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

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IN THE MATTER OF:

STEVEN M. BORN

Holder of License No. 0153  
For the Practice of Podiatric Medicine  
In the State of Arizona,

Respondent.

Case No. 12-01-C

**CONSENT AGREEMENT  
AND ORDER  
FOR SURRENDER  
OF LICENSE**

**CONSENT AGREEMENT**

**RECITALS**

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and responsibilities of the Arizona Board of Podiatry Examiners (Board), and under A.R.S. §32-801, *et seq.*, and 41-1092.07(F)(5), Steven M. Born, holder of license number 0153 to practice podiatric medicine in the State of Arizona, (Respondent), 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 been provided the opportunity to discuss this Consent Agreement with an attorney. 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 the above-captioned matter, at which administrative hearing he could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent knowingly 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

1 and/or judicial action, concerning the matters set forth herein. Respondent affirmatively agrees  
2 that this Consent Agreement shall be irrevocable.

3         3. Respondent understands that this Consent Agreement or any part of the Agreement  
4 may be considered in any future disciplinary action by the Board against him.

5         4. Respondent understands that acceptance of this Consent Agreement does not  
6 preclude any other agency, subdivision or officer of this State from instituting any other civil or  
7 criminal proceedings with respect to the conduct that is the subject of this Consent Agreement.

8         5. Respondent understands that this Consent Agreement deals with Board investigation  
9 number 12-01-C involving allegations of unprofessional conduct against Respondent. The  
10 investigation into this case against Respondent shall be concluded upon the Board's adoption of  
11 this Consent Agreement.

12         6. All admissions made by Respondent in this Consent Agreement are made solely for  
13 the final disposition of this matter, and any related administrative proceedings or civil litigation  
14 involving the Board and Respondent. Therefore, any admissions made by Respondent in this  
15 Consent Agreement are not intended for any other use, such as the context of another regulatory  
16 agency's proceedings, whether in the State of Arizona or in any other state or federal court.

17         7. Respondent acknowledges and agrees that, upon signing this Consent Agreement and  
18 returning this document to the Board's Executive Director, or Counsel for the State, Respondent  
19 may not revoke his acceptance of the Consent Agreement or make any modifications to the  
20 document, regardless of whether the Consent Agreement has been issued by the Board's  
21 President. Any modification to this original document is ineffective and void unless mutually  
22 approved by the parties in writing.

23         8. Respondent understands that the foregoing Consent Agreement shall not become  
24 effective unless and until adopted by the Board and signed by its President or the Executive  
25 Director on behalf of the President.


26

1 9. Respondent understands and agrees that if the Board does not adopt this Consent  
2 Agreement, he will not assert as a defense that the Board's consideration of this Consent  
3 Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

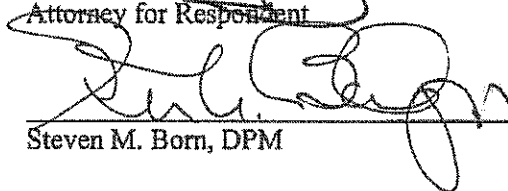
4 10. Respondent understands that this Consent Agreement is a public record that may be  
5 publicly disseminated as a formal action of the Board, and shall be reported as required by law to  
6 the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

7 11. Respondent understands that any violation of this Consent Agreement constitutes  
8 unprofessional conduct under A.R.S §32-841.01(21), (violating any formal order, probation or  
9 stipulation of the Board), and may result in disciplinary action under A.R.S. §32-852.01.

10  
11 APPROVED AS TO FORM:

  
Stephanie McCoy Loguam  
Attorney for Respondent

12  
13 DATED: 5/25/2014

  
Steven M. Born, DPM

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16 **FINDINGS OF FACT**

17 By stipulation of the parties, this Consent Agreement is entered into for the final  
18 disposition of the matters described herein.

19 12. Respondent holds license number 0153 issued by the Board to practice podiatric  
20 medicine in the State of Arizona which is valid through June 30, 2014.

21 13. The Board received a complaint against Respondent from M.G. on behalf of her  
22 husband, patient T.G. The complaint stated that the patient sought treatment with Respondent  
23 due to torn tendons in his foot. Respondent recommended, and the patient agreed to receive,  
24 custom orthotic inserts.

25 14. After receiving the orthotics from Respondent, the patient received an explanation  
26 of benefits from his health insurer, Medicare, which indicated that Respondent had billed five

1 hundred fifty-five dollars and twenty-two cents (\$555.22) for custom orthotics. The specific  
2 billing codes used were L3000KXRT and L3000KXLT. The complainant researched the  
3 orthotics the patient had received, which were Spenco brand orthotics, and found that the  
4 customary retail price for that brand is approximately thirty dollars (\$30.00). Spenco brand  
5 orthotics are not considered custom orthotics.

6 15. Following initial review of the complaint, the Board voted to table the matter for  
7 further investigation and directed staff to conduct an inspection/audit of all Respondent's charts  
8 for Medicare patients for the period of 01/01/11 through 12/31/13.

9 16. As a result of the inspection/audit, thirty-seven (37) patient charts were identified  
10 in which Respondent documented charging Medicare for level 4 billing codes, some with  
11 multiple dates of service /multiple use of level 4 codes. The specific codes used were 99204 and  
12 99214 and there was insufficient documentation in the charts to support those codes.

13  
14 CONCLUSIONS OF LAW

15 17. The Board possesses jurisdiction over the subject matter hereof and over  
16 Respondent pursuant to A.R.S. § 32-801 *et seq.*

17 18. The conduct and circumstances in the Findings of Fact above constitute grounds  
18 for disciplinary action against Respondent's license according to A.R.S. §32-852(6), (that he is  
19 guilty of unprofessional conduct as defined in section 32-854.01), via A.R.S. §32-854.01(23),  
20 (charging or collecting a clearly excessive fee).

