



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.

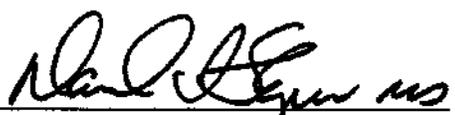
22           9.     This Consent Agreement, once approved and signed, is a public record that  
23 will be publicly disseminated as a formal action of the Board and will be reported to the  
24 National Practitioner Data Bank and to the Arizona Medical Board's website.

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) ("[v]iolating 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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DANIEL I. SHAPIRO, M.D.

DATED: 2/2/2009

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**FINDINGS OF FACT**

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

2. Respondent is the holder of license number 20700 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-08-0547A after receiving a complaint regarding Respondent's care and treatment of a forty-two year-old female patient ("SE").

4. Respondent saw SE and performed a cosmetic procedure in September 2007. Respondent's relationship with SE evolved into a sexual relationship from December 2007 through April 2008. Both SE and Respondent agreed that the relationship was consensual. During an investigational interview with Board Staff on May 23, 2008, Respondent admitted sharing privileged patient information with SE Respondent also admitted self prescribing Campral and Antabuse to help with his drinking habits. On that same date, the Board issued Respondent an Interim Order for a substance abuse evaluation at a residential treatment facility.. Respondent also signed a practice restriction prohibiting him from practicing clinical medicine and from prescribing any form of treatment.

5. On May 25, 2008, Respondent entered the treatment facility and successfully completed treatment on August 6, 2008 with a diagnosis of alcohol dependence. The treatment facility concluded that Respondent was safe to return to practice, but recommended that he obtain a treating psychiatrist and psychotherapist. On August 25, 2008, Respondent entered into an Interim Order to participate in the Board's Monitored Aftercare Program (MAP) and on November 28, 2008, the interim practice restriction was vacated.

1 CONCLUSIONS OF LAW

2 1. The Board possesses jurisdiction over the subject matter hereof and over  
3 Respondent.

4 2. The conduct and circumstances described above constitute unprofessional  
5 conduct pursuant to A.R.S. § 32-1401(27)(b) (“[i]ntentionally disclosing a professional  
6 secret or intentionally disclosing a privileged communication except as either act may  
7 otherwise be required by law.”), A.R.S. § 32-1401(27)(f) (“[h]abitual intemperance in the  
8 use of alcohol or habitual substance abuse.”), A.R.S. § 32-1401(27)(g) (“[u]sing controlled  
9 substances except if prescribed by another physician for use during a prescribed course  
10 of treatment.”) and A.R.S. § 32-1401(27)(z) (“[e]ngaging in sexual conduct with a current  
11 patient or with a former patient within six months after the last medical consultation unless  
12 the patient was the licensee’s spouse at the time of the contact or, immediately preceding  
13 the physician-patient relationship, was in a dating or engagement relationship with the  
14 licensee, for purposes of this subdivision, ‘Sexual Conduct’ includes: (i) Engaging in or  
15 soliciting sexual relationships, whether consensual or nonconsensual.”).

16 ORDER

17 IT IS HEREBY ORDERED THAT:

18 1. Respondent is issued a Letter of Reprimand.

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

21 a. Respondent shall submit quarterly declarations under penalty of  
22 perjury on forms provided by the Board, stating whether there has been compliance with  
23 all conditions of probation. The declarations shall be submitted on or before the 15th of  
24 March, June, September and December of each year, beginning on or before March,  
25 2009.

1           b.1. **Participation**<sup>1</sup>. Respondent shall promptly enroll in and participate in  
2 the Board's program for the treatment and rehabilitation of physicians who are impaired by  
3 alcohol or drug abuse ("MAP"). Respondent's participation in MAP may be unilaterally  
4 terminated with or without cause at the Board's discretion at any time after the issuance of  
5 this Order.

