

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

3 In the Matter of:) Case No.: 2018-036
4)
5 Samuel William Rodriquez) **CONSENT AGREEMENT AND**
6) **FINDINGS OF FACT, CONCLUSIONS**
7) **OF LAW AND ORDER FOR ISSUANCE**
8) **OF LICENSE WITH SUSPENSION &**
9) **PROBATION**
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8 **CONSENT AGREEMENT**

9 **RECITALS**

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11 In the interest of a prompt and judicious settlement of the above-captioned matter
12 before the Arizona Board of Chiropractic Examiners (“Board”) and consistent with the
13 public interest, statutory requirements and responsibilities of the Board and pursuant to
14 A.R.S. § 41-1092.07(F)(5) and A.R.S. § 32-924 *et seq.*, Samuel William Rodriquez,
15 (“Applicant”), Applicant for licensure to practice chiropractic in the State of Arizona,
16 and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law
17 and Order (Consent Agreement) as the final disposition of this matter.

18 1. Applicant has read and understands this Consent Agreement as set forth
19 herein, and has had the opportunity to discuss this Consent Agreement with an attorney
20 or has waived the opportunity. Applicant voluntarily enters into this Consent Agreement
21 for the purpose of avoiding the expense and uncertainty of an administrative hearing.

22 2. Applicant understands that he has a right to a public administrative hearing
23 concerning each and every allegation set forth in the above-captioned matter, at which
24 administrative hearing he could present evidence and cross-examine witnesses. By
25 entering into this Consent Agreement, Applicant freely and voluntarily relinquishes all
26 rights to such an administrative hearing, as well as all rights of rehearing, review,
27 reconsideration, appeal, judicial review or any other administrative and/or judicial
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1 action, concerning the matters set forth herein. Applicant affirmatively agrees that this
2 Consent Agreement shall be irrevocable.

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

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

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

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

24 7. Applicant acknowledges and agrees that, upon signing this Consent
25 Agreement and returning this document to the Board, Applicant may not revoke his
26 acceptance of the Consent Agreement or make any modifications to the document. Any
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1 modification to this original document is ineffective and void unless mutually approved
2 by the parties in writing.


3 8. Applicant understands that the foregoing Consent Agreement shall not
4 become effective unless and until the Board adopts it and the Chairperson signs it.

5 9. Applicant understands and agrees that if the Board does not adopt this
6 Consent Agreement, he will not assert as a defense that the Board's consideration of it
7 constitutes bias, prejudice, prejudgment or other similar defense in any future
8 disciplinary action.

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

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

17
18 1/22/18
19 DATED /

20 
21 Samuel William Rodriquez
22 Applicant

23 **FINDINGS OF FACT**

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

26 2. The Board received Applicant's completed application on or about
27 September 19, 2017.

28 3. Applicant responded in the affirmative to the following questions: "Have
you ever been arrested? Have you entered into a stipulation or settlement agreement

1 regarding any offense, misdemeanor, or felony? Have you ever been convicted of any
2 offense, misdemeanor, or felony in any state? Have you ever pled guilty to any offense,
3 misdemeanor, or felony in any state? Have you ever pled nolo contendere to any offense,
4 misdemeanor, or felony in any state?"

5 4. The Applicant disclosed that he had been convicted on four separate
6 occasions of Driving Under the Influence between November 1996 and October 2009.

7 5. On or about November 1996, applicant pled guilty to Driving Under the
8 Influence, in Payson, Arizona. Applicant was a minor at the time of the arrest.

9 6. On or about July 1999, applicant pled guilty to Driving Under the
10 Influence, in Mesa, Arizona.

11 7. On or about April 2001, applicant pled guilty to Felony Aggravated
12 Driving Under the Influence, in Chandler, Arizona.

13 8. On or about April 2009, applicant pled guilty to Driving Under the Influence,
14 in Tempe, Arizona.

15 **CONCLUSIONS OF LAW**

16 1. The conduct and circumstances described above in paragraphs 4-8 in the
17 Findings of Fact could constitute grounds for denial of licensure pursuant to A.R.S. §
18 32-921(C)(1) ("The Board may . . . deny licensure to an applicant who: 1. Fails to qualify
19 for examination or licensure under subsection B of this section."). Subsection B(1)
20 requires that an applicant "[b]e a person of good character and repute," and subsection
21 B(3) requires that a licensee "be physically and mentally able to practice chiropractic
22 skillfully and safely."

