

APR 28 2015

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

AZ BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of:

Case No.: 2014-083

Michael E. Bean, D.C.

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

Holder of License No. 7544  
For the Practice of Chiropractic  
In the State of Arizona

**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,

1 at which administrative hearing he could present evidence and cross-examine  
2 witnesses. By entering into this Consent Agreement, Respondent freely and  
3 voluntarily relinquishes all rights to such an administrative hearing, as well as all rights  
4 of rehearing, review, reconsideration, appeal, judicial review or any other  
5 administrative and/or judicial action, concerning the matters set forth herein.  
6

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

8           3. Respondent agrees that the Board may adopt this Consent Agreement or  
9 any part of this agreement, under A.R.S. § 32-924. Respondent understands that the  
10 Board may consider this Consent Agreement or any part of it in any future disciplinary  
11 action against him.  
12

13           4. Respondent understands that this Consent Agreement does not constitute a  
14 dismissal or resolution of other matters currently pending before the Board, *if any*, and  
15 does not constitute any waiver, express or implied, of the Board's statutory authority or  
16 jurisdiction regarding any other pending or future investigation, action or proceeding.  
17 Respondent also understands that acceptance of the Consent Agreement does not  
18 preclude any other agency, subdivision or officer of this state from instituting other civil  
19 or criminal proceedings with respect to the conduct that is the subject of this Consent  
20 Agreement.  
21

22           5. All admissions Respondent makes in this Consent Agreement are made  
23 solely for the final disposition of this matter, and any related administrative  
24 proceedings or civil litigation involving the Board and respondent.  
25  
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1           6. By agreeing to allow the Board to impose the discipline ordered herein,  
2 Respondent acknowledges that the Board has evidence from which it could impose  
3 discipline under A.R.S. § 32-924 (G).  
4

5           7. Respondent acknowledges and agrees that, upon signing this Consent  
6 Agreement and returning this document to the Board, Respondent may not revoke his  
7 acceptance of the Consent Agreement or make any modifications to the document.  
8 Any modification to this original document is ineffective and void unless mutually  
9 approved by the parties in writing.  
10

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

13           9. Respondent understands and agrees that if the Board does not adopt this  
14 Consent Agreement, he will not assert as a defense that the Board's consideration of  
15 it constitutes bias, prejudice, prejudgment or other similar defense in any future  
16 disciplinary action.  
17

18           10. Respondent understands that this Consent Agreement is a public record  
19 that may be publicly disseminated as a formal disciplinary action of the Board, and  
20 shall be reported as required by law to the National Practitioner Data Bank and the  
21 Healthcare Integrity and Protection Data Bank.  
22

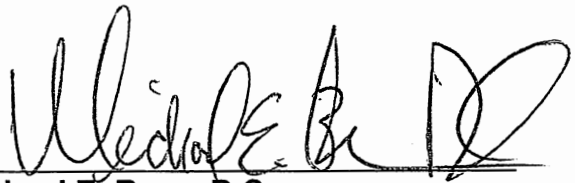
23           11. Respondent understands that any violation of this Consent Agreement  
24 constitutes unprofessional conduct pursuant to A.R.S. § 32-924 (A)(16), "Violating or  
25 attempting to violate, directly or indirectly, or assisting in or abetting the violation of or  
26 conspiring to violate any of the provisions of this chapter or any Board order," and may  
27 result in disciplinary action pursuant to A.R.S. § 32-914.  
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1  
2 4/27/15

3 DATED



4 Michael E. Bean, D.C.  
5 Respondent

6 **FINDINGS OF FACT**

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

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

11 3. On January 14, 2015, the Board conducted an Initial Appearance in this  
12 matter and found evidence of unprofessional conduct as described in the following  
13 Findings of Fact Nos. 4, 5, 6 and 7. Respondent attended the Initial Appearance and  
14 was represented by legal counsel.  
15

16 4. On or about June 18, 2014, the Board reviewed the website vitanya.com  
17 ("website") and noted Respondent's advertising was misleading in use of the term  
18 "expert consultation." Respondent testified that the website had been created and  
19 maintained by Vitanya.  
20

21 5. Respondent's advertising throughout the website improperly claimed  
22 professional superiority in use of the terms "uniquely" and "least invasive and most  
23 economical."  
24

25 6. Throughout the website, Respondent failed to use the initials "D.C."  
26 following his name.  
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1 7. The Board also found Respondent's use of Zyto bio-scan technology to be  
2 inappropriate as a diagnostic tool because it lacked scientific validity and is not  
3 accepted within the chiropractic community.  
4

