

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

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

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

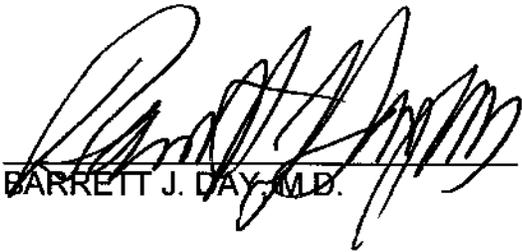
17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

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

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

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

5 **12. Respondent has read and understands the condition(s) of probation.**

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DATED: 10/3/08

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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 17995 for the practice of
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-07-1041A after receiving a Disciplinary
8 Alert Report from the Louisiana Medical Board (LMB) indicating that Respondent entered
9 into a Consent Order (Order) with LMB that became effective December 16, 2007.

10 4. The LMB investigation found just cause to support allegations that
11 Respondent allowed individuals, who lacked appropriate authorization and licensure, to
12 attend, treat, examine and render diagnoses to patients in a medical clinic where he had
13 patient care responsibilities. Additionally, the LMB investigation found just cause to support
14 allegations that Respondent did not implement the rules governing complementary and
15 alternative medicine at the clinic and he did not provide appropriate supervision of patients
16 who were seen by unauthorized individuals without the patient's knowledge or consent.
17 Further, the LMB investigation found just cause to support allegations that Respondent's
18 practice pattern exposed patients to potential harm. These practices included the
19 preparation and administration of potentially harmful medications and rendering of
20 intravenous treatments, such as Chelation therapy and Myer's cocktails.

21 5. Under the LMB Order Respondent was placed on three years probation and
22 was required to undergo a physician examination; to surrender all dispensing physician
23 registration certificates previously issued; to limit his practice to providing medical services
24 only at a Board approved facility, for the duration of his career; to obtain at least fifty hours
25 of Continuing Medical Education in general medicine; and to enroll in a Board approved

1 intensive medical ethics course of at least twelve hours. The Order is incorporated by
2 reference.

3 **CONCLUSIONS OF LAW**

4 1. The Board possesses jurisdiction over the subject matter hereof and over
5 Respondent.

6 2. The conduct and circumstances described above constitute unprofessional
7 conduct pursuant to A.R.S. §32-1401(27)(o) (“[a]ction that is taken against a doctor of
8 medicine by another licensing or regulatory jurisdiction due to that doctor’s mental or
9 physical inability to engage safely in the practice of medicine, the doctor’s medial
10 incompetence or for unprofessional conduct as defined by that jurisdiction and that
11 corresponds directly or indirectly to an act of unprofessional conduct prescribed by this
12 paragraph. The action taken may include refusing, denying, revoking or suspending a
13 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise
14 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on
15 probation by that jurisdiction.”). The corresponding act of unprofessional conduct is in
16 A.R.S. § 32-1401(27)(q) (“[a]ny conduct or practice that is or might be harmful or
17 dangerous to the health of the patient or the public.”).

18 **ORDER**

19 IT IS HEREBY ORDERED THAT:

20 1. Respondent is issued a Letter of Reprimand for action taken by another
21 state.

22 2. Respondent is placed on probation for three years with the following terms
23 and conditions:

24 a. Respondent’s probation is to run concurrently with the Louisiana
25 Board Order. Respondent shall comply with all terms of the Louisiana Board Order.

1 b. Obey All Laws

2 Respondent shall obey all state, federal and local laws, all rules governing the
3 practice of medicine in Arizona, and remain in full compliance with any court ordered
4 criminal probation, payments and other orders.

5 3. This Order is the final disposition of case number MD-07-1041A.

