

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
ROBERT C. OSBORNE, M.D.
License No. 9796
For the Practice of Allopathic Medicine
In the State of Arizona.

Case Nos. MD-07-0531A
MD-07-1071A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Robert C. Osborne, M.D. ("Respondent"), the parties agreed 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.

1 5. This Consent Agreement does not constitute a dismissal or resolution of
 2 other matters currently pending before the Board, if any, and does not constitute any
 3 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
 4 other pending or future investigation, action or proceeding. The acceptance of this
 5 Consent Agreement does not preclude any other agency, subdivision or officer of this
 6 State from instituting other civil or criminal proceedings with respect to the conduct that is
 7 the subject 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)
 15 to 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
 23 will 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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1 10. If any part of the Consent Agreement is later declared void or otherwise
2 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
3 and effect.

4 11. Any violation of this Consent Agreement constitutes unprofessional conduct
5 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("violating 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.

8 12. Respondent has read and understands the conditions of probation.

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DATED: 12-22-08

11 ROBERT G. OSBORNE, M.D.

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FINDINGS OF FACT

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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 9796 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case numbers MD-07-0531A after receiving a complaint
7 regarding Respondent's care and treatment of a sixty year-old male patient ("MG") and
8 MD-07-1071A after receiving a complaint regarding Respondent's care and treatment of
9 patients RP, MP and MD.

MD-07-0531A

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11 4. Respondent treated MG from 2003 through 2007 for chronic pain. During
12 that time, MG would not see Respondent for several months and then would return for
13 more medication without providing any information regarding his compliance with
14 treatment recommendations during the intervening months. There was no evidence that
15 Respondent investigated MG's extended absences. Additionally, Respondent did not
16 document a history, perform a physical examination and his office notes were illegible.
17 There also was no evidence that Respondent communicated to the referring physician that
18 he assumed MG's chronic pain management. Further, Respondent continually prescribed
19 Hydrocodone and MS Contin with increased dosages of MS Contin to MG. There was no
20 documented rationale for the increased dosages of MS Contin.

21 5. The standard of care when prescribing medications for chronic non-
22 malignant pain requires a physician to perform an appropriate evaluation, to communicate
23 and coordinate with the referring physician, to periodically assess the need for continued
24 treatment and to investigate the patient for non-compliance. The standard of care also
25 requires a physician to consider a new finding when increasing the dosage for opioids.

1 6. Respondent deviated from the standard of care because he did not perform
2 an appropriate evaluation, he did not communicate and coordinate with MG's referring
3 physician, he did not periodically assess MG's need for continued treatment, he did not
4 investigate MG for non-compliance and he did not consider a new finding when he
5 increased the dosage of MG's opioid medication.

6 7. Respondent's deviation from the standard of care could have caused MG to
7 suffer an inadvertent or purposeful prescription opioid overdose

8 MD-07-1071A

9 8. On November 29, 2005, a twenty-six year-old male patient ("RP") presented
10 to Respondent with a history of post traumatic stress disorder (PTSD), lower back pain,
11 and findings on a physical examination of tenderness at L5. Respondent diagnosed RP
12 with lumbago, migraine headaches and PTSD and prescribed Methadone,
13 benzodiazepines and Ritalin. RP's primary care physician continued prescribing
14 duplicative opioids, benzodiazepines and central nervous system stimulant and was not
15 aware of Respondent's prescriptions.

16 9. In October 2005, a twenty-seven year-old female patient ("MP") presented to
17 Respondent with migraine headaches, lumbar and cervical pain. For two years,
18 Respondent prescribed Methadone and escalating dosages of a short acting opioid,
19 despite initial and ongoing urine drug screens consistent with non-compliance,
20 unexplained early refills, and in the absence of any imaging studies reviewed over the first
21 seven months of treatment.

22 10. In September 2003, a twenty-seven year-old female patient ("MD") presented
23 to Respondent as a diabetic with complaints of chronic eye pain, migraine headaches,
24 lumbosacral pain and chronic stress. Initial and ongoing evaluations failed to include
25 physical exams or report of MD's history of heroin abuse. Methadone and Oxycodone

1 were continued on monthly basis with escalating dosages.

2 11. The standard of care when prescribing medications for chronic non-
3 malignant pain requires appropriate evaluation, consideration of a multidisciplinary
4 approach, communication and coordination with the prescribing physician, and close
5 monitoring for non-compliance and/or diversion. The standard of care also requires a
6 physician to prescribe medication for a legitimate therapeutic rationale for the patients.

7 12. Respondent deviated from the standard of care because he did not properly
8 evaluate the patients, he did not communicate and coordinate with their prescribing
9 physicians, he did not consider a multidisciplinary approach, and he did not closely monitor
10 the patients for non-compliance or diversion.

11 13. A physician is required to maintain adequate legible medical records
12 containing, at a minimum, sufficient information to identify the patient, support the
13 diagnosis, justify the treatment, accurately document the results, indicate advice and
14 cautionary warnings provided to the patient and provide sufficient information for another
15 practitioner to assume continuity of the patient's care at any point in the course of
16 treatment A.R.S. § 32-1401(2). Respondent's records were inadequate because his
17 office notes were illegible, he did not document an explanation for a patient's extended
18 absences, and he did not document a therapeutic rationale for increased and changed
19 medication dosages.

20 14. Respondent has completed 30 hours of Continuing Medical Education in
21 addiction medicine. In addition, Respondent is scheduled to complete the record keeping
22 course offered by PAGE on January 22-23, 2009.

23 CONCLUSIONS OF LAW

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

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

ORDER

IT IS HEREBY ORDERED THAT:

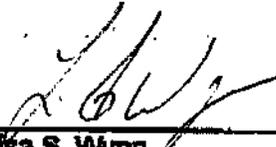
- 7 1. Respondent is issued a Letter of Reprimand
- 8 2. This Order is the final disposition of case number MD-07-0681A and MD-07-
- 9 1071A.

DATED AND EFFECTIVE this 4th day of FEB, 2009.

ARIZONA MEDICAL BOARD

(SEAL)

By



Lisa S. Wynn
Executive Director

ORIGINAL of the foregoing filed
this 4th day of February 2009 with:

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

EXECUTED COPY of the foregoing mailed
this 4th day of February 2009 to:

Edward Ladley
Olson, Jantsch, and Bakker
7243 North 16th Street
Phoenix, Arizona 85020

EXECUTED COPY of the foregoing mailed
this 4th day of February, 2009 to:

Robert C. Osborne, M.D.
Address of Record

Kaynda Corley
Investigational Review

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