

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **JAMES N. YARUSSO, M.D.**

4 Holder of License No. 31732
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-11-1653A

**ORDER FOR LICENSE
REACTIVATION, PROBATION, AND
CONSENT TO THE SAME**

7 James. N. Yarusso, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Probation; admits the jurisdiction of the
9 Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

10 **FINDINGS OF FACT**

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

13 2. Respondent is the holder of license number 31732 for the practice of
14 allopathic medicine in the State of Arizona.

15 3. The Board initiated case number MD-11-1653A after receiving Respondent's
16 request for license reactivation.

17 4. From January 1997 through March 1997, Respondent underwent outpatient
18 treatment for chemical dependency and or substance abuse at Serenity Lane. He then
19 participated in and successfully completed the Board's Physician Health Program (PHP)
20 monitoring from 2003-2005.

21 5. In August 2006, Respondent was charged with a DUI and entered into a
22 Consent Agreement for Inactivation of Licensure on September 18, 2006. In 2007,
23 Respondent presented to Hazelden Springbrook, but was discharged against staff advice
24 after not returning to treatment post an approved leave.

25 6. Although not ordered by the Board, Respondent underwent Phase I of PACE

1 on January 3-4, 2011, and Phase II on March 28-April 1, 2011. The results of PACE was
2 that of a "Clear Pass" signifying a good to excellent performance in most or all areas
3 measured and consistent with safe practice competency. There were no significant
4 deficiencies noted.

5 7. On May 4, 2011, Respondent was admitted to the VA Loma Linda
6 Healthcare System for treatment of alcohol dependence, which was successfully
7 completed on November 28, 2011. His diagnosis was alcohol dependence in early full
8 remission. VA Loma Linda Healthcare System is not a generally used treatment facility by
9 the Board; however, the Board's PHP Contractor reviewed the program and approved that
10 Respondent be permitted to undergo treatment at that facility.

11 8. In February 2012, Respondent was assessed by the Board's PHP Monitor,
12 who found that Respondent is safe to practice medicine while enrolled in PHP for five
13 years and with psychiatric monitoring.

14 CONCLUSIONS OF LAW

15 1. The Arizona Medical Board possesses jurisdiction over the subject matter
16 hereof and over Respondent.

17 2. The Board has received substantial evidence supporting the Findings of Fact
18 described above and said findings require the Board to either refer the matter for formal
19 hearing to revoke Respondent's license or reactive Respondent's license and place
20 Respondent on probation for five years with restrictions necessary to assure public safety.
21 A.R.S. § 32-1452(F).

22 3. The conduct and circumstances described above constitute unprofessional
23 conduct pursuant to A.R.S. § 32-1401(27)(f) ("[h]abitual intemperance in the use of alcohol
24 or habitual substance abuse.").
25

1 ORDER

2 IT IS HEREBY ORDERED that:

3 1. Respondent's license is reactivated upon payment of the renewal fee.

4 2. Respondent is issued a Letter of Reprimand.

5 2. Respondent is placed on Probation for **five years** with the following terms
6 and conditions:

7 1. **Participation.** Respondent shall promptly enroll in and participate in the
8 Board's Physician Health Program (PHP) monitoring service which is administered by a
9 private contractor. ("Monitor").

10 2. **Relapse Prevention Group.** Respondent shall attend the Monitor's relapse
11 prevention group therapy sessions one time per week for the duration of this Order, unless
12 excused by the relapse prevention group facilitator for good cause. Individual relapse
13 therapy may be substituted for one or more of the group therapy sessions, if Monitor pre-
14 approves substitution. The relapse prevention group facilitators or individual relapse
15 prevention therapist shall submit monthly reports to the Monitor regarding attendance and
16 progress.

17 3. **12 Step or Self-Help Group Meetings.** If applicable, Respondent shall
18 attend ninety 12-step meetings or other self-help group meetings appropriate for
19 substance abuse and approved by the Monitor, for a period of ninety days. Upon
20 completion of the ninety meetings in ninety days, Respondent shall participate in a 12-step
21 recovery program or other self-help program appropriate for substance abuse as
22 recommended by the Monitor. Respondent shall attend a minimum of three 12-step or
23 other self-help program meetings per week.. Two meetings per month must be Caduceus
24 meetings. Respondent must maintain a log of all self-help meetings.

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1 4. **Approved Primary Care Physician.** Respondent shall promptly obtain a
2 primary care physician and shall submit the name of the physician to the Monitor in writing
3 for approval. The approved primary care physician ("PCP") shall be in charge of providing
4 and coordinating Respondent's medical care and treatment. Except in an *Emergency*,
5 Respondent shall obtain medical care and treatment only from the PCP and from health
6 care providers to whom the PCP refers Respondent. Respondent shall promptly provide
7 a copy of this Order to the PCP. Respondent shall also inform all other health care
8 providers who provide medical care or treatment that Respondent is participating in PHP.
9 "*Emergency*" means a serious accident or sudden illness that, if not treated immediately,
10 may result in a long-term medical problem or loss of life.

11 5. **Medication.** Except in an *Emergency*, Respondent shall take no *Medication*
12 unless the PCP or other health care provider to whom the PCP refers Respondent
13 prescribes the *Medication*. Respondent shall not self-prescribe any *Medication*.
14 "*Medication*" means a prescription-only drug, controlled substance, and over-the counter
15 preparation, other than plain aspirin, plain ibuprofen, and plain acetaminophen. If a
16 controlled substance is prescribed, dispensed, or administered to Respondent by any
17 person other than PCP, Respondent shall notify the PCP in writing within 48 hours and
18 notify the Monitor immediately.

19 6. **No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol, any
20 food, or other substance containing poppy seeds or alcohol.

