

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. Respondent
9 acknowledges it is the Board's position that, if this matter proceeded to formal hearing, the
10 Board could establish sufficient evidence to support a conclusion that certain aspects of
11 Respondent's conduct constituted unprofessional conduct. Respondent agrees not to
12 contest the validity of the Findings of Fact and Conclusions of Law contained in the Order
13 in any present or future administrative proceedings before the Board (or any other state
14 agency concerning the denial or issuance of any license or registration required by the
15 state to engage in the practice or any business or profession.)

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

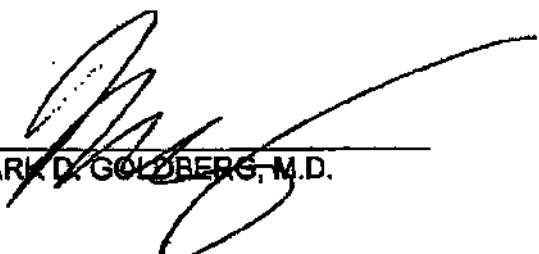
21 8. If the Board does not adopt this Consent Agreement, Respondent will not
22 assert as a defense that the Board's consideration of this Consent Agreement constitutes
23 bias, prejudice, prejudgment or other similar defense.

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

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

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

11 12. *Respondent has read and understands the condition(s) of probation.*

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MARK D. GOLDBERG, M.D.

DATED: 3/3/09

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 18592 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-07-0128A after receiving a complaint
7 regarding Respondent's care and treatment of a thirty-four year-old female patient ("SE").

8 4. On September 8, 2004, a nurse evaluated SE, determined she was a
9 candidate for laser hair removal and began treatment. From September 8, 2004 to
10 September 7, 2006, SE had multiple diode laser treatments on different anatomic
11 locations. There was no documented medical history and physical exam. Additionally, the
12 Arizona Radiation Regulatory Agency (ARRA) requires laser equipment and technicians to
13 be properly registered with ARRA and to complete a course in laser technology.
14 Respondent's laser equipment and technicians were not properly registered and the
15 technicians did not complete the laser technology course. During an investigational
16 interview with Staff, Respondent admitted he had standing orders to administer Lidocaine
17 to patients; however, there were no documented orders in SE's chart.

18 5. The standard of care requires a physician to perform a detailed medical
19 history and physical examination to determine if the patient is a candidate for laser hair
20 removal and to guide the course of treatment.

21 6. Respondent deviated from the standard of care because he did not perform
22 a detailed history and focused physical examination of SE.

23 7. Respondent's failure to perform a detailed medical history and physical
24 examination and guide the course of treatment could have led to scarring, discoloration
25 and/or possible injury to SE's eyes.

1 2. Respondent is placed on probation for five years with the following terms
2 and conditions:

3 a. Continuing Medical Education (CME)

4 Respondent shall within six months of the effective date of this Order obtain
5 10 hours of Board Staff pre-approved Category I CME in record keeping and 10 hours in
6 practice management. Respondent shall provide Board Staff with satisfactory proof of
7 attendance. The CME hours shall be in addition to the hours required for the biennial
8 renewal of medical license.

9 b. Chart Reviews

10 Board Staff or its agents shall conduct periodic chart reviews. Based upon
11 the chart review, the Board retains jurisdiction to take additional disciplinary or remedial
12 action.

13 c. Obey All Laws

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

17 d. Tolling

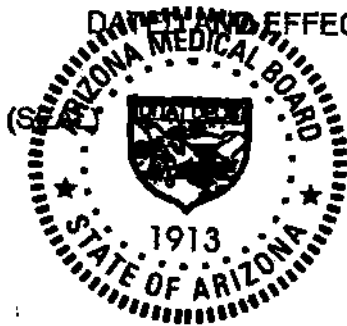
18 In the event Respondent should leave Arizona to reside or practice outside
19 the State or for any reason should Respondent stop practicing medicine in Arizona,
20 Respondent shall notify the Executive Director in writing within ten days of departure and
21 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
22 time exceeding thirty days during which Respondent is not engaging in the practice of
23 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
24 non-practice within Arizona, will not apply to the reduction of the probationary period.
25

1 e. Request for Early Termination

2 After two years, Respondent may petition the Executive Director to terminate
3 the probation.

4 3. This Order is the final disposition of case number MD-07-0128A.

5 DATED AND EFFECTIVE this 2ND day of APRIL, 2009.



6 ARIZONA MEDICAL BOARD

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8
9 By [Signature]

10 Lisa S. Wynn
Executive Director

11 ORIGINAL of the foregoing filed
12 this 2nd day of April, 2009 with:

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

15 EXECUTED COPY of the foregoing mailed
16 this 2nd day of April, 2009 to:

17 Stephen Myers
18 Myers & Jenkins PC
3003 North Central Avenue, Suite 1900
19 Phoenix, AZ 85012-2910

20 EXECUTED COPY of the foregoing mailed
21 this 2nd day of April, 2009 to:

22 Mark D. Goldberg, M.D.
Address of Record

23 [Signature]
Investigational Review