6 DATED AND EFFECTIVE this 4th day of December, 2008.

7
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9 (SEAL)



ARIZONA MEDICAL BOARD

10
11 By



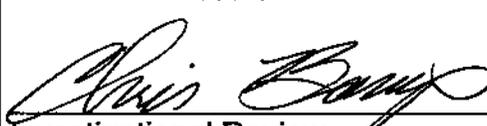
Lisa S. Wynn
Executive Director

12 ORIGINAL of the foregoing filed
13 this 4th day of December, 2008 with:

14 Arizona Medical Board
15 9545 E. Doubletree Ranch Road
16 Scottsdale, AZ 85258

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

19 Barrett J. Day, M.D.
20 Address of Record



21 Investigational Review
22
23
24
25

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS
630 Camp Street, New Orleans, LA 70130
General Correspondence Address: Post Office Box 30250, New Orleans, LA 70190-0250
Phone: (504) 568-6820
www.lsbme.org



Telephone: (504) 568-6820
Fax: (504) 568-8893
Writer's Direct Dial:

Ext. _____

**BEFORE THE
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS**

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In The Matter Of
BARRETT JAMES DAY, M.D.
(Certificate No. 08127R)

Respondent

CONSENT ORDER

Investigation of the captioned matter was assigned by the Louisiana State Board of Medical Examiners ("Board") to the Medical Consultant/Director of Investigations ("DOI"). The DOI's review and analysis of information received in the course of the investigation led the DOI to believe that **BARRETT JAMES DAY, M.D.** ("Dr. Day" or "Respondent"), a physician licensed by the Board to practice medicine in the state of Louisiana and at all times pertinent engaged in the practice of family medicine in the Houma, Metairie, Covington, Raceland, Baton Rouge and Harvey, Louisiana areas, had allowed individuals who lacked appropriate authorization and licensure to

attend, treat, examine, and render diagnoses to patients in a medical clinic where he had patient care responsibilities.

While Dr. Day practiced in the area of alternative medicine, he was not cognizant of the Board rules pertaining to complementary and alternative medicine that were published during his tenure at the medical clinic. He failed to implement them at the clinic and to provide appropriate supervision of patients who were being seen by unauthorized individuals without his knowledge and consent. Such practice pattern exposed patients to potential harm. In some instances, these practices included the preparation and administration of potentially harmful medications and the rendering of unsuitable treatments. Dr. Day denies these allegations. He ultimately resigned from the medical clinic.

Following her investigation, the DOI determined to her satisfaction that just cause existed for recommending the filing of a formal Administrative Complaint against Dr. Day, charging him with violations of the Louisiana Medical Practice Act (the "Act"), La.Rev.Stat. §37:1285 and §37:1285A(10)¹ (13)² (18)³ and (30)⁴ and the Board Rules concerning Complementary and Alternative Medicine, 46 La. Admin. C. Pt. XLV §7105 *et seq.*

By signing this Consent Order, Dr. Day acknowledges that he has had ample time to review this Consent Order with the benefit of legal counsel. Dr. Day also acknowledges that he is freely and voluntarily entering into this Consent Order. He denies the allegations against him and enters into

¹Efforts to deceive or defraud the public

²Unprofessional conduct

³Knowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or having professional connection with or lending one's name to an illegal practitioner

⁴Violation of any rules and regulations of the board, or any provisions of this Part

this Consent Order to conclude these proceedings before the Board. He further acknowledges that proof of such information in an administrative evidentiary hearing would establish grounds under the Act for the suspension, revocation, or other such action against his license to practice medicine in the state of Louisiana as the Board might deem appropriate, pursuant to La.Rev.Stat. §37:1285 and §37:1285A(10)(13)(18)(30).

Recognizing his rights (a) to have notice of any allegation or charge asserted against him, (b) to administrative adjudication of such charges, at which time Dr. Day would be entitled to be represented by legal counsel, (c) to call witnesses and to present evidence on his own behalf in defense or in mitigation of the charges, and (d) to a written decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La.Rev.Stat. §§49:955-965, Dr. Day, nonetheless, hereby waives all of these rights, including his right to formal adjudication, and, pursuant to La.Rev.Stat. §49:955(D), consents to entry of this Consent Order. By his signing this Consent Order, Dr. Day acknowledges his waiver of the foregoing rights to which he would otherwise be entitled pursuant to the Louisiana Administrative Procedure Act or other law(s), including but not limited to his right to contest his agreement to, or to challenge the force and effect of, the Board's investigation or this Consent Order in any court. By signing this Consent Order, Dr. Day also authorizes the DOI, as well as the DOI's legal counsel, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation of this matter, and Dr. Day waives any objection to such disclosures under La.Rev.Stat. §49:960. Dr. Day expressly acknowledges that the disclosure of the information to the Board by the DOI or her legal counsel shall be without prejudice to the DOI's authority to pursue and proceed with a hearing on the formal Administrative Complaint or to the Board's capacity to

