

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of
3 **WILLIAM R. HEARTER, M.D.**
4 License No. 16116
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-08-0212A
**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and William R. Hearter, M.D. ("Respondent"), the parties agree to the following
10 disposition of this matter.

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

15 2. By entering into this Consent Agreement, Respondent voluntarily
16 relinquishes any rights to a hearing or judicial review in state or federal court on the
17 matters alleged, or to challenge this Consent Agreement in its entirety as issued by the
18 Board, and waives any other cause of action related thereto or arising from said Consent
19 Agreement.

20 3. This Consent Agreement is not effective until approved by the Board and
21 signed by its Executive Director.

22 4. The Board may adopt this Consent Agreement or any part thereof. This
23 Consent Agreement, or any part thereof, may be considered in any future disciplinary
24 action against Respondent.

25 5. This Consent Agreement does not constitute a dismissal or resolution of
other matters currently pending before the Board, if any, and does not constitute any

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

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

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

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

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

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[V]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5
6 *William R. Hearter, M.D.*
7 WILLIAM R. HEARTER, M.D.

DATED: *May 07, 2009*

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2 **FINDINGS OF FACT**

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

5 2. Respondent is the holder of license number 16116 for the practice of
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-08-0212A after receiving notification of
8 a malpractice settlement involving Respondent's care and treatment of a sixty-six year-old
9 female patient ("SS").

10 4. SS had a history of left breast cancer, left breast mastectomy, and a series of
11 screening mammograms from 1999 through 2006. Respondent read the 2003 through
12 2006 studies and all were read as unchanged dense breast tissue and a Breast Imaging
13 Reporting and Data System category 2 benign examination. SS did not report any
14 palpable masses or abnormalities at the time of the various mammograms, but she did
15 report a mass to her gynecologist shortly after her 2006 mammogram. This subsequently
16 led to a diagnostic workup and a positive needle biopsy of a suspicious lesion noted on the
17 breast ultrasound. Subsequently, SS underwent a second mastectomy and further
18 treatment for the large tumor mass removed.

19 5. The standard of care requires a physician to further study any new
20 mammographic densities in a patient with a history of breast cancer in the opposite breast.

21 6. Respondent deviated from the standard of care because he did not identify
22 an evolving breast cancer in SS starting in 2004 with developing microcalcifications.

23 7. There was a delay in diagnosing SS's breast cancer on a series of
24 mammograms.
25

1 8. Respondent has completed 20 hours of Category I Continuing Medical
2 Education in mammogram interpretation. In addition, Respondent provided Board Staff
3 with satisfactory proof of completion on or before June 3, 2009.

4 **CONCLUSIONS OF LAW**

5 1. The Board possesses jurisdiction over the subject matter hereof and over
6 Respondent.

7 2. The conduct and circumstances described above constitute unprofessional
8 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be
9 harmful or dangerous to the health of the patient or the public.").

10 **ORDER**

11 IT IS HEREBY ORDERED THAT:

- 12 1. Respondent is issued a Letter of Reprimand.
13 2. This Order is the final disposition of case number MD-08-0812A.

14 DATED AND EFFECTIVE this 4th day of June, 2009.



ARIZONA MEDICAL BOARD

20 By Lisa S. Wynn
21 Lisa S. Wynn
22 Executive Director

23 ORIGINAL of the foregoing filed
24 this 4th day of June, 2009 with:

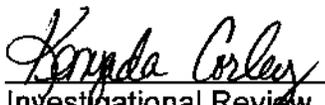
25 Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

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

2
3 Michael Golder
4 Raup & Hergenroether PLLC
5 One Renaissance Square
6 Two N. Central Avenue, Suite 1100
7 Phoenix, Arizona 85004-0001

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

9
10 William R. Hearter, M.D.
11 Address of Record

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Investigational Review