6           2.     **Relapse Prevention Group**. Respondent shall attend MAP's relapse  
7 prevention group therapy sessions one time per week for the duration of this Order, unless  
8 excused by the MAP relapse prevention group facilitator for good cause such as illness or  
9 vacation. Respondent shall instruct the MAP relapse prevention group facilitators to  
10 release to Board Staff, upon request, all records relating to Respondent's treatment, and  
11 to submit monthly reports to Board Staff regarding attendance and progress. The reports  
12 shall be submitted on or before the 10th day of each month.

13           3.     **12 Step or Self-Help Group Meetings**. Respondent shall attend  
14 ninety 12-step meetings or other self-help group meetings appropriate for substance  
15 abuse and approved by Board Staff, for a period of ninety days beginning not later than  
16 either (a) the first day following Respondent's discharge from chemical dependency  
17 treatment or (b) the date of this Order.

18           4.     Following completion of the ninety meetings in ninety days,  
19 Respondent shall participate in a 12-step recovery program or other self-help program  
20 appropriate for substance abuse as recommended by the MAP Director and approved by  
21 Board Staff. Respondent shall attend a minimum of three 12-step or other self-help  
22 program meetings per week for a total of twelve per month. Two of the twelve meetings  
23 must be Caduceus meetings. Respondent must maintain a log of all self-help meetings.

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<sup>1</sup> Respondent's MAP participation is retroactive to August 25, 2008.

1 Board Staff will provide the log to Respondent.

2           5.     **Board-Staff Approved Primary Care Physician.** Respondent shall  
3 promptly obtain a primary care physician and shall submit the name of the physician to  
4 Board Staff in writing for approval. The Board-approved primary care physician (“PCP”)  
5 shall be in charge of providing and coordinating Respondent’s medical care and treatment.  
6 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from  
7 the PCP and from health care providers to whom the PCP refers Respondent.  
8 Respondent shall request that the PCP document all referrals in the medical record.  
9 Respondent shall promptly inform the PCP of Respondent’s rehabilitation efforts and  
10 provide a copy of this Order the PCP. Respondent shall also inform all other health care  
11 providers who provide medical care or treatment that Respondent is participating in MAP.

12           a.     “*Emergency*” means a serious accident or sudden illness that, if not  
13 treated immediately, may result in a long-term medical problem or loss of life.

14           6.     **Medication.** Except in an *Emergency*, Respondent shall take no  
15 *Medication* unless the PCP or other health care provider to whom the PCP refers  
16 Respondent prescribes the *Medication*. Respondent shall not self-prescribe any  
17 *Medication*.

18           a.     “*Medication*” means a prescription-only drug, controlled substance,  
19 and over-the counter preparation, other than plain aspirin, plain ibuprofen,  
20 and plain acetaminophen.

21           7.     If a controlled substance is prescribed, dispensed, or is administered  
22 to Respondent by any person other than PCP, Respondent shall notify the PCP in writing  
23 within 48 hours and notify the MAP Director immediately. The notification shall contain all  
24 information required for the medication log entry specified in paragraph 8. Respondent  
25 shall request that the notification be made a part of the medical record. This paragraph

1 does not authorize Respondent to take any *Medication* other than in accordance with  
2 paragraph 6.

3           8.     **Medication Log.** Respondent shall maintain a current legible log of  
4 all *Medication* taken by or administered to Respondent, and shall make the log available to  
5 the Board Staff upon request. For *Medication* (other than controlled substances) taken on  
6 an on-going basis, Respondent may comply with this paragraph by logging the first and  
7 last administration of the *Medication* and all changes in dosage or frequency. The log, at  
8 a minimum, shall include the following:

- 9                   a.     Name and dosage of *Medication* taken or administered;
- 10                   b.     Date taken or administered;
- 11                   c.     Name of prescribing or administering physician;
- 12                   d.     Reason *Medication* was prescribed or administered.

13           This paragraph does not authorize Respondent to take any *Medication* other  
14 than in accordance with paragraph 6.

15           9.     **No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol  
16 or any food or other substance containing poppy seeds or alcohol.