21 19. The conduct and circumstances in the Findings of Fact above, for those dates of  
22 service on and after July 20, 2011, constitute grounds for disciplinary action against  
23 Respondent's license according to A.R.S. §32-852(6), (that he is guilty of unprofessional  
24 conduct as defined in section 32-854.01), via A.R.S. §32-854.01(24), (obtaining a fee by fraud,  
25 deceit or misrepresentation), and (25), (charging a fee for services not rendered).

26 /

1 ORDER

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

4 20. Accepting the surrender of license number 0153 which shall be ordered revoked  
5 by the Board.

6 21. Respondent is prohibited from re-applying for a license to practice podiatry for a  
7 period of five (5) years.

8 22. If, after the exclusion period stated in paragraph 21, Respondent re-applies for and  
9 is granted a license by this Board, the license shall immediately become subject to the following  
10 terms and conditions.

11 a. Probation:

12 Respondent's license is placed on probation for a period of eighteen (18) months.

13 b. Submission of charts:

14 During the period of probation, Respondent shall submit to the Board on a  
15 monthly basis complete copies of chart notes and superbills for all Medicare patients, only for  
16 dates of service within that calendar month, not to exceed fifteen (15) charts per month. Such  
17 documents for each calendar month shall be submitted to the Board no later than the fifth (5<sup>th</sup>)  
18 calendar day of the following month.

19 c. Practice mentor in billing and coding:

20 Within sixty (60) days of reinstatement of the license, Respondent shall identify  
21 and submit to the Board for approval a practice mentor, ("Mentor"), in the area of billing and  
22 coding and shall maintain this mentor relationship for a minimum of one (1) year. Mentor must  
23 have at least five (5) years of recent experience in medical billing and coding and must be a  
24 certified coding expert. Respondent must provide Mentor with access to and/or copies of his  
25 chart notes to ensure that chart documentation appropriately correlates to the billing codes being  
26 used. Respondent shall ensure that Mentor signs an appropriate third-party-vendor agreement to

1 comply with federal HIPAA confidentiality requirements. Respondent shall meet with Mentor  
2 for at least five (5) hours during the first month of the mentoring relationship and at least 2 hours  
3 per month thereafter. After the first three (3) months, both Respondent and the Mentor must  
4 submit to the Board written progress reports summarizing the activities performed and  
5 information discussed relative to this requirement. After an additional six (6) months, [nine (9)  
6 months total], Respondent and the Mentor shall submit to the Board written reports of the same.  
7 At the nine (9)-month conclusion, and after those progress reports are received, Respondent may  
8 be request that this requirement be discontinued. Discontinuation is at the sole discretion of the  
9 Board. If the Board feels the Mentor is still needed, Respondent will continue with the Mentor  
10 for an additional three (3) months, [twelve (12) months total], after which another progress report  
11 is required of both Respondent and the Mentor. Respondent may then make another request to  
12 discontinue the Mentor activities at the Board's sole discretion. If such a request is not  
13 approved, Respondent shall continue with the Mentor for an additional three (3) months, [fifteen  
14 (15) months total], after which another progress report is required of both Respondent and the  
15 Mentor.

16 d. Continuing medical education:

17 Respondent shall complete eight (8) hours of continuing medical education,  
18 ("CME"), in the area of medical billing and coding. All CME hours must be approved by the  
19 Board, and at least four (4) hours must be approved by the Board in advance. Four (4) hours  
20 shall pertain to general medical billing and coding; Respondent shall complete these hours, and  
21 submit to the Board written proof of successful completion, within six (6) months of  
22 reinstatement of the license. The remaining four (4) hours shall be specific to ICD-10 billing and  
23 coding. All CME hours must be in a face-to-face discussion/instruction format; Internet-based  
24 courses will not be approved. All CME hours shall be in addition to the minimum CME required  
25 for annual license renewal.

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e. DMERC certification

Within thirty (30) days of reinstatement of the license, Respondent shall submit to the Board written proof of his DMERC certification from January 1, 2010 to present.

f. Civil penalty

Respondent is assessed a civil penalty in the amount of ten thousand dollars (\$10,000.00). The civil penalty shall be paid in full prior to the conclusion of probation. If Respondent does not renew his license during the period of probation, any unpaid balance of the civil penalty becomes due immediately upon expiration of the license.

23. Respondent shall bear all costs of complying with the terms of this agreement.

24. This Order becomes effective as of the date state below.

DATED AND EFFECTIVE this 9 day of July, 2014.

ARIZONA STATE BOARD  
OF PODIATRY EXAMINERS

By: Barbara Campbell, DPM  
Barbara Campbell, DPM  
President

1 ORIGINAL of the foregoing filed this  
2 15 day of Aug, 2014, with:

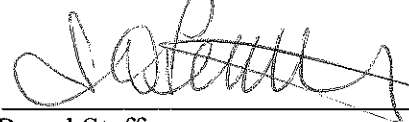
3 Arizona Board of Podiatry Examiners  
4 1400 W. Washington St. #230  
5 Phoenix, AZ 85007

6 COPY of the foregoing mailed this  
7 15 day of Aug, 2014 to:

8 Stephanie Loquvam  
9 Aiken Schenk  
10 2390 E. Camelback Rd. # 400  
11 Phoenix, AZ 85016  
12 Attorney for Respondent

13 COPY of the foregoing mailed this  
14 15 day of Aug, 2014 to:

15 John Tellier  
16 Assistant Attorney General  
17 1275 W. Washington – CIV/LES  
18 Phoenix, Arizona 85007  
19 Counsel for the State of Arizona

20 By:   
21 Board Staff

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23  
24  
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