23 2. The conduct and circumstances described above in paragraphs 4-8 in the
24 Findings of Fact could constitute grounds for denial of licensure pursuant to A.R.S. §
25 32-921(C)(5) ("The Board may . . . deny licensure to an applicant who: 5. Has been
26 convicted of criminal conduct that constitutes grounds for disciplinary action pursuant
27 to section 32-924 or Board rules.").
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1 The conduct and circumstances described above in paragraphs 4-8 in the Findings of
2 Fact could constitute grounds for disciplinary action pursuant to A.R.S. § 32-924(A)(5)
3 (“Unprofessional or dishonorable conduct of a character likely to deceive or defraud the
4 public or tending to discredit the profession.”), as those terms are defined in A.A.C. R4-
5 7-902(32) (“Committing a felony, whether or not involving moral turpitude, or a
6 misdemeanor involving moral turpitude. Conviction by a court of competent jurisdiction
7 or a plea of not contest is conclusive evidence of the commission.”) and A.A.C. R4-7-
8 902(36) (“Violating any federal or state statute, rule, or regulation applicable to the
9 practice of chiropractic.”).

10
11 4. The conduct and circumstances described above in paragraphs 4-8 in the
12 Findings of Fact could constitute grounds for disciplinary action pursuant to A.R.S. §
13 32-924(A)(6) (“Conviction of a misdemeanor involving moral turpitude or of a
14 felony.”).

ORDER

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

1. Suspension

17
18 Upon signature by the Applicant, payment of the issuance fee, approval and
19 signature by the Board of this Consent Agreement, Applicant shall be issued a license
20 to practice chiropractic in the State of Arizona under a term **SUSPENSION** for a
21 minimum period of **six (6) months**. Applicant shall petition in writing and appear before
22 the Board to request that the Board lift the suspension.

a. Substance Abuse Evaluation

23
24 During the period of suspension and as is detailed below, Applicant shall
25 obtain a substance abuse evaluation from a Board approved evaluator, who must be
26 either an Arizona licensed psychologist or addictionologist (“Board approved
27 evaluator”) specializing in the area of substance abuse. Applicant shall, **within forty-**
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1 **five (45) calendar days** of the effective date of the Order, obtain and schedule an
2 appointment with a Board approved evaluator to obtain the evaluation to evaluate his
3 mental health, substance abuse, fitness for duty, and safety to practice with
4 recommendations. Before the appointment, Applicant shall inform the Board in writing,
5 **no later than forty-eight (48) hours**, the name of the Board approved evaluator and the
6 date/time of the appointment.

7 Applicant shall obtain the evaluation within **one hundred and fifty (150) days**
8 of the effective date of the Order and shall cause the Board approved evaluator to provide
9 a copy of the evaluation to the Board. Applicant shall execute all releases to the Board
10 approved evaluator to comply with this Order.

11 The Board shall review the substance abuse evaluation and shall amend this Order
12 based upon the recommendations of the Board approved evaluator. Applicant shall fully
13 cooperate and comply with the Evaluator's recommendations and shall comply with all
14 amendments to the Order based upon those recommendations. Applicant may
15 petition the Board for early termination of the license suspension upon successful
16 completion of the substance abuse evaluation and successful completion/compliance
17 with all of the Board approved evaluator's recommendations, including but not limited
18 to continued suspension, treatment, biological fluid alcohol/drug screens, counseling,
19 continuing education, and Board monitoring. Applicant agrees that the early termination
20 of the suspension is within the sole discretion of the Board and that the Board may
21 continue the suspension beyond six months if Applicant does not request the Board to
22 lift the suspension or fails to comply with this Order, including any amendments.

23 Following the period of suspension, the Board reserves the right to continue the
24 recommendations of the Board approved evaluator and other rehabilitative measures it
25 deems necessary under a period of probation and subject to a practice limitation,
26 continuing education, independent monitoring, substance abuse monitoring including
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1 but not limited to continued treatment both in-patient and out-patient, alcohol education,
2 and random biological fluid alcohol/drug screens.

