

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

3 In the Matter of:) **Board Case No. 21-03-C**
4)
4 **Dr. SETH CLARK, DPM**) **CONSENT AGREEMENT AND**
5 **Holder of License No. 0838**) **ORDER FOR NON-DISCIPLINARY**
6) **CONTINUING EDUCATION**
6 **For the Practice of Podiatry**)
7 **In the State of Arizona**)
7)

8 In the interest of a prompt and judicious settlement of this case, consistent with the
9 public interest, statutory requirements and the responsibilities of the Arizona State Board
10 of Podiatric Examiners ("Board") under A.R.S. § 32-801, *et. seq.* and A.R.S. § 41.1092.07
11 (F)(5), Dr. Seth Clark, DPM ("Respondent"), holder of license number 0838 in the State
12 of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions
13 of Law and Order ("Consent Agreement") as a final disposition of this matter.

14 **RECITALS**

15 1. Respondent neither admits nor denies the following Findings of Fact and
16 Conclusions of Law. Respondent has agreed to enter into this Consent Agreement as an
17 economical and practical means of resolving this case.

18 2. Respondent has the right to consult with an attorney prior to entering into
19 this Consent Agreement. Respondent has read and understands this Consent Agreement
20 as set forth herein, and has had the opportunity to discuss this Consent Agreement with
21 an attorney. Respondent and the Board voluntarily enter into this Consent Agreement for
22 the purpose of avoiding the expense and uncertainty of an administrative hearing.

23 3. Respondent understands that he has a right to a public administrative
24 hearing concerning each and every allegation set forth in the above-captioned matter, at
25 which time Respondent could present evidence and cross-examine witnesses. By entering
26 into this Consent Agreement, Respondent freely and voluntarily relinquishes all rights to

1 such an administrative hearing, as well as all rights of rehearing, review, reconsideration,
2 appeal, judicial review, or any other administrative, and/or judicial action concerning the
3 matters set forth herein. Respondent affirmatively agrees that this Consent Agreement
4 shall be irrevocable and any modifications to this original document are ineffective and
5 void unless mutually approved by the parties in writing.

6 4. Respondent agrees that the Board may adopt this Consent Agreement or any
7 part of this agreement under A.R.S. §§ 32-852 and 32-852.01. Respondent understands
8 that the Board may consider this Consent Agreement or any part of it in any future
9 disciplinary action against him.

10 5. Notwithstanding any language in this Consent Agreement and Order, this
11 Consent Agreement and Order does not preclude in any way any other State agency or
12 officer or political subdivision of this state from instituting proceedings, investigating
13 claims, or taking legal action as may be appropriate now or in the future relating to this
14 matter or other matters concerning Respondent, including but not limited to, violations of
15 Arizona's Consumer Fraud Act. Respondent acknowledges that, other than with respect to
16 the Board, this Consent Agreement and Order makes no representations, implied or
17 otherwise, about the views or intended actions of any other state agency or officer or
18 political subdivisions of the State relating to this matter or other matters concerning
19 Respondent.

20 6. Respondent understands that this Consent Agreement does not constitute a
21 dismissal or resolution of other matters currently pending before the Board, *if any*, and
22 does not constitute any waiver, express or implied, of the Board's statutory authority or
23 jurisdiction regarding any other pending or future investigation, action, or proceeding.

24 7. All admissions Respondent makes in this Consent Agreement are made
25 solely for the final disposition of investigation number 21-03-C, and any related
26 administrative proceedings or civil litigation involving the Board and Respondent.

1 Nothing in this Consent Agreement is meant to constitute an admission by Respondent of
2 any inappropriate conduct or intended to be admissible in any action not involving
3 Respondent and the Board. Respondent understands that acceptance of the Consent
4 Agreement does not preclude any other agency, subdivision, or officer of this state from
5 instituting other civil or criminal proceedings with respect to the conduct that is the subject
6 of this Consent Agreement.

7 8. The Consent Agreement shall be subject to adoption by the Board and shall
8 be effective only when signed by the President of the Board or the Executive Director of
9 the Board, on behalf of the President. In the event that the Board does not adopt this
10 Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be
11 relied upon nor introduced in any action by any party. The parties agree that if the Board
12 rejects this Consent Agreement and this case proceeds to hearing, Respondent shall assert
13 no claim that the Board was prejudiced by its review and discussion of this document or
14 any other records relating thereto.

