

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. Respondent consents to the entry of the order set forth below as a
7 compromise of a disputed matter between Respondent and the Board, and does so only
8 for the purpose of terminating the disputed matter by agreement. The Consent Agreement
9 has been entered by the parties for no other purpose other than this Board's proceedings.
10 The Consent Agreement and its contents are not intended or made for any other use,
11 including other state or federal government regulatory agency proceedings or any other
12 court proceeding in the State of Arizona or any other state or federal court. Respondent
13 acknowledges it is the Board's position that, if this matter proceeded to formal hearing, the
14 Board could establish sufficient evidence to support a conclusion that certain aspects of
15 Respondent's conduct constituted unprofessional conduct. Respondent agrees not to
16 contest the validity of the Findings of Fact and Conclusions of Law contained in the Order
17 in any present or future administrative proceedings before the Board (or any other state
18 agency concerning the denial or issuance of any license or registration required by the
19 state to engage in the practice or any business or profession.)

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

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

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

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

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

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

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17 _____
18 THOMAS J. PETRONE, M.D.

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DATED: 1/5/09

1 **FINDINGS OF FACT**

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. Respondent is the holder of license number 23585 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-08-0059A after receiving notification
7 from Respondent that he prescribed a controlled substance to RN who was not an
8 established patient and from a pharmacy regarding Respondent's care and treatment of
9 RD. Board Staff reviewed Respondent's care and treatment of RN, RD and RE and found
10 deviations in all three.

11 4. On January 17, 2008, Respondent notified Board Staff that he prescribed
12 Actiq to RN without meeting him or performing a physical examination. Respondent also
13 admitted that he did not document RN's pain history, any rationale for the medication or
14 services he provided. Further, Respondent admitted that he prescribed escalated doses of
15 opioids to RN, RE and RD.

16 5. During the Board's investigation, Board Staff noted Respondent provided
17 opioids to RE and RD for reported back pain and radicular symptoms without any
18 therapeutic indications. Specifically, there were no magnetic resonance imaging scans
19 included in their charts and Respondent's physical examination did not address any
20 findings of back pain or radicular symptoms. Additionally, there was no indication that
21 Respondent recognized any problems suggestive of noncompliance and aberrant drug
22 seeking behavior or that he obtained past medical records. Further, there was no evidence
23 that Respondent referred RE and RD to specialists for their reported back pain and
24 radicular symptoms.

25 6. The standard of care requires a physician to establish a treating relationship
prior to prescribing controlled substances. The standard of care when evaluating and

1 prescribing long term opioids for chronic pain patients requires a physician to obtain
2 consultations and diagnostic studies; to provide non-opioid medications, a multidisciplinary
3 approach, and close monitoring as indicated; and to recognize behavior suggestive of
4 noncompliance and/or aberrant drug seeking.

5 7. Respondent deviated from the standard of care because he did not establish
6 a treating relationship with RN prior to prescribing medications. Respondent deviated from
7 the standard of care because he did not obtain consultations or diagnostic studies for the
8 patients; he did not provide non-opioid medications, a multidisciplinary approach or close
9 monitoring as indicated; and he did not recognize behavior suggestive of noncompliance
10 or aberrant drug seeking.

11 8. Respondent dispensed opioids to RN, RE and RD in the absence of any
12 documented therapeutic indications, with potential harm of misuse, addiction, overdose,
13 and death.

14 9. A physician is required to maintain adequate legible medical records
15 containing, at a minimum, sufficient information to identify the patient, support the
16 diagnosis, justify the treatment, accurately document the results, indicate advice and
17 cautionary warnings provided to the patient and provide sufficient information for another
18 practitioner to assume continuity of the patient's care at any point in the course of
19 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because he did
20 not document a physical examination or include past medical records in the patient's
21 charts and he prescribed medications and escalated doses of opioids without therapeutic
22 indications.

23 **CONCLUSIONS OF LAW**

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

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

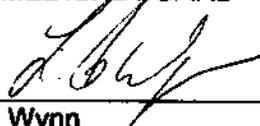
5 3. This Order is the final disposition of case number MD-08-0059A.

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



ARIZONA MEDICAL BOARD

By



Lisa S. Wynn
Executive Director

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10 ORIGINAL of the foregoing filed
11 this 5th day of February, 2009 with:

12 Arizona Medical Board
13 9545 E. Doubletree Ranch Road
14 Scottsdale, AZ 85258

15 EXECUTED COPY of the foregoing mailed
16 this 5th day of February, 2009 to:

17 Stephen Myers
18 Myers & Jenkins
19 One East Camelback Road, Suite 500
20 Phoenix, Arizona 85012

21 EXECUTED COPY of the foregoing mailed
22 this 5th day of February, 2009 to:

23 Thomas J. Petrone, M.D.
24 Address of Record

25 

Investigational Review