

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

2                   In the Matter of:

Case No. 2012-048

3                   **JAMES WARLICK, D.C.**

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER FOR CIVIL PENALTY  
AND PROBATION**

4                   Holder of License 5514  
5                   For the Practice of Chiropractic  
6                   In the State of Arizona

7                   **INTRODUCTION**

8  
9                   Pursuant to A.R.S. § 32-924(F), the Arizona State Board of Chiropractic  
10                  Examiners ("Board") held a Formal Interview for James Warlick, D.C. ("Respondent")  
11                  on April 17, 2013. Respondent knowingly and voluntarily appeared before the Board,  
12                  and was represented by Terrence Woods, Esq. Respondent was properly notified of the  
13                  Formal Interview and the allegations against him.

14                  After due consideration and deliberation of the facts and law applicable to this  
15                  matter, the Board voted to issue the following Findings of Fact, Conclusions of Law and  
16                  Order.

17                  **FINDINGS OF FACT**

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

20                  2.    Respondent holds License No. 5514 for the practice of chiropractic in the  
21                  State of Arizona.

22                  3.    In its review, the Board found that Respondent altered the patient record for  
23                  patient J.R. by affixing his signature to unsigned records on September, 23, 2009,  
24                  September 30, 2009, October 7, 2009 and October 14, 2009.

25

26

1           4.       The Board also found that in altering the patient record, Respondent made  
2 false statements to a third party payor. Respondent stated in his response to the  
3 investigation that he altered the patient record of J.R. on records that had no physician  
4 signature. Respondent altered the record at the time he submitted the patient record to  
5 State Farm Insurance to support payment for services billed. The bill submitted to State  
6 Farm Insurance identifies Respondent as the provider for all service billed. However, the  
7 record indicates and Respondent asserted that a second provider, Dr. Dannett, provided  
8 some of the services and that two other physicians may have also provided services.

9           5.       The Board also found that based on the above, Respondent billed for  
10 services not documented as provided.

11           6.       Finally, the Board found that Respondent failed to fully comply with a  
12 Board subpoena. On December 9, 2011, Respondent was sent a subpoena for his  
13 response to the complaint, documentation of continuing education compliance and a copy  
14 of patient records. Respondent received the subpoena on December 15, 2011. A copy of  
15 Respondent's response and continuing education documentation was submitted to the  
16 Board by Respondent's attorney on January 13, 2012. A copy of the required patient  
17 record was not provided. On October 12, 2012, Respondent was sent a letter that  
18 informed him that a new allegation, failing to comply with a Board subpoena-no patient  
19 records provided as required had been established. The records were still not received  
20 until submitted by Respondent's attorney on November 9, 2012 for the Board meeting  
21 scheduled for November 14, 2012.

#### CONCLUSIONS OF LAW

22  
23  
24           1.       The Board possesses jurisdiction over the subject matter and over  
25 Respondent.  
26

2. The conduct and circumstances described above in paragraph 3 and 4 constitute unprofessional conduct pursuant to A.R.S. § 32-924(A)(5), specifically violating A.A.C. R4-7-902(2), "Knowingly making a false or misleading statement to a patient, or a third party payor."

3. The conduct and circumstances described above in paragraph 5 constitutes unprofessional conduct pursuant to A.R.S. § 32-924(A)(5), specifically violating A.A.C. R4-7-902(13)(b), “Improper billing. Improper billing means knowingly charging a fee for services not documented in the patient record as being provided”

4. The conduct and circumstances described above in paragraph 6 constitutes unprofessional conduct pursuant to A.R.S. § 32-924(A)(5), specifically violating A.A.C. R4-7-902(14), "Failing to timely comply with a board subpoena pursuant to A.R.S. § 32-929 that authorizes Board personnel to have access to any document, report, or record maintained by the chiropractic physician relating to the chiropractic physician's practice or professional activities."

## ORDER

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

1. Chiropractic License No. 5514 issued to Respondent to practice chiropractic in the State of Arizona shall be placed on **PROBATION** for **two years** for the unprofessional conduct described above.

2. The terms and conditions of Probation are as follows:

a. Within 30 days of the effective date of this Order, Respondent shall enter into an agreement with a neutral and objective Board-approved monitor and shall submit

1 a copy of the agreement to Board staff. The Board-approved monitor shall qualify under  
2 the Board's policy for approval of compliance monitors. The Board-approved monitor  
3 shall not be owned by or employ any person who a) is related to Respondent by blood or  
4 marriage, b) has or has had a personal, business, or professional relationship with  
5 Respondent, c) receives compensation of any nature from Respondent other than  
6 payment for Board approved monitoring services or d) otherwise has a conflict-of-  
7 interest as determined by the Board.

