BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **MARTIN L. BROWN, M.D.** License No. 17784 For the Practice of Allopathic Medicine In the State of Arizona.	Case No. MD-08-0464A **CONSENT AGREEMENT FOR LETTER OF REPRIMAND AND PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Martin L. Brown, M.D. ("Respondent"), the parties agree 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.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any

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

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

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

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

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

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 conditions of probation.

Martin L. Brown MD

MARTIN L. BROWN, M.D.

DATED: 12/12/08

FINDINGS OF FACT

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

2. Respondent is the holder of license number 17784 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-08-0464A after receiving a complaint regarding Respondent's care and treatment of a forty-four year-old female patient ("JB").

4. On January 30, 2007, JB presented to Respondent for an initial visit requesting a refill of pain medication which she reported had been prescribed by another physician. JB reported that she had discontinued taking Methadone a month prior to her visit. There was no documentation that Respondent explored the reason JB discontinued taking the Methadone or JB's reasons for not returning to her prescribing physician for refills. JB denied alcohol or illicit drug use, but reported she was on probation that required mandatory drug screens. Respondent had past medical records in his possession which document JB's history of chemical dependency, cocaine use, and court ordered Methadone treatment for addiction; however, he failed to substantiate JB's report of recent prescription for Methadone 80 mg per day for chronic pain. Despite this history, Respondent prescribed Methadone at an initial dose of 80 mg per day, but did not obtain an electrocardiogram (EKG) to evaluate JB for risk factors prior to re-initiating it. On the following day, JB was found unresponsive at home and pronounced dead. The autopsy report indicated that the serum toxicology was positive for Methadone; however, the cause of death was undetermined because JB had injuries that were not well explained.

5. The standard of care for a patient self referred for chronic pain management and who reports recent opioid medications requires a physician to obtain and consider pertinent past medical records and imaging reports and reduce the risk of Methadone

overdose by initiating treatment with small doses of Methadone and slowly titrate the dosage upward based upon the patient's response.

6. Respondent deviated from the standard of care because he did not obtain an EKG to evaluate JB and he did not initiate small doses of Methadone and slowly titrate the dosage upward.

7. Although the cause of JB's death may have been Methadone intoxication, the official cause of death is undetermined. JB could have suffered an overdose, aspiration, fatal respiratory depression or sudden cardiac death due to excessive initial dosage of Methadone.

8. A physician is required to maintain adequate legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because he did not document the reason JB discontinued taking the Methadone or JB's reasons for not returning to her previous physician for refills.

CONCLUSIONS OF LAW

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

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e) ("[f]ailing or refusing to maintain adequate records on a patient."), A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.") and A.R.S. § 32-

1401(27)(ll) ("[c]onduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or death of a patient.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for failure to obtain an electrocardiogram to evaluate a patient for risk factors prior to re-initiating Methadone, for prescribing an excessive initial dose of Methadone and for failure to maintain adequate records.

2. Respondent is placed on probation for **one year** with the following terms and conditions:

a. Continuing Medical Education

Respondent shall within one year of the effective date of this Order obtain **15 - 20 hours** of Board Staff pre-approved Category I Continuing Medical Education (CME) in **opioid and Methadone prescribing** and provide Board Staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical license. The probation shall terminate upon successful completion of the CME.

b. Obey All Laws

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

c. Tolling

In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing medicine in Arizona, Respondent shall notify the Executive Director in writing within ten days of departure and

return or the dates of non-practice within Arizona. Non-practice is defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of medicine. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.

3. This Order is the final disposition of case number MD-08-0464A.

DATED AND EFFECTIVE this 5TH day of FEBRUARY, 2009.

(SEAL)

ARIZONA MEDICAL BOARD

By _____
Lisa S. Wynn
Executive Director

ORIGINAL of the foregoing filed this 5TH day of February, 2009 with:

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

EXECUTED COPY of the foregoing mailed this 5TH day of February, 2009 to:

Martin L. Brown, M.D.
Address of Record

Brenda Corley
Investigational Review