3 **b. Board-Approved Monitor**

4 During the period of suspension and as a condition of lifting the
5 suspension, Applicant shall enter into an agreement with a neutral and objective Board-
6 approved monitor and shall submit a copy of the agreement to Board staff. The Board-
7 approved monitor shall not be owned by or employ any person who a) is related to
8 Applicant by blood or marriage, b) has had a social or professional relationship with
9 Applicant before the execution of this Order, c) receives compensation of any nature
10 from Applicant or d) otherwise has a conflict-of-interest as determined by the Board.
11 The Board-approved monitor shall remain in place during Applicant's term of probation
12 and subject to the additional requirements set forth below.

13 **2. Probation**

14 Upon the Board lifting the suspension, Applicant's license shall be placed on
15 **PROBATION** for a period of **two (2) years**. The Board retains the right to modify the
16 length of the probation and its terms based upon the recommendation of the Board
17 approved substance abuse evaluator.

18 Unless the Board amends this Order based upon the evaluator's
19 recommendations, the terms and conditions of probation are as follows:

20 **a. Board-Approved Monitor**

21 The Board-approved monitor may submit recommendations to the Board
22 to be incorporated into the Order, and once said recommendations are adopted by the
23 Board, Applicant shall promptly comply with the Board approved recommendations
24 that the Board-approved monitor states in writing. If Applicant fails to implement the
25 approved recommendations of the Board-approved monitor within ten days, Applicant
26 may be found in violation of the Board Order.

27 Applicant shall cause the Board-approved monitor to send quarterly reports of
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1 Applicant's compliance with this Order and the Board-approved monitor's
2 recommendations to the Board.

3 If Applicant fails to contact and enter into an agreement with a Board-approved
4 monitor within thirty days from the effective date of this Order, the Board may
5 determine that Applicant has violated this Order and may take additional disciplinary
6 action.

7 **b. Abstain from Alcohol**

8 Applicant shall not consume any alcohol or any substances containing
9 alcohol and shall avoid all products containing alcohol duration the term of probation .
10 Applicant shall abstain completely from the personal use or possession of controlled
11 substances, as defined in the State Controlled Substances Act, and dangerous drugs as
12 defined by law, or any drugs requiring a prescription. This paragraph does apply to
13 medications that a healthcare provider lawfully prescribes to Applicant.
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15 **c. Random Screening**

16 Within **seven (7) days** of the Board lifting Applicant's suspension and
17 commencing the term of probation, Applicant shall enroll and at all times during the
18 term of probation remain enrolled in the Board approved third-party program for random
19 drug and alcohol testing. Testing may include testing of urine, hair, nail, saliva, or blood,
20 as determined by the Board or the Board's designee.

21 For random urine testing, Applicant shall submit a urine specimen a minimum of
22 twice per month for the duration of the Order. Applicant shall provide, in advance of
23 travel or unavailability, at least three (3) calendar days' written notice to the testing
24 program and to the Board's designee of any out-of-town travel or other unavailability to
25 test. All requests to be temporarily excused from testing must be approved in advance
26 by the Board or its designee. Within seven (7) days of a missed test due to an unexpected
27 illness, Applicant shall provide the Board or the Board's designee with written
28 documentation from a medical provider stating that the medical provider personally

1 examined Applicant on the day of the missed test and that Applicant was not physically
2 able to report to the laboratory for testing.

3 During the period of the Order, failing to submit to two or more random tests or
4 failing to submit to a test on a day when a test has been requested by the Board, its
5 designee, Applicant's healthcare employer, or the testing program will constitute
6 noncompliance with this Order and Applicant's license shall be automatically suspended
7 for at minimum twelve (12) months, NOT subject to further review.

8 A positive test showing evidence of any substance (alcohol or drug) other than
9 an authorized drug may result in Board staff notifying Applicant's employer. Any
10 occurrence of the following constitutes noncompliance with this Order, subject to further
11 review if contested in writing by Applicant: a positive test showing evidence of any
12 substance other than an authorized drug; submission of a specimen for which the
13 integrity has been compromised, as indicated by the presence of adulterants; or
14 submission of a urine sample that is below the acceptable volume or outside of the
15 temperature range to be tested. If Applicant contests the results, Applicant shall, within
16 five days of being notified of the noncompliance, submit a written request for further
17 review and Applicant's reason(s) for contesting the results. If contested, the alleged
18 noncompliance shall be investigated by Board staff and reviewed and substantiated by
19 the Board's designee, including a written verification attesting to the validity and
20 reliability of Applicant's testing results from the Toxicologist or Medical Review Officer
21 affiliated with the testing program or laboratory. If, after the investigation and review,
22 noncompliance is substantiated, Applicant's license shall automatically be suspended for
23 at minimum twelve (12) months, NOT subject to further review.

