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8 **BEFORE THE**
9 **BOARD OF CHIROPRACTIC EXAMINERS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC 2026-2076

13 **MICHAEL JOHN FOLI**
1432 South Mission Road, Suite B
Fallbrook, CA 92028

ACCUSATION

Chiropractic License No. DC 17135

Respondent.

16 **PARTIES**

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18 1. Kristin Walker (Complainant) brings this Accusation solely in her official capacity as
19 the Executive Officer of the Board of Chiropractic Examiners (Board), Department of Consumer
20 Affairs.

21 2. On or about January 1, 1985, the Board issued Chiropractic License Number DC
22 17135 to Michael John Foli (Respondent). The Chiropractic License was in full force and effect
23 at all times relevant to the charges brought herein and will expire on August 31, 2026, unless
24 renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 sections of the Chiropractic Act (Act).¹

4 4. Section 10 of the Act states, in pertinent part, that the Board may suspend or revoke a
5 license to practice chiropractic or may place the license on probation for violations of the rules
6 and regulations adopted by the Board or for any cause specified in the Chiropractic Initiative Act.

7 5. California Code of Regulations, title 16, section 355.1 states:

8 The suspension, expiration, or forfeiture by operation of law of a license issued
9 by the board, or its suspension, or forfeiture by order of the board or by order of a
10 court of law, or its surrender without the written consent of the board shall not, during
11 any period in which it may be renewed, restored, reissued, or reinstated, deprive the
12 board of its authority to institute or continue a disciplinary proceeding against the
licensee upon any ground provided by law or to enter an order suspending or
revoking the license or otherwise taking disciplinary action against the licensee on
any such ground.

13 **REGULATORY PROVISIONS**

14 6. California Code of Regulations, title 16, section 317, states:

15 The board shall take action against any holder of a license who is guilty of
16 unprofessional conduct which has been brought to its attention, or whose license has
been procured by fraud or misrepresentation or issued by mistake.

17 Unprofessional conduct includes, but is not limited to, the following:

18 ...

19 (b) Repeated negligent acts;

20 ...

21 (q) The participation in any act of fraud or misrepresentation;

22 ...

23 7. California Code of Regulations, title 16, section 318, states:

24 (a) Chiropractic Patient Records. Each licensed chiropractor is required to
25 maintain all active and inactive chiropractic patient records for five years from the
26 date of the doctor's last treatment of the patient unless state or federal laws require a
longer period of retention. Active chiropractic records are all chiropractic records of

27 ¹ The Chiropractic Act, an initiative measure approved by the electors on November 7,
28 1922, while not included in the Business and Professions Code by the legislature, is set out in
West's Annotated California Codes as sections 1000-1 to 1000-19, and is included in Deering's
California Codes as Appendix I, for convenient reference.

1 patients treated within the last 12 months. Chiropractic patient records shall be
classified as inactive when there has elapsed a period of more than 12 months since
2 the date of the last patient treatment.

3 All chiropractic patient records shall be available to any representative of the
Board upon presentation of patient's written consent or a valid legal order. Active
4 chiropractic patient records shall be immediately available to any representative of
the Board at the chiropractic office where the patient has been or is being treated.
5 Inactive chiropractic patient records shall be available upon ten days notice to any
representative of the Board. The location of said inactive records shall be reported
6 immediately upon request.

7 Active and inactive chiropractic patient records must include all of the
following:

8 (1) Patient's full name, date of birth, and social security number (if available);

9 (2) Patient gender, height and weight. An estimated height and weight is
acceptable where the physical condition of the patient prevents actual measurement;

10 (3) Patient history, complaint, diagnosis/analysis, and treatment must be signed
11 by the primary treating doctor. Thereafter, any treatment rendered by any other doctor
must be signed or initialed by said doctor;

12 (4) Signature of patient;

13 (5) Date of each and every patient visit;

14 (6) All chiropractic X-rays, or evidence of the transfer of said X-rays;

15 (7) Signed written informed consent as specified in Section 319.1.

16 (b) Accountable Billings. Each licensed chiropractor is required to ensure
17 accurate billing of his or her chiropractic services whether or not such chiropractor is
an employee of any business entity, whether corporate or individual, and whether or
18 not billing for such services is accomplished by an individual or business entity other
than the licensee. In the event an error occurs which results in an overbilling, the
19 licensee must promptly make reimbursement of the overbilling whether or not the
licensee is in any way compensated for such reimbursement by his employer, agent or
20 any other individual or business entity responsible for such error. Failure by the
licensee, within 30 days after discovery or notification of an error which resulted in
21 an overbilling, to make full reimbursement constitutes unprofessional conduct.

