions, described above,
23 provides the Board with sufficient factual basis to suspend or revoke Respondent’s chiropractic
24 license pursuant to A.R.S. § 32-924(G).
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26 4. The conduct and circumstances described above in paragraphs 3-16 in the Findings
27 of Fact constitute a violation of A.R.S. § 32-924(A) (15), “Any conduct or practice contrary to
28 recognized standards in chiropractic or any conduct or practice that constitutes a danger to the

1 health, welfare or safety of the patient or the public or any conduct, practice or condition that
2 impairs the ability of the licensee to safely and skillfully practice chiropractic.” Respondent’s
3 actions, described above, provides the Board with sufficient factual basis to suspend or revoke
4 Respondent’s chiropractic license pursuant to A.R.S. § 32-924(G).
5

6 **ORDER**

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


9 1. Business Entity Registration No. 2015015-BE, issued to Respondent to own a
10 chiropractic practice in the State of Arizona, shall be deemed VOLUNTARILY
11 SURRENDERED within 60 days of the adoption of this Consent Agreement by the Board, and
12 Respondent shall return the ornamental registration certificate to the Board within 120 days.
13 A.R.S. § 32-924(K).
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15 2. Respondent shall not apply for licensure or registration in the State of Arizona for one
16 (1) year.
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1 **DATED AND EFFECTIVE** this 19th of July, 2017

2 STATE OF ARIZONA BOARD OF
3 CHIROPRACTIC EXAMINERS

4 [S E A L]

5 By 
6 James Badge, D.C., Chair
7 State of Arizona Board of
8 Chiropractic Examiners

9 **Original** of the foregoing filed this
10 19th of July, 2017 with:

11 State of Arizona Board of Chiropractic Examiners
12 1951 West Camelback Road, Suite 330
13 Phoenix, AZ 85015

14 **Executed Copy** of the foregoing mailed by
15 U.S. Certified mail (Return receipt requested)

16 This 19th of July, 2017
17 Certificate No.

18 Clifton G. Mack, Owner
19 6028 E. Presidio St.
20 Mesa, AZ 85215

21 **Respondent**

22 Keith R. Lalliss
23 PO Box 697
24 Mesa, Arizona 85211-0697

25 **Attorney for the Respondent**

26 Sent electronically to:
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28 Assistant Attorney General
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