24 Failing to submit to a test on a day when a test has been requested by the Board,
25 its designee, a healthcare employer, or the testing program constitutes a violation of this
26 Agreement for which Applicant may not request further review/investigation by the
27 Board's designee. At any time during the term of this Order, if Applicant submits three
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1 or more dilute urine specimens the Board or Board's designee may direct Applicant to
2 cease practicing pending further determination by the Board or the Board's designee;
3 and Applicant shall not return to practice until receiving written authorization from the
4 Board or the Board's designee. The Board's designee may notify Applicant's employer
5 that Applicant is required to cease practice. If the Board or Board designee directs
6 Applicant to cease practice, Applicant may request, in writing, that the matter be placed
7 on the Board agenda for the Board to review and determine if the requirement to cease
8 practice should remain in place pending the completion of the investigation and final
9 review by the Board of the alleged noncompliance. If a written request for Board review
10 is received ten (10) or less business days before a regularly scheduled Board meeting,
11 the request may not be heard at that meeting, but will instead be heard at the next
12 regularly scheduled Board meeting.

13 **d. AA Meetings**

14 Applicant shall attend a minimum of one AA meeting per month for the
15 duration of the probation period. The frequency of attendance may be modified based on
16 the recommendation of the substance abuse evaluator. Applicant shall maintain a log of
17 the AA meetings attended and receive a signature from the meeting organizer of each
18 meeting. Once per month, Applicant shall provide a copy of his AA meeting signature
19 log to the Monitor.

20 **e. Termination of Probation**

21 Applicant shall petition the Board for termination of his probation
22 provided that he has complied with the above listed terms. Upon receiving Applicant's
23 petition, the Board shall have complete discretion to determine whether Applicant has
24 complied with all the required terms and conditions of the Order before granting the
25 petition. Applicant's failure to petition the Board to terminate his probation shall cause
26 the probationary term to continue until he petitions for termination.
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1 **3. General Provisions**

2 In the event that Applicant moves out of state or ceases to practice chiropractic
3 in Arizona, he shall notify the Board of these events in writing, within 20 days, and the
4 Board may stay the terms and conditions of his probation until Applicant returns to
5 practice chiropractic in Arizona.

6 Applicant shall bear all costs required to insure his compliance with this order to
7 include, but not limited to, the cost for the probation monitor, required continuing
8 education, and all audits/auditors.

9 Applicant shall meet all requirements to renew his license for each year that he
10 remains on probation and shall keep his license current by submitting a complete license
11 renewal application to the Board before January 1 for each year that he remains on
12 probation.

13 Applicant shall obey all federal, state and local laws and all rules governing the
14 practice of chiropractic in Arizona. The Board shall consider any violation of this
15 paragraph as a separate violation of the Chiropractic Practice Act.

16 The Board retains jurisdiction over Applicant and may take additional remedial
17 or disciplinary action against him if it determines that he has committed subsequent
18 violations of this order or of the chiropractic practice act. Applicant shall appear in
19 person before the Board to respond to questions or concerns regarding his compliance
20 with this order when requested.
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1 **DATED AND EFFECTIVE** this 22nd day of January, 2018.

2 STATE OF ARIZONA BOARD OF
3 CHIROPRACTIC EXAMINERS



By James Badge, D.C.

James Badge, D.C., Chair
State of Arizona Board of
Chiropractic Examiners

10 **Original** of the foregoing filed this
11 22nd day of January, 2018 with:
12 State of Arizona Board of Chiropractic Examiners
13 1740 West Adams Street, Suite 2430
14 Phoenix, Arizona 85007

15 **Executed Copy** of the foregoing sent electronically
16 This 22nd day of January, 2018 to:

17 Samuel William Rodriquez
18 3736 E. Wyatt Way
19 Gilbert, AZ 85297

20 **Applicant**

21 Sent electronically to:
22 Michael Raine
23 Assistant Attorney General
24 1275 W. Washington, CIV/LES
25 Phoenix, AZ 85007
26 Attorney for the State

27 Justin Bohall, Executive Director
28 Board Operations