22 8. California Code of Regulations, title 16, section 319.1, states:

23 (a) A licensed doctor of chiropractic shall verbally and in writing inform each
patient of the material risks of proposed care. "Material" shall be defined as a
24 procedure inherently involving known risk of serious bodily harm. The chiropractor
shall obtain the patient's written informed consent prior to initiating clinical care. The
25 signed written consent shall become part of the patient's record.

26 (b) A violation of this section constitutes unprofessional conduct and may
subject the licensee to disciplinary action.

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1 **COST RECOVERY**

2 9. California Code of Regulations, title 16, section 317.5, subdivision (a), states, in
3 pertinent part:

4 In any order in resolution of a disciplinary proceeding before the Board of
5 Chiropractic Examiners, the board may request the administrative law judge to direct
6 a licensee found to have committed a violation or violations of the Chiropractic
Initiative Act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

7 **FACTUAL ALLEGATIONS**

8 10. On or around February 28, 2022, Patient CC presented at the office of Respondent for
9 treatment of injuries sustained from a motor vehicle accident. The accident occurred on February
10 25, 2022, when Patient CC was rear-ended while stationary at a traffic signal. Patient CC did not
11 require emergency aid or seek treatment from anyone but Respondent. Patient CC's initial
12 evaluation form indicated he had right knee, left shoulder and wrist pain. Respondent treated
13 Patient CC for approximately twenty months and provided seventy six treatments.

14 11. Respondent provided a Board investigator with a copy of Patient CC's records. The
15 records did not include evidence that Respondent obtained a medical, surgical, or social history.
16 The neuromusculoskeletal examination notes were incomplete. Patient CC's records did not
17 contain a signed informed consent form with requisite language informing of material risk of
18 serious bodily harm.

19 12. The records did not contain objective examination findings to support diagnoses of
20 cervical disc displacement, lumbar disc displacement, lumbar radiculopathy, sprain of ilium, or
21 sacroiliac sprain. Respondent did not include documentation of periodic re-evaluations, treatment
22 plan with supportive home measures, therapeutic activities, or rehabilitative exercises. The
23 records did not contain clinical evidence to support twenty-six diagnoses made throughout the
24 records and entries were often redundant. The records did not reflect a decreasing frequency of
25 treatment visits showing a transition from acute phase to chronic phase. Respondent admitted to
26 applying traction to spinal joints as part of a manipulation procedure but billed using a modifier
27 that contemplated a separate and distinct session of manual spinal traction.

1 when Respondent failed to correctly bill the patient by double billing, up-coding, and billing for
2 services not documented in Patient CC's records as more fully alleged above and incorporated
3 herein by reference.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Failure to Maintain Patient Records)**

6 18. Respondent is subject to disciplinary action under California Code of Regulations,
7 title 16, section 318, subdivision (a) in that Respondent failed to maintain patient records for five
8 years from the date of the last service as more fully alleged above and incorporated herein by
9 reference.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Maintain Accountable Billing)**

12 19. Respondent is subject to disciplinary action under California Code of Regulations,
13 title 16, section 318, subdivision (b), in that Respondent failed to maintain accountable billing by
14 up-coding, billing for services not documented in the charts, and failing to modify ICDA codes to
15 reflect progress and evolution of Patient CC's condition as more fully alleged above and
16 incorporated herein by reference.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Informed Consent)**

19 20. Respondent is subject to disciplinary action under CCR, section 319.1, subdivision
20 (a), in that Respondent committed acts of unprofessional conduct by failing in writing and
21 verbally to inform Patient CC of the material risks of Respondent's proposed care and services as
22 more fully alleged above and incorporated herein by reference.

23 **DISCIPLINE CONSIDERATIONS**

24 21. To determine the degree of discipline, if any, to be imposed on Respondent,
25 Complainant alleges that on or about June 26, 2019, in a prior disciplinary action titled, *In the*
26 *Matter of the Accusation Against Michael John Foli*, before the Board of Chiropractic Examiners,
27 in Case Number AC 2018-1206. Respondent's license was revoked, revocation stayed pending
28 successful completion of four years' probation for unprofessional conduct including sexual

1 misconduct, sexual acts and erotic behavior at the place of business, moral turpitude and
2 dishonesty, endangering the health, welfare, and safety of patients, and gross negligence. That
3 decision is now final.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Chiropractic Examiners issue a decision:

7 1. Revoking or suspending Chiropractic License Number DC 17135, issued to Michael
8 John Foli;

9 2. Ordering Michael John Foli to pay the Board of Chiropractic Examiners the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Title 16, California
11 Code of Regulations, section 317.5 and if placed on probation, the costs of probation monitoring,
12 and,

13 3. Taking such other and further action as deemed necessary and proper.

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15 DATED: 3.17.2026

Signature on File
KRISTIN WALKER
Executive Officer
Board of Chiropractic Examiners
Department of Consumer Affairs
State of California
Complainant

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