



1 permission to do so. On January 29, 2010, the Board received the final report from the  
2 evaluation facility, which confirmed that Respondent was not safe to continue to practice  
3 medicine with females.

4 5. A Medical Consultant reviewed the quality of care allegation pertaining to  
5 Respondent's failure to obtain informed consent. MR consulted with Respondent for a  
6 chief complaint of abdominal pain. During her visit, a focused history was obtained and an  
7 abdominal and lower extremity exam was performed. MR was diagnosed with heartburn  
8 and treated with intramuscular injections of Vitamin B12 and Zantac. MR received  
9 prescriptions for Tetracycline, Omeprazole, and Flagyl. The Medical Consultant concluded  
10 that Respondent's care of MR was appropriate, but found that Respondent's  
11 documentation of informed consent was insufficient.

12 6. A physician is required to maintain adequate legible medical records  
13 containing, at a minimum, sufficient information to identify the patient, support the  
14 diagnosis, justify the treatment, accurately document the results, indicate advice and  
15 cautionary warnings provided to the patient and provide sufficient information for another  
16 practitioner to assume continuity of the patient's care at any point in the course of  
17 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because his  
18 documentation of informed consent was insufficient.

19 7. According to Respondent, he has closed his practice of medicine and is  
20 unable to safely engage in the practice of medicine.

#### 21 CONCLUSIONS OF LAW

22 1. The Board possesses jurisdiction over the subject matter hereof and over  
23 Respondent.

24 2. The conduct and circumstances described above constitute unprofessional  
25 conduct A.R.S. §32-1401(27)(e) ("[f]ailing or refusing to maintain adequate records on a

1 patient."); A.R.S. §32-1401(27)(z) ("[e]ngaging in sexual conduct with a current patient or  
2 with a former patient within six months after the last medical consultation unless the  
3 patient was the licensee's spouse at the time of the contact or, immediately preceding the  
4 physician-patient relationship, was in a dating or engagement relationship with licensee,  
5 for purposes of this subdivision, "Sexual Conduct" includes: (i) Engaging in or soliciting  
6 sexual relationships, whether consensual or nonconsensual. (ii) Making sexual advances,  
7 requesting sexual favors or engaging in other verbal conduct or physical contact of a  
8 sexual nature. (iii) Intentionally viewing a completely or partially disrobed patient in the  
9 course of treatment if the viewing is not related to patient diagnosis or treatment under  
10 current practice standards.")

11 3. The Board possesses statutory authority to enter into a consent agreement  
12 with a physician and accept the surrender of an active license from a physician who  
13 admits to being unable to safely engage in the practice of medicine or having committed  
14 an act of unprofessional conduct. A.R.S. § 32-1451(T)(1) and (2).

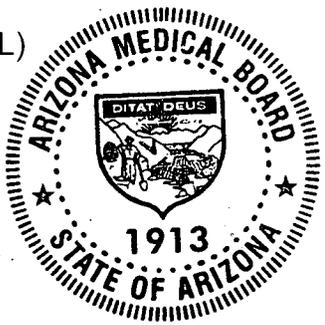
15 **ORDER**

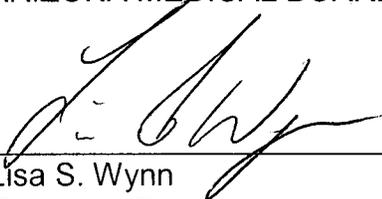
16 IT IS HEREBY ORDERED THAT Respondent immediately surrender License  
17 Number 12358, issued to Jose A. Higuera, M.D., for the practice of allopathic medicine in  
18 the State of Arizona, and return his wallet card and certificate of licensure to the Board.

19  
20 DATED and effective this 8TH day of DECEMBER, 2010.

21  
22 ARIZONA MEDICAL BOARD

23 (SEAL)



24 By:   
25 Lisa S. Wynn  
Executive Director

1  
2 **CONSENT TO ENTRY OF ORDER**

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

6 2. Respondent consents to the entry of the order set forth above 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 constitute unprofessional conduct or render him unable to safely  
12 engage in the practice of medicine. Respondent agrees not to contest the validity of the  
13 Findings of Fact and Conclusions of Law contained in the Order in present or future  
14 administrative proceedings before the Board (or any other state agency in the State of  
15 Arizona), concerning the denial or issuance of any license or registration required by the  
16 state to engage in the practice or any business or profession.

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

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

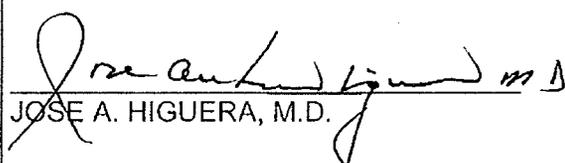
23 5. The Order is not effective until approved by the Board and signed by its  
24 Executive Director.  
25

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

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

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

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

14  
15   
16 JOSE A. HIGUERA, M.D.

Dated: 11/17/10

17 EXECUTED COPY of the foregoing mailed by  
18 US Mail this 17th day of Nov., 2010 to:

19 Stephen W. Myers  
20 Myers & Jenkins  
21 One E. Camelback Road  
22 Suite 500  
23 Phoenix, AZ 85012

24 ORIGINAL of the foregoing filed this  
25 17th day of Nov., 2010 with:

1 The Arizona Medical Board  
9545 East Doubletree Ranch Road  
2 Scottsdale, AZ 85258

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4 Arizona Medical Board Staff

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