15 9. If a court of competent jurisdiction rules that any part of this Consent
16 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
17 shall remain in full force and effect.


18 10. Respondent understands that this Consent Agreement is a public record that
19 may be publicly disseminated as a formal action of the Board.

20 11. Respondent understands that any violation of this Consent Agreement could
21 be grounds for further disciplinary action by the Board pursuant to A.R.S. § 32-
22 854.01(21).

23 DATED: 2-2-2022

23 SIGNED: 
24 Dr. Seth Clark, DPM

25 APPROVED AS TO FORM:

25 
26 Bruce Crawford, Esq.
Attorney for Respondent

FINDINGS OF FACT

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2 1. The Arizona State Board of Podiatry Examiners is the duly constituted
3 agency for licensing and regulating the practice of podiatric medicine in the State of
4 Arizona and has jurisdiction over Respondent and the subject matter pursuant to A.R.S.
5 § 32-801, *et seq.*

6 2. Dr. Seth Clark, DPM, is the holder of License Number 0838 which enables
7 him to practice podiatry in the State of Arizona.

8 3. Patient presented to Respondent in January of 2020, with issues of
9 Degenerative Joint Disease left 1st MTPJ. After successful surgery of the same issue on the
10 right foot, Respondent proceeded with similar treatment for the left foot.

11 4. Over the course of 7 months Respondent performed three (3) revision
12 surgeries on the 1st MTPJ implant. Respondent indicated that these revision surgeries were
13 needed to address issues related to a cyst and a capsule that kept creating issues in the
14 setting of the implant. The Board found that while these actions or conduct did not fall
15 below the standard of care, Respondent could benefit from continuing education addressing
16 surgical issues relevant to the above mentioned matters.

17 5. Board representatives met with Dr. Clark to discuss the concerns previously
18 raised. Dr. Clark provided various sources and research article references to the Board
19 which indicate there is no cross-reaction between shellfish and povidone-iodine (Betadine).
20 The Board was satisfied with Dr. Clark's explanations. The parties agreed to a negotiated
21 settlement of this matter.

22 6. The Board found that Respondent's use of Povidone-Iodine did not fall
23 below the standard of care or result in any identified injury to the Complainant, and was
24 determined to not be a contraindication to a shellfish allergy.

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CONCLUSIONS OF LAW

1. The conduct described in the foregoing Findings of Fact does not constitute unprofessional conduct and, pursuant to A.R.S. 32-854.01, the Board finds that this matter can be remediated through non-disciplinary continuing education.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED THAT** Dr. Seth Clark, DPM, holder of license number 0838, shall be subject to the following:

1. **CONTINUING EDUCATION.** Respondent shall take and complete at least ten (10) total hours of pre-approved CONTINUING MEDICAL EDUCATION (“CME”) in the area of surgical developments and planning. Respondent shall complete the ordered CME hours within six (6) months from the effective date of this Order and submit proof to the Board within 15 days of the same. These CME hours cannot have been completed prior to the date of this Order and shall be in addition to the twenty five (25) hours required by the Board for license renewal, with the exception that any hours obtained as a result of this Agreement above and beyond the ten (10) hour requirement may be counted towards Respondent’s 2023 licensure renewal.

DATED THIS 9th DAY OF FEBRUARY, 2022.

ARIZONA BOARD OF PODIATRY EXAMINERS

By: Dr. Barbara Campbell
Dr. Barbara Campbell, Board President

1 Original Consent Agreement filed
2 this 9th day of February, 2022 with the:

3 Arizona State Board of Podiatry Examiners
4 1740 West Adams Street, Suite 3004
5 Phoenix, Arizona 85007

6 Copy of the foregoing sent by Electronic, Certified
7 and Regular mail this 9th day of February, 2022 to:

8 Dr. Seth Clark, DPM
9 Address of Record
10 *Respondent*

11 Bruce Crawford, Esq.
12 Address of Record
13 *Attorney for the Respondent*
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