### 5 CONCLUSIONS OF LAW

6  
7 1. The conduct and circumstances described above in paragraph 4 constitutes  
8 unprofessional conduct pursuant to A.R.S. § 32-925 (A) (5), "Unprofessional or  
9 dishonorable conduct of a character likely to deceive or defraud the public or tending  
10 to discredit the profession"; specifically, A.A.C. R4-7-901 (3), "Advertising that uses  
11 the words "specialist," "specializing," or "expert." As well as A.R.S. § 32-924 (13),  
12 "Advertising in a false, deceptive or misleading manner."  
13

14 2. The conduct and circumstances described above in paragraph 5 constitutes  
15 unprofessional conduct pursuant to A.R.S. § 32-925 (A) (5), "Unprofessional or  
16 dishonorable conduct of a character likely to deceive or defraud the public or tending  
17 to discredit the profession"; specifically A.A.C. R4-7-902 (26), "Claiming professional  
18 superiority in the practice of chiropractic under A.R.S. § 32-925."  
19

20 3. The conduct and circumstances described above in paragraph 6 constitutes  
21 unprofessional conduct pursuant to A.R.S. § 32-925 (A) (17), "Failing to sign the  
22 physician's name, wherever required, in any capacity as "chiropractic doctor,"  
23 "chiropractic physician" or "doctor of chiropractic" or failing to use and affix the initials  
24 "D.C." after the physician's name."  
25

26 4. The conduct and circumstances described above in paragraph 7 constitutes  
27 unprofessional conduct pursuant to A.R.S. § 32-925 (A) (15), "Any conduct or practice  
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1 contrary to recognized standards in chiropractic or any conduct or practice that  
2 constitutes a danger to the health, welfare or safety of the patient or the public or any  
3 conduct, practice or condition that impairs the ability of the licensee to safely and  
4 skillfully practice chiropractic.”

6 **ORDER**

7 Based upon the above Findings of Fact and Conclusions of Law, **IT IS**

8 **HEREBY ORDERED:**

9  
10 1. Respondent shall immediately **CEASE AND DESIST** the use of Zyto bio-  
11 scan technology.

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

15 3. The terms and conditions of the Order of Probation are as follows:

16 a. Within six (6) months of the effective date of this Consent Agreement,  
17 Respondent shall pay a **CIVIL PENALTY** in the amount of two hundred and fifty  
18 (\$250.00) dollars. Payment shall be made by cashier's check or money order to the  
19 Board.  
20

21 4. Respondent may petition the Board for early termination of his probation  
22 provided that he has completed or complied with Paragraph 3a. Upon receiving  
23 Respondent's petition, the Board shall have complete discretion to determine whether  
24 Respondent has complied with all the required terms and conditions of the Order prior  
25 to granting the petition. Respondent's failure to petition the Board to terminate his  
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1 probation shall cause it to continue beyond the six month period, until he petitions for  
2 termination.

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

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

12  
13 7. Respondent shall meet all requirements to renew his license for each year  
14 that he remains on probation and shall keep his license current by submitting a  
15 complete license renewal application to the Board prior to January 1 for each year that  
16 he remains on probation.

17  
18 8. Respondent shall obey all federal, state and local laws and all rules  
19 governing the practice of chiropractic in Arizona. The Board shall consider any  
20 violation of this paragraph as a separate violation of the Chiropractic Practice Act.

21  
22 9. The Board retains jurisdiction over Respondent and may take additional  
23 remedial or disciplinary action against him if it determines that he has committed  
24 subsequent violations of this order or of the chiropractic practice act. Respondent  
25 shall appear in person before the Board to respond to questions or concerns regarding  
26 his compliance with this order when requested.

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1 10. This Order is a public record that may be publicly disseminated as a formal  
2 action of the Board, and shall be reported as required by law to the National  
3 Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.  
4

5  
6 DATED AND EFFECTIVE this 26<sup>th</sup> of June, 2015  
7

8 ARIZONA STATE BOARD OF  
9 CHIROPRACTIC EXAMINERS  
10

11 [SEAL]  
12

13   
14 By \_\_\_\_\_  
15 James Badge, D.C., Chair  
16 Arizona State Board of  
17 Chiropractic Examiners

18 **Original** of the foregoing filed this  
19 26<sup>th</sup> day of June, 2015 with:  
20 Arizona State Board of Chiropractic Examiners  
21 5060 N. 19 Ave. #416  
22 Phoenix, AZ 85015

23 **Executed Copy** of the foregoing mailed by  
24 U.S. Certified mail (Return receipt requested)  
25 This 26<sup>th</sup> day of June, 2015  
26 Certificate No. 7013 2630 0002 3135 8804 to:

27 Michael E Bean  
28 8010 E. McDowell Rd Ste 101  
Scottsdale AZ 85257  
**Respondent**

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