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

IN THE MATTER OF:

ALEX BUI, DPM

Holder of License No. 0570,
For the Practice of Podiatric Medicine
In the State of Arizona,

Respondent.

**Case No. 08-44-C
CONSENT AGREEMENT
AND ORDER**

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), Alex Bui, holder of license number 0570 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

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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 08-44-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. Respondent neither admits nor denies the allegations as set forth in this Consent
13 Agreement. Respondent's acceptance of this Consent Agreement is made solely for the final
14 disposition of this matter, and any related administrative proceedings or civil litigation involving
15 the Board and Respondent. Therefore, any admissions made by Respondent in this Consent
16 Agreement are not intended for any other use, such as in the context of another regulatory
17 agency's proceeding, or civil or criminal proceedings, whether in the State of Arizona or in any
18 other state or federal court.

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

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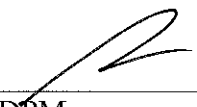
1 8. Respondent understands that the foregoing Consent Agreement shall not become
2 effective unless and until adopted by the Board and signed by its President or the Executive
3 Director on behalf of the President.


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

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

10 11. Respondent understands that any violation of the Consent Agreement constitutes
11 unprofessional conduct under A.R.S. §32-854.01(21), (violating any formal order, probation,
12 stipulation of the Board), and may result in disciplinary action under A.R.S. §32-852.01.

13 DATED: 3-14-11

14 SIGNED: 
Alex Bui, DPM

15 APPROVED AS TO FORM: 
16 Charles Hover, III
17 Attorney for Respondent

18 **FINDINGS OF FACT**

19
20 1. The Board is the duly constituted authority for the regulation and control of the
21 practice of podiatric medicine in the State of Arizona.

22 2. Respondent holds license number 0570 issued by the Board to practice podiatric
23 medicine in the State of Arizona.

24 3. On November 17, 2008, the Board received a complaint from patient J.W.
25 alleging that Dr. Bui had overcharged her insurance company, Cigna, for durable medical
26 equipment, ("DME"). The complainant attached to her complaint copies of "Explanation of

1 Benefits” forms she received from Cigna which indicated Dr. Bui charged Cigna a total of
2 \$10,172.43 for one walking boot and one pair of custom orthotics.

3 4. The Board initiated an investigation of the patient’s allegations. During the
4 course of that investigation, the Board’s investigator conducted a random audit of approximately
5 forty of Dr. Bui’s patient charts and associated billing records for the period of July through
6 September 2008. That audit discovered that during that time period Dr. Bui had engaged in
7 inappropriate billing practices for at least ten of those patients which resulted in excessive and
8 improper revenue collection.

9 5. In his written response to the investigation, Dr. Bui stated he had reviewed J.W.’s
10 chart and billing records and found multiple errors. He stated he had reimbursed Cigna
11 regarding this specific patient and it was resolved. He stated that medical assistant students and
12 billing students had been involved in his office’s billing process and he felt that was where many
13 errors were generated.

14 6. Also in his written response, Dr. Bui stated that Cigna in particular often makes
15 adjustments on medical supplies, (reductions in reimbursement to the physician), as high as fifty
16 percent. He stated that he normally “marks up” his charges to offset those adjustments.

17 7. Dr. Bui appeared before the Board on February 11, 2009 to discuss the
18 investigation. During that appearance, Dr. Bui admitted that he had improperly billed various
19 insurance companies. Specifically, Dr. Bui stated that if the contracted insurance fee schedule
20 did not pay enough his office staff would mark up the costs in order to obtain a higher
21 reimbursement. Dr. Bui acknowledged that he was aware of this practice in his office.

22
23 **CONCLUSIONS OF LAW**

24 1. The Board possesses jurisdiction over the subject matter hereof and over
25 Respondent pursuant to A.R.S. § 32-801, *et seq.*

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1 2. The conduct and circumstances in the Findings of Fact above constitutes a
2 violation of A.R.S. §32-852 (2), (Knowingly making a false or fraudulent statement, written or
3 oral, required for applications, examination or licensing or in connection with the practice of
4 podiatry); and A.R.S. §32-852 (6), (Unprofessional conduct as defined in section 32-854.01) via:
5 A.R.S. §32-854.01 (23), (Charging or collecting a clearly excessive fee).

6
7 **ORDER**

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

- 10 1. Respondent's license is placed on probation for a period of two (2) years.
- 11 2. Respondent's license shall be suspended for a period of three (3) months during
12 which time the period of probation will be tolled. The suspension will commence after the first
13 thirty (30) days of probation.
- 14 3. Respondent shall pay a civil penalty in the amount of two thousand dollars
15 (\$2,000.00) within ninety (90) days of the effective date of this Consent Agreement.
- 16 4. During the period of probation, Respondent shall submit to the Board copies of all
17 patient charts and associated billing records for all durable medical equipment charges. All such
18 records shall be received in the Board's office no later than the 15th calendar day of each month
19 for the previous month's records.
- 20 5. During the period of probation, Respondent shall complete twenty-five (25) hours
21 of continuing medical education in the area of billing. These hours are in addition to the
22 minimum continuing education hours required for annual license renewal.
- 23 6. Respondent shall be responsible for all costs associated with complying with this
24 Consent Agreement.
- 25 7. The effective date of the Consent Agreement is the date it is signed by the
26 President of the Board, or Board President's designee.

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ORDERED this 28 day of March, 2011.

By: Joseph Leonetti, DPM
Joseph Leonetti, DPM
Board of Podiatry Examiners

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1 ORIGINAL of the foregoing filed this
2 28 day of March, 2011, with:

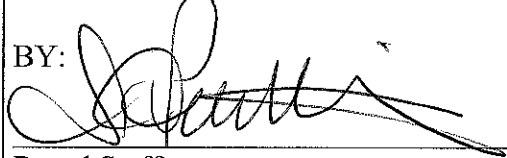
3 Board of Podiatry Examiners
4 1400 W. Washington St. #230
5 Phoenix, Arizona 85007

6 COPY of the forgoing sent via US Mail this
7 28 day of March, 2011, to:

8 Charles Hover, III
9 Renaud Cook Drury & Mesaros
10 1 N. Central Ave. #900
11 Phoenix, AZ 85004

12 Alex Bui, DPM
13 Address of Record

14 Keely Verstegen
15 Assistant Attorney General
16 1275 W. Washington, CIV/LES
17 Phoenix, Arizona 85007

18 BY: 
19 _____
20 Board Staff

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