adjudicate the Administrative Complaint, should the Board decline to approve this Consent Order.

Moreover, by signing this Consent Order, Dr. Day acknowledges that his receipt of written notification from the Board that it has received reliable information of his failure to abide by the terms and conditions of this Order, shall, without need for formal hearing or providing him with any right to which he may otherwise be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §49:951, *et seq.*, or which otherwise may be afforded to him by law, constitute his consent to the immediate suspension of his license to practice medicine in this state pending the issuance of a decision by the Board following administrative adjudication of such charges.

Based upon the information provided and upon the recommendation of the DOI assigned to this matter, the Board has concluded that its responsibility to protect the health, safety and welfare of the citizens of this state pursuant to La.Rev.Stat. §37:1261 will be effectively served by entry of this Consent Order.

Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by La.Rev.Stat. §37:1285 and La.Rev.Stat. §49:955 (D);

IT IS ORDERED that the license of Barrett James Day, M.D., to engage in the practice of medicine in the state of Louisiana as evidenced by Certificate No. 08127R, shall be **ON PROBATION** for three (3) years by the Board, *provided, however*, that Dr. Day's continuing exercise of the rights and privileges thereunder shall be conditioned upon his acceptance of and strict compliance with the following minimum terms, conditions and restrictions:

- (a) **Evaluation.** Within ninety (90) days of the Board's acceptance of this Consent Order, Dr. Day shall undergo a physical examination and shall provide the Board with a recent report from his current treating physician attesting to his ability and competency to render medical care to patients

with reasonable skill and safety. Failure to comply with this provision will form the basis for further administrative action.

- (b) **Surrender of Registration as a Dispensing Physician.** Dr. Day shall surrender for cancellation all Dispensing Physician Registration Certificates previously issued to him by the Board under the authority of 46 La. Admin. C. Pt. XLV §6503 *et seq.* This surrender and cancellation shall survive the term of probation. It is also a condition of this Consent Order that Dr. Day may not apply to the Board for Dispensing Physician Registration or Certificates for the entirety of the time during which he may hold any formal license or permit to practice medicine in the State of Louisiana.
- (c) **Scope of Practice.** For the duration of his career, Dr. Day will provide medical services only at a facility that has been pre-approved by the Board.
- (d) **Continuing Medical Education.** Commencing with the effective date of this Consent Order, Dr. Day shall obtain not less than fifty (50) credit hours during each year of his probationary period of continuing medical education ("CME") credits in general medicine through attendance at and participation in CME programs accredited by and qualifying for the Physicians Recognition Award of the American Medical Association. Dr. Day shall cause to be submitted to the Board written certification of the CME programs and credits completed by him during each twelve (12) month period. During the first year of probation, Dr. Day, at his expense, shall enroll and participate in an intensive medical ethics course of no fewer than twelve (12) hours and approved in advance by the Board.
- (e) **Cooperation with the Board's Probation and Compliance Officer.** Dr. Day shall immediately notify the Board's Probation and Compliance Officer of the hospital(s) at which he has medical staff membership and/or clinical privileges and of any changes thereto, as well as any change in his current home and professional address and telephone numbers, and he shall direct all matters required pursuant to this Consent Order, including evidence of the CME credits to the attention of the Board's Probation and Compliance

Officer, with whom he shall cooperate on all matters and inquiries pertaining to his compliance with the terms, conditions and restrictions of this Consent Order.

