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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of  
**ROBERT J. BROWNSBERGER, M.D.**  
License No. 23429  
For the Practice of Allopathic Medicine  
In the State of Arizona.

Case No. MD-08-0223A

**CONSENT AGREEMENT FOR  
LETTER OF REPRIMAND,  
PROBATION AND MONITORED  
AFTER-CARE PROGRAM**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Robert J. Brownsberger, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

1           5.     This Consent Agreement does not constitute a dismissal or resolution of  
2 other matters currently pending before the Board, if any, and does not constitute any  
3 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any  
4 other pending or future investigation, action or proceeding. The acceptance of this  
5 Consent Agreement does not preclude any other agency, subdivision or officer of this  
6 State from instituting other civil or criminal proceedings with respect to the conduct that is  
7 the subject of this Consent Agreement.

8           6.     All admissions made by Respondent are solely for final disposition of this  
9 matter and any subsequent related administrative proceedings or civil litigation involving  
10 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
11 or made for any other use, such as in the context of another state or federal government  
12 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
13 any other state or federal court.

14          7.     Upon signing this agreement, and returning this document (or a copy thereof)  
15 to the Board's Executive Director, Respondent may not revoke the acceptance of the  
16 Consent Agreement. Respondent may not make any modifications to the document. Any  
17 modifications to this original document are ineffective and void unless mutually approved  
18 by the parties.

19          8.     If the Board does not adopt this Consent Agreement, Respondent will not  
20 assert as a defense that the Board's consideration of this Consent Agreement constitutes  
21 bias, prejudice, prejudgment or other similar defense.

22          9.     This Consent Agreement, once approved and signed, is a public record that  
23 will be publicly disseminated as a formal action of the Board and will be reported to the  
24 National Practitioner Data Bank and to the Arizona Medical Board's website.

25

1           10. If any part of the Consent Agreement is later declared void or otherwise  
2 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force  
3 and effect.

4           11. Any violation of this Consent Agreement constitutes unprofessional conduct  
5 and may result in disciplinary action. A.R.S. § 32-1401(27)(r) ("[v]iolating a formal order,  
6 probation, consent agreement or stipulation issued or entered into by the board or its  
7 executive director under this chapter") and 32-1451.

8           **12. Respondent has read and understands the conditions of probation.**

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11   
12 ROBERT J. BROWNSBERGER, M.D.

DATED: 10/16/08

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2 **FINDINGS OF FACT**

3 1. The Board is the duly constituted authority for the regulation and control of  
4 the practice of allopathic medicine in the State of Arizona.

5 2. Respondent is the holder of license number 23429 for the practice of  
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-08-0223A after receiving notification  
8 from the Board's addiction medicine consultant that Respondent tested positive for  
9 Tramadol on March 18, 2008.

10 4. On July 7, 2006, Respondent entered into a Stipulated Rehabilitation  
11 Agreement (SRA) agreeing to participate in the Board's Monitored Aftercare Program  
12 (MAP). On March 21, 2008, the Board received a report from the Board's addiction  
13 medicine consultant stating that on March 18, 2008, Respondent's urine drug screen  
14 tested positive for Tramadol. Respondent did not have a prescription for Tramadol from a  
15 treating physician, thus violating paragraph 8.a. of the SRA that stated that Respondent  
16 shall take no medication unless the primary care physician or other health care provider  
17 prescribes the medication.

18 5. Following an investigative interview with Board Staff, Respondent entered  
19 into an Interim Consent Agreement for Practice Restriction prohibiting him from practicing  
20 clinical medicine or any medicine involving direct patient care and from prescribing any  
21 form of treatment including prescription medications. Respondent was also ordered to  
22 undergo an evaluation and treatment.

23 6. Respondent acknowledged a relapse with alcohol during the evaluation, but  
24 denied ingesting Tramadol. On May 24, 2008, Respondent successfully completed  
25 residential treatment with a diagnosis of alcohol dependence. It was recommended that  
Respondent participate in MAP and obtain psychiatric and psychotherapy monitoring.



1 alcohol or drug abuse ("MAP")<sup>1</sup>. Respondent's participation in MAP may be unilaterally  
2 terminated with or without cause at the Board's discretion at any time after the issuance of  
3 this Order.

4           2.     Relapse Prevention Group. Respondent shall attend MAP's  
5 relapse prevention group therapy sessions one time per week for the duration of this  
6 Order, unless excused by the MAP relapse prevention group facilitator for good cause  
7 such as illness or vacation. Respondent shall instruct the MAP relapse prevention group  
8 facilitators to release to Board Staff, upon request, all records relating to Respondent's  
9 treatment, and to submit monthly reports to Board Staff regarding attendance and  
10 progress. The reports shall be submitted on or before the 10th day of each month.

11           3.     12 Step or Self-Help Group Meetings. Respondent shall attend  
12 ninety 12-step meetings or other self-help group meetings appropriate for substance  
13 abuse and approved by Board Staff, for a period of ninety days beginning not later than  
14 either (a) the first day following Respondent's discharge from chemical dependency  
15 treatment or (b) the date of this Order.

