BEFORE THE ARIZONA STATE BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of:
Michael E. Bean, D.C.
Holder of License No. 7544
For the Practice of Chiropractic
In the State of Arizona

Case No.: 2014-083

CONSENT AGREEMENT AND FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR CEASE AND DESIST; PROBATION AND CIVIL PENALTY

CONSENT AGREEMENT

RECITALS

In the interest of a prompt and judicious settlement of the above-captioned matter before the 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., Michael E. Bean, D.C. ("Respondent"), holder of license number 7544 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.

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

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

5. All admissions Respondent makes in this Consent Agreement are made
solely for the final disposition of this matter, and any related administrative
proceedings or civil litigation involving the Board and respondent.
6. By agreeing to allow the Board to impose the discipline ordered herein, Respondent acknowledges that the Board has evidence from which it could impose discipline under A.R.S. § 32-924 (G).

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

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, prejudget or other similar defense in any future disciplinary action.

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

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

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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. Respondent holds License No. 7544 for the practice of chiropractic in the State of Arizona.

3. On January 14, 2015, the Board conducted an Initial Appearance in this matter and found evidence of unprofessional conduct as described in the following Findings of Fact Nos. 4, 5, 6 and 7. Respondent attended the Initial Appearance and was represented by legal counsel.

4. On or about June 18, 2014, the Board reviewed the website vitanya.com ("website") and noted Respondent's advertising was misleading in use of the term "expert consultation." Respondent testified that the website had been created and maintained by Vitanya.

5. Respondent's advertising throughout the website improperly claimed professional superiority in use of the terms "uniquely" and "least invasive and most economical."

6. Throughout the website, Respondent failed to use the initials "D.C." following his name.
7. The Board also found Respondent's use of Zyto bio-scan technology to be inappropriate as a diagnostic tool because it lacked scientific validity and is not accepted within the chiropractic community.

CONCLUSIONS OF LAW

1. The conduct and circumstances described above in paragraph 4 constitutes unprofessional conduct pursuant to A.R.S. § 32-925 (A) (5), "Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession"; specifically, A.A.C. R4-7-901 (3), "Advertising that uses the words "specialist," "specializing," or "expert." As well as A.R.S. § 32-924 (13), "Advertising in a false, deceptive or misleading manner."

2. The conduct and circumstances described above in paragraph 5 constitutes unprofessional conduct pursuant to A.R.S. § 32-925 (A) (5), "Unprofessional or dishonorable conduct of a character likely to deceive or defraud the public or tending to discredit the profession"; specifically A.A.C. R4-7-902 (26), "Claiming professional superiority in the practice of chiropractic under A.R.S. § 32-925."

3. The conduct and circumstances described above in paragraph 6 constitutes unprofessional conduct pursuant to A.R.S. § 32-925 (A) (17), "Failing to sign the physician's name, wherever required, in any capacity as "chiropractic doctor," "chiropractic physician" or "doctor of chiropractic" or failing to use and affix the initials "D.C." after the physician's name."

4. The conduct and circumstances described above in paragraph 7 constitutes unprofessional conduct pursuant to A.R.S. § 32-925 (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."

ORDER

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

1. Respondent shall immediately CEASE AND DESIST the use of Zyro bio­scan technology.

2. Chiropractic License No. 7544 issued to Respondent to practice chiropractic in the State of Arizona shall be placed on PROBATION for SIX MONTHS for the unprofessional conduct described above.

3. The terms and conditions of the Order of Probation are as follows:
   a. Within six (6) months of the effective date of this Consent Agreement, Respondent shall pay a CIVIL PENALTY in the amount of two hundred and fifty ($250.00) dollars. Payment shall be made by cashier's check or money order to the Board.

4. Respondent may petition the Board for early termination of his probation provided that he has completed or complied with Paragraph 3a. Upon receiving Respondent's petition, the Board shall have complete discretion to determine whether Respondent has complied with all the required terms and conditions of the Order prior to granting the petition. Respondent's failure to petition the Board to terminate his

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probation shall cause it to continue beyond the six month period, until he petitions for termination.

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

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

7. Respondent shall meet all requirements to renew his license for each year that he remains on probation and shall keep his license current by submitting a complete license renewal application to the Board prior to January 1 for each year that he remains on probation.

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

9. The Board retains jurisdiction over Respondent and may take additional remedial or disciplinary action against him if it determines that he has committed subsequent violations of this order or of the chiropractic practice act. Respondent shall appear in person before the Board to respond to questions or concerns regarding his compliance with this order when requested.

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10. 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
Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

DATED AND EFFECTIVE this 26th of June, 2015

ARIZONA STATE BOARD OF
CHIROPRACTIC EXAMINERS

[SEAL]

By

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

Original of the foregoing filed this
26th day of June, 2015 with:
Arizona State Board of Chiropractic Examiners
5060 N. 19 Ave. #416
Phoenix, AZ 85015

Executed Copy of the foregoing mailed by
U.S. Certified mail (Return receipt requested)
This 26th day of June, 2015
Certificate No. 7013 663000023325 6034 to:

Michael E Bean
8010 E. McDowell Rd Ste 101
Scottsdale AZ 85257
Respondent

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