

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2
3 In the Matter of

4 **DAVID K. PATZER, M.D.**

5 Holder of License No. 26950
6 For the Practice of Allopathic Medicine
7 In the State of Arizona.

Case No. MD-08-1151A

**CONSENT AGREEMENT FOR
PROBATIONARY LICENSE**

8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Medical Board
10 ("Board") and David K. Patzer, M.D. ("Respondent"), the parties agree to the following
11 disposition of this matter.

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

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

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

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

1 5. This Consent Agreement does not constitute a dismissal or resolution of other
2 matters currently pending before the Board, if any, and does not constitute any waiver,
3 express or implied, of the Board's statutory authority or jurisdiction regarding any other
4 pending or future investigation, action or proceeding. The acceptance of this Consent
5 Agreement does not preclude any other agency, subdivision or officer of this State from
6 instituting other civil or criminal proceedings with respect to the conduct that is the subject
7 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) to
15 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.

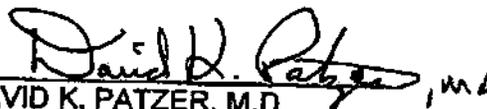
22 9. This Consent Agreement, once approved and signed, is a public record that will
23 be publicly disseminated as a formal action of the Board and will be reported to the
24 National Practitioner Data Bank and to the Arizona Medical Board's website.
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10. If any part of the Consent Agreement is later declared void or otherwise unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force and effect.

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

12. Respondent has read and understands the condition of probation.


DAVID K. PATZER, M.D.

January 13, 2009
Date

FINDINGS OF FACT

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

4 2. The Board initiated case number MD-08-1151A after receiving Respondent's
5 application for licensure on April 16, 2008. Respondent previously signed a Consent
6 Agreement for Surrender of his license and the Board accepted it on February 13, 2003.

7 3. On September 29, 2000, Respondent entered into a confidential Stipulated
8 Rehabilitation Agreement following treatment for substance abuse. On October 12, 2001,
9 Respondent tested positive for Amphetamine that was not prescribed to him by his primary
10 care physician. As a result, Respondent entered into an Interim Consent Agreement for
11 Practice Restriction and Evaluation. Subsequently, Respondent successfully completed
12 treatment on January 16, 2002 and signed a Consent Agreement for a Stayed Suspension
13 and Probation on June 5, 2002. On November 1, 2002, Respondent relapsed by writing a
14 fraudulent prescription and ingesting Ritalin. On November 19, 2002, Respondent entered
15 into an Interim Consent Agreement for Practice Restriction and Residential Treatment;
16 however, he did not enter treatment and instead surrendered his license.

17 4. Along with his application for licensure, Respondent disclosed that he
18 underwent treatment from December 2002 through April 2003 and had been privately
19 monitored from June 2004 through August 2004. Respondent also disclosed that he is
20 currently practicing psychiatry under supervision in Tennessee. The Tennessee Medical
21 Foundation informed the Board that on September 13, 2004, Respondent signed a five
22 year monitoring agreement and that he is in full compliance. On October 27, 2008,
23 Respondent underwent a health assessment. The evaluator stated that Respondent
24 appeared to be in good recovery, that he was adequately being monitored in Tennessee
25 and that he was safe to return to practice.

1 release to Board Staff, upon request, all records relating to Respondent's treatment, and
2 to submit monthly reports to Board Staff regarding attendance and progress. The reports
3 shall be submitted on or before the 10th day of each month.

4 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend
5 ninety 12-step meetings or other self-help group meetings appropriate for substance
6 abuse and approved by Board Staff, for a period of ninety days beginning not later than
7 either (a) the first day following Respondent's discharge from chemical dependency
8 treatment or (b) the date of this Order.

9 **4.** Following completion of the ninety meetings in ninety days,
10 Respondent shall participate in a 12-step recovery program or other self-help program
11 appropriate for substance abuse as recommended by the MAP Director and approved by
12 Board Staff. Respondent shall attend a minimum of three 12-step or other self-help
13 program meetings per week for a total of twelve per month. Two of the twelve meetings
14 must be Caduceus meetings. Respondent must maintain a log of all self-help meetings.
15 Board Staff will provide the log to Respondent.