- (f) **Absence from State - Effect on Probation.** Should Dr. Day at any time during the period of probation be absent from the state of Louisiana, relocate to and/or take up residency in another state or country for a period of thirty (30) days or more, he will so advise the Board in writing. In such instance, the probationary period and all of its terms and conditions shall be deemed interrupted and extended and shall not commence to run until Dr. Day notifies the Board in writing that he has returned to or resumed residency in the state of Louisiana, and Dr. Day shall not receive credit toward the probationary period for the time during which he was absent from the state of Louisiana.
- (g) **Personal Appearance before the Board.** In connection with this Consent Order, Dr. Day shall personally appear before the Board to permit the Board to consider the issues giving rise to this Consent Order and the terms of this Consent Order and to advise the Board of his intentions with respect to the practice of medicine.
- (h) **Probation Monitoring Fee.** Dr. Day shall pay a probation monitoring fee of Three Hundred and No/100 (\$300.00) Dollars per year during the term of this probation.
- (i) **Fees and Costs of Supervision and Reports.** Any and all fees, costs or expenses incurred by Dr. Day in connection with the provisions or other requirements contained in this Order shall be arranged and borne by Dr. Day.
- (j) **Certification of Compliance with Probation.** At least sixty (60) days prior to the conclusion of the probationary term imposed herein, Dr. Day shall provide the Board with an executed affidavit certifying that he has complied with each of the terms of probation imposed upon him by this Order.

IT IS FURTHER ORDERED that Dr. Day shall pay a fine of Five Thousand and No/100 (\$5,000.00) Dollars to be paid to the Board within one (1) year of the effective date of this Consent

Order. Dr. Day's failure to pay the fine within the year will constitute his consent to a further suspension of his license to practice medicine in the state of Louisiana to continue until such time as his fine has been paid in full.

IT IS FURTHER ORDERED that any violation by Dr. Day or his failure of strict compliance with any provision of this Order shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for the revocation and cancellation of Dr. Day's license to practice medicine in the state of Louisiana or for such other action as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:1285.

IT IS FURTHER ORDERED that the effective date of this Consent Order is December 16, 2007.

IT IS FURTHER ORDERED that this Consent Order shall be a public record.

New Orleans, Louisiana, this _____ day of _____, 2007.

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

By: _____
President

STATE OF LOUISIANA

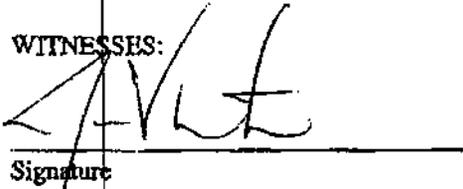
PARISH OF St Tammany

ACKNOWLEDGMENT
AND CONSENT

I, Barrett James Day, M.D., hereby acknowledge, approve, accept and consent to the entry of the above and foregoing Order this 15 day of October, 2007.

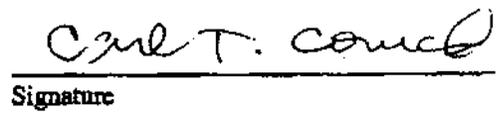

Barrett James Day, M.D.

WITNESSES:


Signature

Typed Name: James Vitrano

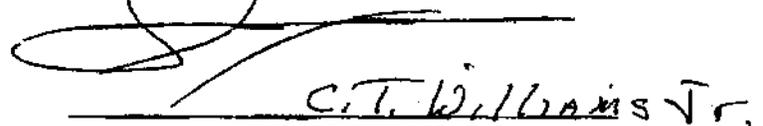
Address: 1590 West Causeway Approach
Mandeville, LA 70471


Signature

Typed Name: Carl T. Conrad

Address: 1590 W. Causeway
Mandeville, LA 70471

Sworn to and subscribed before me at Mandeville, Louisiana, this 15 day of October, 2007, in the presence of the two stated witnesses.


C.T. Williams Jr.
NOTARY PUBLIC
BAR Roll #13494

1366289.83878