16           4.     Following completion of the ninety meetings in ninety days,  
17 Respondent shall participate in a 12-step recovery program or other self-help program  
18 appropriate for substance abuse as recommended by the MAP Director and approved by  
19 Board Staff. Respondent shall attend a minimum of three 12-step or other self-help  
20 program meetings per week for a total of twelve per month. Two of the twelve meetings  
21 must be Caduceus meetings. Respondent must maintain a log of all self-help meetings.  
22 Board Staff will provide the log to Respondent.

23  
24 \_\_\_\_\_  
25 <sup>1</sup> Respondent's MAP participation is retroactive to June 4, 2008.

1                   5.    **Board-Staff Approved Primary Care Physician.** Respondent  
2 shall promptly obtain a primary care physician and shall submit the name of the physician  
3 to Board Staff in writing for approval. The Board-approved primary care physician ("PCP")  
4 shall be in charge of providing and coordinating Respondent's medical care and treatment.  
5 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from  
6 the PCP and from health care providers to whom the PCP refers Respondent.  
7 Respondent shall request that the PCP document all referrals in the medical record.  
8 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and  
9 provide a copy of this Order the PCP. Respondent shall also inform all other health care  
10 providers who provide medical care or treatment that Respondent is participating in MAP.

11                   a.        "*Emergency*" means a serious accident or sudden illness that, if  
12                   not treated immediately, may result in a long-term medical problem or  
13                   loss of life.

14                   6.    **Medication.** Except in an *Emergency*, Respondent shall take  
15 no *Medication* unless the PCP or other health care provider to whom the PCP refers  
16 Respondent prescribes the *Medication*. Respondent shall not self-prescribe any  
17 *Medication*.

18                   a.        "*Medication*" means a prescription-only drug, controlled  
19                   substance, and over-the counter preparation, other than plain aspirin,  
20                   plain ibuprofen, and plain acetaminophen.

21                   7.        If a controlled substance is prescribed, dispensed, or is  
22 administered to Respondent by any person other than PCP, Respondent shall notify the  
23 PCP in writing within 48 hours and notify the MAP Director immediately. The notification  
24 shall contain all information required for the medication log entry specified in paragraph 8.  
25 Respondent shall request that the notification be made a part of the medical record. This

1 paragraph does not authorize Respondent to take any *Medication* other than in  
2 accordance with paragraph 6.

3                   8.       **Medication Log.** Respondent shall maintain a current legible  
4 log of all *Medication* taken by or administered to Respondent, and shall make the log  
5 available to the Board Staff upon request. For *Medication* (other than controlled  
6 substances) taken on an on-going basis, Respondent may comply with this paragraph by  
7 logging the first and last administration of the *Medication* and all changes in dosage or  
8 frequency. The log, at a minimum, shall include the following:

- 9                   a.       Name and dosage of *Medication* taken or administered;
- 10                  b.       Date taken or administered;
- 11                  c.       Name of prescribing or administering physician;
- 12                  d.       Reason *Medication* was prescribed or administered.

13                   This paragraph does not authorize Respondent to take any *Medication* other  
14 than in accordance with paragraph 6.

15                   9.       **No Alcohol or Poppy Seeds.** Respondent shall not consume  
16 alcohol or any food or other substance containing poppy seeds or alcohol.

17                   10.       **Biological Fluid Collection.** During all times that Respondent  
18 is physically present in the State of Arizona and such other times as Board Staff may  
19 direct, Respondent shall promptly comply with requests from Board Staff or MAP Director  
20 to submit to witnessed biological fluid collection. If Respondent is directed to contact an  
21 automated telephone message system to determine when to provide a specimen,  
22 Respondent shall do so within the hours specified by Board Staff. For the purposes of this  
23 paragraph, in the case of an in-person request, "promptly comply" means "immediately."  
24 In the case of a telephonic request, "promptly comply" means that, except for good cause  
25 shown, Respondent shall appear and submit to specimen collection not later than two

1 hours after telephonic notice to appear is given. The Board in its sole discretion shall  
2 determine good cause.

3 11. Respondent shall provide Board Staff in writing with one  
4 telephone number that shall be used to contact Respondent on a 24 hour per day/seven  
5 day per week basis to submit to biological fluid collection. For the purposes of this section,  
6 telephonic notice shall be deemed given at the time a message to appear is left at the  
7 contact telephone number provided by Respondent. Respondent authorizes any person  
8 or organization conducting tests on the collected samples to provide testing results to the  
9 Board and the MAP Director.

10 12. Respondent shall cooperate with collection site personnel  
11 regarding biological fluid collection. Repeated complaints from collection site personnel  
12 regarding Respondent's lack of cooperation regarding collection may be grounds for  
13 termination from MAP.

14 13. **Out of State Travel and/or Unavailability at Home or Office**  
15 **Telephone Number.** Respondent shall provide Board Staff at least three business days  
16 advance written notice of any plans to be away from office or home when such absence  
17 would prohibit Respondent from responding to an order to provide a biological fluid  
18 specimen or from responding to communications from the Board. The notice shall state  
19 the reason for the intended absence from home or office, and shall provide a telephone  
20 number that may be used to contact Respondent.

