

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **DALE N. PAYNE, M.D.**

4 Holder of License No. **28025**
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-13-1285A

**INTERIM ORDER FOR PRACTICE
RESTRICTION AND CONSENT TO THE
SAME**

7 **INTERIM CONSENT AGREEMENT**

8 Dale N. Payne, M.D. ("Respondent") elects to permanently waive any right to a
9 hearing and appeal with respect to this Interim Order for Practice Restriction; admits the
10 jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order
11 by the Board.

12 **FINDINGS OF FACT**

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

15 2. Respondent is the holder of License No. 28025 for the practice of allopathic
16 medicine in the State of Arizona.

17 3. The Board initiated case no. MD-13-1285A after receiving notification from
18 the Physicians Health Program (PHP) Monitor that Respondent's October 28, 2013,
19 biological fluid testing was positive for alcohol metabolites, in violation of Respondent's
20 January 14, 2011, Stipulated Rehabilitation Agreement (SRA).

21 4. On November 12, 2013, the Board issued Respondent an Interim Order for
22 Chemical Dependency Evaluation, which Respondent completed at Promises Treatment
23 Centers. On November 27, 2013, the Board received from Promises an intensive
24 diagnostic evaluation preliminary report. Promises states that Respondent's diagnosis is
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1 Alcohol Dependence, and that Respondent should not practice medicine until after
2 successful completion of treatment.

3 5. On January 14, 2011, Respondent entered into a confidential SRA.
4 Pursuant to the terms of the SRA, "In the event of chemical dependency relapse by
5 Physician or Physician's use of drugs or alcohol in violation of the Order, Physician shall
6 promptly enter into an Interim Order for Practice Restriction and Consent to the Same that
7 requires, among other things, that Physician not practice medicine until such time as
8 Physician successfully completes long-term inpatient treatment for chemical dependency
9 designated by the Monitor and obtains affirmative approval from the Board or the
10 Executive Director to return to the practice of medicine. Prior to approving Physician's
11 request to return to the practice of medicine, Physician may be required to submit to
12 witnessed biological fluid collection or undergo any combination of physical examination,
13 psychiatric or psychological evaluation. **In no respect shall the terms of this paragraph
14 restrict the Board's authority to initiate and take disciplinary action for violation of
15 this Order.**"

16 6. The Executive Director has consulted with investigative staff and the
17 Board's medical consultant, who has reviewed the case and agrees that a consent
18 agreement is appropriate.

19 CONCLUSIONS OF LAW

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

22 2. The Executive Director may enter into a consent agreement with a physician
23 if there is evidence of danger to the public health and safety pursuant to A.R.S. § 32-
24 1405(C)(25) and § 32-1451(F); A.A.C. R4-16-504.
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1 2. Respondent acknowledges and agrees that this Interim Order is entered
2 into freely and voluntarily and that no promise was made or coercion used to induce such
3 entry.

4 3. By consenting to this Interim Order, Respondent voluntarily relinquishes any
5 rights to a hearing or judicial review in state or federal court on the matters alleged, or to
6 challenge this Interim Order in its entirety as issued, and waives any other cause of action
7 related thereto or arising from said Interim Order.

8 4. The Interim Order is not effective until approved and signed by the
9 Executive Director.

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

16 6. Upon signing this Interim Order, and returning this document (or a copy
17 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
18 entry of the Interim Order. Respondent may not make any modifications to the document.
19 Any modifications to this original document are ineffective and void unless mutually
20 approved by the parties.

21 7. This Interim Order is a public record that will be publicly disseminated as a
22 formal action of the Board and will be reported to the National Practitioner's Data Bank
23 and on the Board's web site.

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

4 9. Any violation of this Interim Order constitutes unprofessional conduct and
5 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.

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9 
Dale N. Payne, M.D.

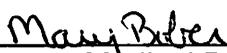
DATED: 12/22/2013

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11 EXECUTED COPY of the foregoing mailed
12 this 6th day of January, 2014 to:

13 Dale N. Payne, M.D.
14 Address of Record.

15 ORIGINAL of the foregoing filed
16 this 6th day of January, 2014 with:

17 Arizona Medical Board
18 9545 E. Doubletree Ranch Road
19 Scottsdale, AZ 85258

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Arizona Medical Board Staff