21 7. **Biological Fluid Collection.** Respondent shall provide the Monitor in
22 writing with one telephone number that shall be used to contact Respondent on a 24 hour
23 per day/seven day per week basis to submit to biological fluid collection. For the purposes
24 of this section, telephonic notice shall be deemed given at the time a message to appear is
25 left at the contact telephone number provided by Respondent. Respondent authorizes any

1 person or organization conducting tests on the collected samples to provide testing results
2 to the Monitor. Respondent shall comply with all requirements for biological fluid
3 collection.

4 8. Out of State Travel and/or Unavailability at Home/Office Telephone
5 Number. Respondent shall provide the Monitor with written notice of any plans to travel
6 out of state.

7 9. Payment for Services. Respondent shall pay for all costs, including Monitor
8 costs associated with participating in PHP at the time service is rendered, or within 30
9 days of each invoice sent to the Respondent. An initial deposit of two months monitoring
10 fees is due upon entering the program. Failure to pay either the initial monitoring deposit
11 or monthly fees 60 days after invoicing will be reported to the Board by the contractor and
12 may result in disciplinary action up to and including revocation.

13 10. Interviews. Respondent shall appear in person before the Monitor for
14 interviews upon request, upon reasonable notice.

15 11. Address and Phone Changes, Notice. Respondent shall immediately notify
16 the Monitor in writing of any change in office or home addresses and telephone numbers.

17 12. Relapse, Violation. In the event of chemical dependency relapse by
18 Respondent or Respondent's use of drugs or alcohol in violation of the Order,
19 Respondent's license shall be **summarily suspended pending a hearing for**
20 **revocation.** In the alternative, Respondent may **SURRENDER HIS LICENSE** if he agrees
21 in writing to being impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).

22 13. Notice Requirements. Respondent shall immediately provide a copy of this
23 Order to all current and future employers and all hospitals and free standing surgery
24 centers where Respondent has privileges. Within 30 days of the date of this Order,
25 Respondent shall provide the Monitor with a signed statement of compliance with this

1 notification requirement. Respondent is further required to notify, in writing, all employers,
2 hospitals and free standing surgery centers where Respondent currently has or in the
3 future gains employment or privileges, of a chemical dependency relapse.,

4 14. Out-of-State. In the event Respondent resides or practices as a physician
5 in a state other than Arizona, Respondent shall participate in the rehabilitation program
6 sponsored by that state's medical licensing authority or medical society. Respondent shall
7 cause the monitoring state's program to provide written quarterly reports to the Monitor
8 regarding Respondent's attendance, participation, and monitoring. The monitoring state's
9 program and Respondent shall immediately notify the Monitor if Respondent: a) is non-
10 compliant with any aspect of the monitoring requirements; b) relapses; c) tests positive for
11 controlled substances; d) has low specific gravity urine drug test(s), missed and/or late
12 urine drug tests, or otherwise rejected urine drug tests; and e) is required to undergo any
13 additional treatment.

14 15. Respondent shall immediately obtain a treating psychiatrist approved by the
15 Monitor and shall remain in treatment with the psychiatrist until further order. Respondent
16 shall instruct the psychiatrist to release to the Monitor, upon request, all records relating to
17 Respondent's treatment, and to submit quarterly written reports to the Monitor regarding
18 diagnosis, prognosis, medications, and recommendations for continuing care and
19 treatment of Respondent. Respondent shall provide the psychiatrist with a copy of this
20 order. Respondent shall pay the expenses of all the psychiatric care and for the
21 preparation of the quarterly reports. After **twelve months**, Respondent may submit a
22 written request to the Executive Director requesting termination of the requirement that
23 Respondent remain in treatment with a psychiatrist. The decision to terminate will be
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1 based, in part, upon the treating psychiatrist's recommendation for continued care and
2 treatment.

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4 16. This Order supersedes all previous consent agreements and stipulations
5 between the Board and/or the Executive Director and Respondent.

6 17. The Board retains jurisdiction and may initiate new action based upon any
7 violation of this Order.

8 DATED AND EFFECTIVE this 11th day of June, 2012.

9 ARIZONA MEDICAL BOARD

10
11
12 By 
13 Lisa S. Wynn
14 Executive Director

15 **CONSENT TO ENTRY OF ORDER**

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

19 2. Respondent acknowledges and agrees that this Order is entered into freely
20 and voluntarily and that no promise was made or coercion used to induce such entry.

21 3. By consenting to this Order, Respondent voluntarily relinquishes any rights
22 to a hearing or judicial review in state or federal court on the matters alleged, or to
23 challenge this Order in its entirety as issued by the Board, and waives any other cause of
24 action related thereto or arising from said Order.

25 4. The Order is not effective until approved by the Board and signed by its

1 Executive Director.

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

8 6. Upon signing this agreement, and returning this document (or a copy
9 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
10 entry of the Order. Respondent may not make any modifications to the document. Any
11 modifications to this original document are ineffective and void unless mutually approved
12 by the parties.

13 7. This Order is a public record that will be publicly disseminated as a formal
14 disciplinary action of the Board and will be reported to the National Practitioner's Data
15 Bank and on the Board's web site as a disciplinary action.

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

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

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

1 11. Respondent has read and understands the conditions of probation.

2
3 James Yarusso, MD

DATED: 4/30/2012

4 James N. Yarusso, M.D.

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6 EXECUTED COPY of the foregoing mailed
7 this 11 day of June, 2012 to:

8 James N. Yarusso, MD
9 ADDRESS OF RECORD

10 ORIGINAL of the foregoing filed
11 this 11th day of June, 2012 with:

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

15 Mary Bobey
16 Arizona Medical Board Staff

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