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AZ BOARD OF CHIROPRACTIC EXAMINERS

BEFORE THE STATE OF ARIZONA
BOARD OF CHIROPRACTIC EXAMINERS

<p>In the Matter of:</p> <p>Wesley M. Bowman, D.C.</p> <p>Holder of License No.: 1070 For the Practice of Chiropractic In the State of Arizona</p> <p style="text-align: right;">Respondent</p>	<p>Case No. 2019-036</p> <p style="text-align: center;">CONSENT AGREEMENT AND FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR PROBATION</p>
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CONSENT AGREEMENT

RECITALS

In the interest of a prompt and judicious settlement of the above-captioned matter before the State of Arizona Board of Chiropractic Examiners ("Board") and consistent with the public interest, statutory requirements and responsibilities of the Board and pursuant to A.R.S. § 41-1092.07(F)(5) and A.R.S. § 32-924 *et seq.*, Wesley M. Bowman, D.C. ("Respondent"), holder of Chiropractic License No. 1070 to practice chiropractic in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law, and Order ("Consent Agreement") as the final disposition of this matter.

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

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

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

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

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

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

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

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

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

10. Respondent understands that this Consent Agreement is a public record that may

1 be publicly disseminated as a formal action of the Board, and may be reported as required by
2 law to the National Practitioner Data Bank.

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

8 8/27/19
9 **DATED**


10 **Name, D.C.**
11 **Respondent**

12 **Approved As To Form:**


13 **David Morrison, Esq.**
14 **Attorney for the Respondent**

15 **FINDINGS OF FACT**

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

18 2. Respondent is the holder of Arizona Chiropractic License No. 1070.

19 3. On or about April 17, 2019 the Board received a complaint alleging Dr.
20 Bowman with inappropriate physical contact during an examination of patient TC.

21 4. The Board initiated an investigation into the complaint and assigned it case
22 number 2019-036.

23 5. TC alleged that during Respondent's examination of her he exposed and touched
24 her hips and buttocks in a way that made her feel uncomfortable, and that he lifted her shirt and
25 unhooked her bra without her consent.

26 6. Respondent denies the allegations in TC's complaint but admits that he failed to
adequately communicate with TC during the examination which may have resulted in TC
perceiving conduct during the examination to be inappropriate.

7. On August 28, 2019, the Board reviewed TC's complaint and the investigative

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1 materials, including TC's patient record submitted by Respondent.

2 8. Respondent admitted that the patient interaction and communication that
3 precipitated the complaint were perceived by the complainant to be unprofessional conduct.

4 9. Respondent failed to create an adequate patient record that included the clinical
5 impression, examination findings, diagnostic results, and treatment plan. There was also no
6 record that TC provided informed consent to treat.

7 **CONCLUSIONS OF LAW**

8 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-900, *et seq.*

9 2. The conduct and circumstances stipulated in the Findings of Fact could
10 constitute grounds for discipline pursuant to A.R.S. § 32-924(A)(5) ("Unprofessional or
11 dishonorable conduct of a character likely to deceive or defraud the public or tending to
12 discredit the profession.)

13 3. The conduct and circumstances stipulated in the Findings of Fact constitute
14 grounds for discipline pursuant to A.R.S. § 32-924(A)(5) ("Unprofessional or dishonorable
15 conduct of a character likely to deceive or defraud the public or tending to discredit the
16 profession.") and, A.A.C. R4-7-902 (5) ("Failing to create an adequate patient record that
17 includes the patient's health history, clinical impression, examination findings, diagnostic
18 results, x-ray films if taken, x-ray reports, treatment plan, notes for each patient visit, and a
19 billing record. The notes for each patient visit shall include the patient's name, the date of
20 service, the chiropractic physician's findings, all services rendered, and the name or initials of
21 the chiropractic physician who provided services to the patient.")

22 **ORDER**

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

25 1. Chiropractic **License No. 1070** issued to Respondent to practice chiropractic in
26 the State of Arizona shall be placed on **PROBATION** until Respondent successfully completes
and/ complies with the terms and conditions of the Order of Probation as follows:

2. **Continuing Education:** During the term of probation, Respondent shall take
and complete **four (4) hours** of continuing education (CE) in **patient boundaries** and **four (4)**

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1 **hours of CE in record keeping** that have been pre-approved by Board staff. Respondent shall
2 submit a request for approval of the courses to Board staff and provide the Board with
3 satisfactory proof of attendance within fifteen (15) days after completing the CE. These hours of
4 CE are in addition to the mandatory hours of CE required of Respondent for license renewal;

5 3. **Ethics and Boundaries Examination:** Within **six (6) months** of the effective date
6 of this Consent Agreement, and after completing the CE in patient boundaries as described
7 above, Respondent shall take and successfully pass all parts of the **Ethics and Boundaries**
8 **Assessment Services Essay Examination** and provide the Board with written documentation.
9 If Respondent fails the examination on the first attempt, he shall retake the Ethics and
10 Boundaries examination within three (3) months. Respondent shall advise the Board in writing
11 of his unsuccessful attempt and of his new date to retest.

12 4. **Costs of Compliance:** Respondent shall bear all costs required to ensure his
13 compliance with this Order to include, but not limited to, and where applicable, the cost of the
14 Board-approved monitor or designee, chaperone(s) and, required CE.

15 5. **Timely Renewal:** Respondent shall meet all requirements to renew his license for
16 each year that he remains on probation and shall keep his license current by submitting a
17 complete license renewal application to the Board prior to January 1 for each year that his
18 license remains on probation.

19 6. **Obey All Laws:** Respondent shall obey all federal, state and local laws and all
20 rules governing the practice of chiropractic in Arizona. The Board shall consider any violation
21 of this paragraph as a separate violation of the Chiropractic Practice Act.

22 7. **Termination:** Respondent may petition the Board for termination of probation
23 provided that Respondent has completed or complied with the terms of Paragraphs 2 to 6. Upon
24 receiving Respondent's petition, the Board shall have complete discretion to determine whether
25 Respondent has satisfactorily completed and/or complied with all the required terms and
26 conditions of the Order prior to granting the petition. Respondent's failure to petition the Board
to terminate probation shall cause it to continue indefinitely and until Respondent petitions for
termination and termination is granted by the Board.

8. **Public Record:** This Order is a public record that may be publicly disseminated
as a formal action of the Board and shall be reported as required by law to the National
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Sent electronically to:
Mary D. Williams, Esq. Assistant Attorney General
@azag.gov
Attorney for the State



Martin W. Kollasch, D.C., Executive Director, Board Operations