8 The Board-approved monitor may submit recommendations to the Board to be  
9 incorporated into the Order, and once said recommendations are adopted by the Board,  
10 Respondent shall promptly comply with the Board approved recommendations that the  
11 Board-approved monitor states in writing. If Respondent fails to implement the approved  
12 recommendations of the Board-approved monitor within ten days, Respondent may be  
13 found in violation of the Board order.

14 Respondent shall cause the Board-approved monitor to send quarterly reports of  
15 Respondent's compliance with this Order.

16 If Respondent fails to contact and enter into an agreement with a Board-approved  
17 monitor within 30 days from the effective date of this Order, the Board may determine  
18 that Respondent has violated this Order and may take additional disciplinary action.

19 At a minimum, monitoring of Respondent shall include the following:

20 b. Within six months from the effective date of this Order, Respondent shall  
21 take and complete 6 hours of continuing education in ethics that have been pre-approved  
22 by Board staff. Respondent shall submit his request for approval of the course to the  
23 Board-approved monitor for approval by Board staff, and provide the Board-approved  
24 monitor with satisfactory proof of attendance within fifteen days after completing the  
25 C.E. The C.E. must be completed though live class room or one on one instruction.

1 Distance learning courses such as on-line courses or webinars shall not be accepted. The  
2 6 hours of C.E. in ethics are in addition to the mandatory hours of C.E. required of  
3 Respondent.

4 3. Within twelve months from the effective date of this Order, Respondent  
5 shall pay a **CIVIL PENALTY of one thousand dollars**. Payment shall be made by  
6 cashier's check or money order to the Board.

7 4. Respondent may petition the Board for early termination of his probation  
8 provided that he has completed or complied with Paragraphs 2a, 2b, and 3. Upon  
9 receiving Respondent's petition, the Board shall have complete discretion to determine  
10 whether Respondent has complied with all the required terms and conditions of the Order  
11 prior to granting the petition. Respondent's failure to petition the Board to terminate his  
12 probation shall cause it to continue beyond the two year period, until he petitions for  
13 termination.

14 5. In the event that Respondent moves out of state or ceases to practice  
15 chiropractic in Arizona, he shall notify the Board of these events in writing, within 20  
16 days, and the Board may, at its discretion, stay the terms and conditions of his probation  
17 until Respondent returns to practice chiropractic in Arizona.

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

21 7. Respondent shall meet all requirements to renew his license for each year  
22 that he remains on probation and shall keep his license current by submitting a complete  
23 license renewal application to the Board prior to January 1 for each year that he remains  
24 on probation.

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

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


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

12  
13 **NOTICE:**    This Order constitutes a formal decision and order of the Board. If the  
14 Respondent desires to challenge the Order, Respondent shall file a written motion for  
15 rehearing or review with the Board's Executive Director within thirty (30) days after  
16 service of the Order. Service of the Order is effective on personal service or five days  
17 after the date of mailing to Respondent. Pursuant to A.A.C. R4-7-305(C), the motion for  
18 rehearing must state with specificity the grounds for rehearing or review. Failure to file a  
19 motion for rehearing or review has the effect of prohibiting judicial review of the Board's  
20 Order, according to A.R.S. § 41-1092.09 (B) and A.R.S. § 12-904 *et seq.*

21  
22                               Dated this 25 day of April, 2013

23                               ARIZONA STATE BOARD OF  
24                               CHIROPRACTIC EXAMINERS

24 [ S E A L ]

By   
James Badge, D.C., Chair  
Arizona State Board of  
Chiropractic Examiners

**Original** of the foregoing filed this  
25 day of April, 2013, with:

Arizona Board Of Chiropractic Examiners  
5060 N. 19<sup>th</sup> Ave., Ste. 416  
Phoenix, Arizona 85015

**Executed Copy** of the foregoing  
mailed by U.S. Certified Mail, this 7012 3050 0002 0856 8593  
25 day of April, 2013, to:

James Warlick, D.C.  
P.O. Box 1211  
Elizabethton, TN 37643  
**Respondent**

Copy of the foregoing mailed  
By U.S. mail, this  
25 day of April, 2013, with:

Terrence Woods, P.C.  
Broening, Oberg, Woods & Wilson, P.C.  
1122 East Jefferson Street  
P.O. Box 20527  
Phoenix, AZ 85036-0527  
**Attorney for Respondent**

Mona Baskin  
Assistant Attorney General  
1275 W. Washington, CIV/LES  
Phoenix, Arizona 85007

  
Board Operations