21 14. **Payment for Services.** Respondent shall pay for all costs,  
22 including personnel and contractor costs, associated with participating in MAP at  
23 time service is rendered, or within 30 days of each invoice sent to Respondent.

24 15. **Examination.** Respondent shall submit to mental, physical,  
25 and medical competency examinations at such times and under such conditions as

1 directed by the Board to assist the Board in monitoring Respondent's ability to safely  
2 perform as a physician and Respondent's compliance with the terms of this Order.

3 16. **Treatment.** Respondent shall submit to all medical, substance  
4 abuse, and mental health care and treatment ordered by the Board.

5 17. **Obey All Laws.** Respondent shall obey all federal, state and  
6 local laws, and all rules governing the practice of medicine in the State of Arizona.

7 18. **Interviews.** Respondent shall appear in person before the  
8 Board and its Staff and MAP committees for interviews upon request, upon reasonable  
9 notice.

10 19. **Address and Phone Changes, Notice.** Respondent shall  
11 immediately notify the Board in writing of any change in office or home addresses and  
12 telephone numbers.

13 20. **Relapse, Violation.** In the event of chemical dependency  
14 relapse by Respondent or Respondent's use of drugs or alcohol in violation of the Order,  
15 Respondent's license shall be **REVOKED**. Respondent agrees to waive formal hearing on  
16 the revocation. In the alternative, Respondent may **SURRENDER HIS LICENSE** if he  
17 agrees in writing to being impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).

18 21. **Notice Requirements.**

19 (A) Respondent shall immediately provide a copy of this Order to all  
20 employers and all hospitals and free standing surgery centers where Respondent currently  
21 has privileges. Within 30 days of the date of this Order, Respondent shall provide the  
22 Board with a signed statement of compliance with this notification requirement. Upon any  
23 change in employer or upon the granting of privileges at additional hospitals and free  
24 standing surgery centers, Respondent shall provide the employer, hospital or free standing  
25 surgery center with a copy of this Order. Within 30 days of a change in employer or upon

1 the granting of privileges at additional hospitals and free standing surgery centers,  
2 Respondent shall provide the Board with a signed statement of compliance with this  
3 notification requirement.

4 (B) Respondent is further required to notify, in writing, all employers,  
5 hospitals and free standing surgery centers where Respondent currently has or in the  
6 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
7 alcohol in violation of this Order and/or entry into a treatment program. Within seven days  
8 of any of these events Respondent shall provide the Board written confirmation of  
9 compliance with this notification requirement.

10 22. **Public Record.** This Order is a public record.

11 23. **Out-of-State.** In the event Respondent resides or practices as  
12 a physician in a state other than Arizona, Respondent shall participate in the rehabilitation  
13 program sponsored by that state's medical licensing authority or medical society.  
14 Respondent shall cause the monitoring state's program to provide written reports to the  
15 Board regarding Respondent's attendance, participation, and monitoring. The reports  
16 shall be due quarterly on or before the 15th day of March, June, September, and  
17 December of each year, until the Board terminates this requirement in writing. The  
18 monitoring state's program and Respondent shall immediately notify the Board if  
19 Respondent: a) is non-compliant with any aspect of the monitoring requirements; b)  
20 relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug  
21 test(s), missed and/or late urine drug tests, or otherwise rejected urine drug tests; and e) is  
22 required to undergo any additional treatment.

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1                   24.     This Order supersedes all previous consent agreements and  
2 stipulations between the Board and/or the Executive Director and Respondent.<sup>2</sup>

3                   25.     The Board retains jurisdiction and may initiate new action  
4 based upon any violation of this Order.

5                   26.     Respondent shall immediately obtain a treating psychiatrist  
6 and psychotherapist approved by Board Staff and shall remain in treatment with the  
7 psychiatrist and psychotherapist until further order of the Executive Director. Respondent  
8 shall instruct the psychiatrist and psychotherapist to release to Board Staff, upon request,  
9 all records relating to Respondent's treatment, and to submit quarterly written reports to  
10 Board Staff regarding diagnosis, prognosis, medications, and recommendations for  
11 continuing care and treatment of Respondent. The reports shall be submitted on or before  
12 the 15th day of March, June, September and December of each year, beginning on or  
13 before March, 2009.

14                   3.     This Order is the final disposition of case number MD-08-0223A.

15                   DATED AND EFFECTIVE this 7th day of December, 2008.



17                   ARIZONA MEDICAL BOARD

18                   By *L. S. Wynn*  
19                   Lisa S. Wynn  
20                   Executive Director

21 ORIGINAL of the foregoing filed  
22 this 7th day of December, 2008 with:

23 Arizona Medical Board  
24 9545 E. Doubletree Ranch Road  
25 Scottsdale, AZ 85258

<sup>2</sup> Respondent's MAP participation is retroactive to June 4, 2008.

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EXECUTED COPY of the foregoing mailed  
this 4th day of December 2008 to:

Robert J. Brownsberger, M.D.  
Address of Record



Investigational Review