17           10.    **Biological Fluid Collection.** During all times that Respondent is  
18 physically present in the State of Arizona and such other times as Board Staff may direct,  
19 Respondent shall promptly comply with requests from Board Staff or MAP Director to  
20 submit to witnessed biological fluid collection. If Respondent is directed to contact an  
21 automated telephone message system to determine when to provide a specimen,  
22 Respondent shall do so within the hours specified by Board Staff. For the purposes of this  
23 paragraph, in the case of an in-person request, "promptly comply" means "immediately."  
24 In the case of a telephonic request, "promptly comply" means that, except for good cause  
25 shown, Respondent shall appear and submit to specimen collection not later than two

1 hours after telephonic notice to appear is given. The Board in its sole discretion shall  
2 determine good cause.

3 11. Respondent shall provide Board Staff in writing with one telephone  
4 number that shall be used to contact Respondent on a 24 hour per day/seven day per  
5 week basis to submit to biological fluid collection. For the purposes of this section,  
6 telephonic notice shall be deemed given at the time a message to appear is left at the  
7 contact telephone number provided by Respondent. Respondent authorizes any person  
8 or organization conducting tests on the collected samples to provide testing results to the  
9 Board and the MAP Director.

10 12. Respondent shall cooperate with collection site personnel regarding  
11 biological fluid collection. Repeated complaints from collection site personnel regarding  
12 Respondent's lack of cooperation regarding collection may be grounds for termination  
13 from MAP.

14 13. **Out of State Travel and/or Unavailability at Home or Office**  
15 **Telephone Number.** Respondent shall provide Board Staff at least three business days  
16 advance written notice of any plans to be away from office or home when such absence  
17 would prohibit Respondent from responding to an order to provide a biological fluid  
18 specimen or from responding to communications from the Board. The notice shall state  
19 the reason for the intended absence from home or office, and shall provide a telephone  
20 number that may be used to contact Respondent.

21 14. **Payment for Services.** Respondent shall pay for all costs,  
22 including personnel and contractor costs, associated with participating in MAP at  
23 time service is rendered, or within 30 days of each invoice sent to Respondent.

24 15. **Examination.** Respondent shall submit to mental, physical, and  
25 medical competency examinations at such times and under such conditions as directed by

1 the Board to assist the Board in monitoring Respondent's ability to safely perform as a  
2 physician and Respondent's compliance with the terms of this Order.

3 16. **Treatment.** Respondent shall submit to all medical, substance  
4 abuse, and mental health care and treatment ordered by the Board.

5 17. **Obey All Laws.** Respondent shall obey all federal, state and local  
6 laws, and all rules governing the practice of medicine in the State of Arizona.

7 18. **Interviews.** Respondent shall appear in person before the Board and  
8 its Staff and MAP committees for interviews upon request, upon reasonable notice.

9 19. **Address and Phone Changes, Notice.** Respondent shall  
10 immediately notify the Board in writing of any change in office or home addresses and  
11 telephone numbers.

12 20. **Relapse, Violation.** In the event of chemical dependency relapse by  
13 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent  
14 shall promptly enter into an Interim Consent Agreement for Practice Restriction that  
15 requires, among other things, that Respondent not practice medicine until such time as  
16 Respondent successfully completes long-term inpatient or residential treatment program  
17 for chemical dependency designated by Board Staff and obtains affirmative approval from  
18 the Board or the Executive Director to return to the practice of medicine. Prior to  
19 approving Respondent's request to return to the practice of medicine, Respondent may be  
20 required to submit to witnessed biological fluid collection, undergo any combination of  
21 physical examination, psychiatric or psychological evaluation and/or successfully pass the  
22 special purpose licensing examination or the Board may conduct interviews for the  
23 purpose of assisting it in determining the ability of Respondent to safely return to the  
24 practice of medicine. **In no respect shall the terms of this paragraph restrict the  
25 Board's authority to initiate and take disciplinary action for violation of this Order.**

1           21.    **Notice Requirements.**

2                    **(A)** Respondent shall immediately provide a copy of this Order to all  
3 employers and all hospitals and free standing surgery centers where Respondent currently  
4 has privileges. Within 30 days of the date of this Order, Respondent shall provide the  
5 Board with a signed statement of compliance with this notification requirement. Upon any  
6 change in employer or upon the granting of privileges at additional hospitals and free  
7 standing surgery centers, Respondent shall provide the employer, hospital or free standing  
8 surgery center with a copy of this Order. Within 30 days of a change in employer or upon  
9 the granting of privileges at additional hospitals and free standing surgery centers,  
10 Respondent shall provide the Board with a signed statement of compliance with this  
11 notification requirement.