16 **5. Board-Staff Approved Primary Care Physician.** Respondent shall
17 promptly obtain a primary care physician and shall submit the name of the physician to
18 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")
19 shall be in charge of providing and coordinating Respondent's medical care and treatment.
20 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from
21 the PCP and from health care providers to whom the PCP refers Respondent.
22 Respondent shall request that the PCP document all referrals in the medical record.
23 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and
24 provide a copy of this Order the PCP. Respondent shall also inform all other health care
25 providers who provide medical care or treatment that Respondent is participating in MAP.

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

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

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

10 7. If a controlled substance is prescribed, dispensed, or is administered
11 to Respondent by any person other than PCP, Respondent shall notify the PCP in writing
12 within 48 hours and notify the MAP Director immediately. The notification shall contain all
13 information required for the medication log entry specified in paragraph 8. Respondent
14 shall request that the notification be made a part of the medical record. This paragraph
15 does not authorize Respondent to take any *Medication* other than in accordance with
16 paragraph 6.

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

- 23 a. Name and dosage of *Medication* taken or administered;
24 b. Date taken or administered;
25 c. Name of prescribing or administering physician;

1 d. Reason *Medication* was prescribed or administered.

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

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

6 10. **Biological Fluid Collection.** During all times that Respondent is
7 physically present in the State of Arizona and such other times as Board Staff may direct,
8 Respondent shall promptly comply with requests from Board Staff or MAP Director to
9 submit to witnessed biological fluid collection. If Respondent is directed to contact an
10 automated telephone message system to determine when to provide a specimen,
11 Respondent shall do so within the hours specified by Board Staff. For the purposes of this
12 paragraph, in the case of an in-person request, "promptly comply" means "immediately."
13 In the case of a telephonic request, "promptly comply" means that, except for good cause
14 shown, Respondent shall appear and submit to specimen collection not later than two
15 hours after telephonic notice to appear is given. The Board in its sole discretion shall
16 determine good cause.

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

24 12. Respondent shall cooperate with collection site personnel regarding
25 biological fluid collection. Repeated complaints from collection site personnel regarding

1 Respondent's lack of cooperation regarding collection may be grounds for termination
2 from MAP.

3 **13. Out of State Travel and/or Unavailability at Home or Office**

4 **Telephone Number.** Respondent shall provide Board Staff at least three business
5 days advance written notice of any plans to be away from office or home when such
6 absence would prohibit Respondent from responding to an order to provide a biological
7 fluid specimen or from responding to communications from the Board. The notice shall
8 state the reason for the intended absence from home or office, and shall provide a
9 telephone number that may be used to contact Respondent.

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

13 **15. Examination.** Respondent shall submit to mental, physical, and
14 medical competency examinations at such times and under such conditions as directed by
15 the Board to assist the Board in monitoring Respondent's ability to safely perform as a
16 physician and Respondent's compliance with the terms of this Order.

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

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

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

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

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

6 **21. Notice Requirements.**

7 **(A)** Respondent shall immediately provide a copy of this Order to all
8 employers and all hospitals and free standing surgery centers where Respondent currently
9 has privileges. Within 30 days of the date of this Order, Respondent shall provide the
10 Board with a signed statement of compliance with this notification requirement. Upon any
11 change in employer or upon the granting of privileges at additional hospitals and free
12 standing surgery centers, Respondent shall provide the employer, hospital or free standing
13 surgery center with a copy of this Order. Within 30 days of a change in employer or upon
14 the granting of privileges at additional hospitals and free standing surgery centers,
15 Respondent shall provide the Board with a signed statement of compliance with this
16 notification requirement.

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

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

24 **23.** This Order supersedes all previous consent agreements and stipulations
25 between the Board and/or the Executive Director and Respondent.

1 24. The Board retains jurisdiction and may initiate new action based upon any
2 violation of this Order.

3 4. This Order is the final disposition of case number MD-08-1151A.

4 EFFECTIVE this 5TH day of FEBRUARY, 2009.



ARIZONA MEDICAL BOARD

By *Lisa S. Wynn*
Lisa S. Wynn
Executive Director

8 ORIGINAL of the foregoing filed
9 this 5th day of February, 2009 with:

10 Arizona Medical Board
11 9545 E. Doubletree Ranch Road
12 Scottsdale, AZ 85258

12 EXECUTED COPY of the foregoing mailed
13 this 5th day of February, 2009 to:

14 David K. Patzer, M.D.
15 Address of Record

16 *Kayda Coley*
17 Investigational Review