

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

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JUL 27 2009

AZ Podiatry Board

3
4 **In the Matter of:**)
5 **Antonius Su, D.P.M.**)
6 **Holder of License No. 0496**)
7 **For the Practice of Podiatry**)
8 **In the State of Arizona,**)
9 **Respondent.**)
10

Complaint No. 08-47-B
CONSENT AGREEMENT
AND ORDER

11 **CONSENT AGREEMENT**

12 **RECITALS**

13 In the interest of a prompt and judicious settlement of this case, consistent with the public
14 interest, statutory requirements and responsibilities of the State of Arizona Board of Podiatry
15 Examiners, ("board"), and under A.R.S. §32-801, *et seq.*, and 41-1092.07(F)(5), Antonius Su,
16 holder of license number 0496 to practice podiatry in the State of Arizona, ("Respondent"), and
17 the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
18 ("Consent Agreement") as the final disposition of this matter.

19 1. Respondent has read and understands this Consent Agreement as set forth herein,
20 and has been provided the opportunity to discuss this Consent Agreement with an attorney.
21 Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding the
22 expense and uncertainty of an administrative hearing.

23 2. Respondent understands that he has a right to a public administrative hearing
24 concerning the above-captioned matter, at which administrative hearing he could present
25 evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent
26 knowingly and voluntarily relinquishes all rights to such an administrative hearing, as well as all
27 rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative
28

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 Complaint
9 number 08-47-B 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 in the context of another
16 regulatory agency's proceedings, or civil or criminal proceedings, whether in the State of
17 Arizona or in any other state or federal court.

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

1 Director on behalf of the President.

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

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

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

11
12 DATED: 7/22/09

SIGNED: _____

Antonius Su, D.P.M.
Respondent

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APPROVED AS TO FORM: _____

Bruce Crawford
Attorney for Respondent

17 JUL 27 2009

18 **AZ Podiatry Board**

19 **FINDINGS OF FACT**

- 20 1. The Board is the duly constituted authority for the regulation and control of the
21 practice of podiatry in the State of Arizona.
- 22 2. Respondent holds license number 0496 to practice podiatry in the State of Arizona.
- 23 3. On or about September 20, 2007, Respondent saw patient H.G. to evaluate a
24 matrixectomy performed approximately four weeks prior. For that date of service, Respondent
25 incorrectly billed using code 99214 for a comprehensive level of service. Respondent's
26 documentation in the patient's chart does not support this level of care; a level 2, problem-
27 focused examination was more appropriate, which is billing code 99212.
- 28

1 4. Also on September 20, 2007, Respondent billed using code 11041 for full-
2 thickness debridement for patient H.G. Respondent's documentation in the patient's chart states
3 there was "minimal granulation tissue present," which does not support the level of care billed.
4

5 5. Respondent's medical and billing records for patient H.G. indicate inappropriate
6 use of billing codes, upcoding, and lack of documentation in the chart to support the billing
7 codes used.

8 6. Patient K.G. was seen by Respondent on or about September 16, 2006 and May
9 28, 2008.
10

11 7. Respondent created two separate reports and diagnoses for patient K.G.'s care and
12 treatment on May 28, 2008. The first report indicates evaluation and treatment of heel pain; the
13 second indicates a chief complaint of ingrown toenails. Billing records for this date include
14 codes 10060 for incision and drainage of an abscess, 99204 for an initial office visit with
15 moderate to high severity, and 11750 for matrix tissue excision / permanent removal.
16

17 8. Because Respondent had treated K.G. on September 16, 2006, Respondent should
18 not have billed for a new patient establishment, but rather a level 2, problem-focused
19 examination.
20

21 9. Respondent's chart for K.G. did not include a copy of a consent form for the May
22 28, 2008 procedure. A consent form was present for a surgical procedure on June 17, 2008, but
23 there was no supporting documentation in the chart for any procedure conducted on that date.
24

25 10. Respondent's medical and billing records for patient K.G. indicate inappropriate
26 use of billing codes, unbundling codes 10060 and 11750, lack of documentation in the chart to
27 support the billing codes used.
28

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-801, *et seq.*

1 days after completing the course(s). These hours of continuing education shall be in addition to
2 the mandatory hours of continuing education required of Respondent for license renewal.

3
4 3. **COSTS.** Respondent shall be responsible for all costs associated with complying
5 with this Consent Agreement and Order.

6 4. **EFFECTIVE DATE.** The effective date of this Order is the date it is signed by the
7 President of the Board.

8
9 ORDERED this 12 day of August, 2009.

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11 
12 Joseph Lebnetti, D.P.M., President
13 Board of Podiatry Examiners
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27 **AZ Podiatry Board**
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1 ORIGINAL filed this
2 21st day of Aug, 2009, with:


3 Arizona State Board of Podiatry Examiners
4 1400 West Washington Ste. 230
5 Phoenix, Arizona 85007

6 COPY of the foregoing mailed this
7 21st day of Aug, 2009, to:

8 Bruce Crawford
9 Crawford & Kline, P.L.C.
10 1920 East Southern Avenue, Suite 101
11 Tempe, AZ 85282-7518

12 Antonius Su
13 Address of Record

14 Keely Verstegen
15 1275 West Washington
16 Phoenix, AZ 85007

17 By: 
18 Board Staff

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