12                   **(B)** Respondent is further required to notify, in writing, all employers,  
13 hospitals and free standing surgery centers where Respondent currently has or in the  
14 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
15 alcohol in violation of this Order and/or entry into a treatment program. Within seven days  
16 of any of these events Respondent shall provide the Board written confirmation of  
17 compliance with this notification requirement.

18           22.    **Public Record.** This Order is a public record.

19           23.    **Out-of-State.** In the event Respondent resides or practices as a  
20 physician in a state other than Arizona, Respondent shall participate in the rehabilitation  
21 program sponsored by that state's medical licensing authority or medical society.  
22 Respondent shall cause the monitoring state's program to provide written reports to the  
23 Board regarding Respondent's attendance, participation, and monitoring. The reports shall  
24 be due quarterly on or before the 15th day of March, June, September, and December of  
25 each year, until the Board terminates this requirement in writing. The monitoring state's

1 program and Respondent shall immediately notify the Board if Respondent: a) is non-  
2 compliant with any aspect of the monitoring requirements; b) relapses; c) tests positive for  
3 controlled substances; d) has low specific gravity urine drug test(s), missed and/or late  
4 urine drug tests, or otherwise rejected urine drug tests; and e) is required to undergo any  
5 additional treatment.

6 24. This Order supersedes all previous consent agreements and  
7 stipulations between the Board and/or the Executive Director and Respondent.

8 25. The Board retains jurisdiction and may initiate new action based upon  
9 any violation of this Order.

10 26. Respondent shall immediately obtain a treating psychiatrist and  
11 psychological counseling approved by Board Staff and shall remain in treatment with the  
12 psychiatrist and psychologist for a minimum of twelve months. Respondent shall instruct  
13 the psychiatrist and psychologist to release to Board Staff, upon request, all records  
14 relating to Respondent's treatment, and to submit quarterly written reports to Board Staff  
15 regarding diagnosis, prognosis, medications, and recommendations for continuing care  
16 and treatment of Respondent. The reports shall be submitted on or before the 15th day of  
17 March, June, September and December of each year, beginning on or before March,  
18 2009.

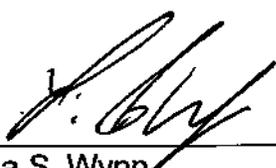
19 3. This Order is the final disposition of case number MD-08-0547A.

20 DATED AND EFFECTIVE this 2<sup>ND</sup> day of APRIL, 2009.



ARIZONA MEDICAL BOARD

By

  
\_\_\_\_\_  
Lisa S. Wynn  
Executive Director

1 ORIGINAL of the foregoing filed  
2 this 2<sup>nd</sup> day of April, 2009 with:

3 Arizona Medical Board  
4 9545 E. Doubletree Ranch Road  
5 Scottsdale, AZ 85258

6 EXECUTED COPY of the foregoing mailed  
7 this 2<sup>nd</sup> day of April, 2009 to:

8 Robert J. Milligan  
9 Milligan, Lawless, Taylor, Murphy & Bailey  
10 4647 N. 32<sup>nd</sup> Street, Suite 185  
11 Phoenix, Arizona 85018

12 EXECUTED COPY of the foregoing mailed  
13 this 2<sup>nd</sup> day of April, 2009 to:

14 Daniel I. Shapiro, M.D.  
15 Address of Record

16   
17 \_\_\_\_\_  
18 Investigational Review  
19  
20  
21  
22  
23  
24  
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