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**BEFORE THE ARIZONA MEDICAL BOARD**

In the Matter of  
**SUDHIR P. AGARWAL, M.D.**  
Holder of License No. 17587  
For the Practice of Allopathic Medicine  
In the State of Arizona.

Case No. MD-09-0256A

**CONSENT AGREEMENT FOR  
LICENSE REACTIVATION AND  
PROBATION**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Sudhir P. Agarwal, M.D. ("Respondent"), the parties agree 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 that 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  
15 thereof) to the Board's Executive Director, Respondent may not revoke the acceptance of  
16 the Consent Agreement. Respondent may not make any modifications to the document.  
17 Any modifications to this original document are ineffective and void unless mutually  
18 approved 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.

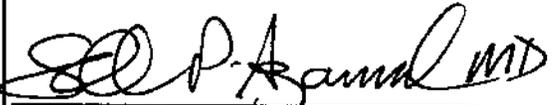
22          9.     This Consent Agreement, once approved and signed, is a public record that  
23 will be publicly disseminated as a formal action of the Board and will be reported to the  
24 National Practitioner Data Bank and to the Arizona Medical Board's website.

25

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  
3 force 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) ("violate 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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11 SUDHIR P. AGARWAL, M.D.

DATED: 4-23-09

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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 17587 for the practice of  
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-09-0256A after receiving a request  
7 from Respondent for reactivation of his license and participation in the Board's Monitored  
8 Aftercare Program (MAP).

9 4. Respondent previously participated in MAP from 1991 through 1995 and on  
10 November 20, 2008, he signed an Inactive with Cause Order after admitting to a relapse.  
11 On November 22, 2008, Respondent was admitted to a long-term residential treatment  
12 facility. On February 17, 2009, Respondent contacted the Board to request reactivation of  
13 his medical license and participation in MAP. On February 19, 2009, Respondent  
14 successfully completed long-term treatment at a residential facility and was discharged  
15 with a diagnosis of opioid and alcohol dependence. The facility reported that Respondent  
16 relapsed by using alcohol and Percocet in May 2007. Specifically, Respondent wrote  
17 prescriptions for a neighbor and picked up the medication himself. Additionally,  
18 Respondent also used medications brought in by his patients for disposal.

19 5. On February 24, 2009, Respondent met with the Staff and the Board's  
20 contracted Addiction Medicine Consultant and signed an Interim Consent Agreement to  
21 Participate in MAP that includes a psychiatric requirement. Board staff recommends that  
22 Respondent's license be reactivated and he be placed in MAP under a final Board Order.

23 **CONCLUSIONS OF LAW**

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



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

8                   **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend  
9 ninety 12-step meetings or other self-help group meetings appropriate for substance  
10 abuse and approved by Board Staff, for a period of ninety days beginning not later than  
11 either (a) the first day following Respondent's discharge from chemical dependency  
12 treatment or (b) the date of this Order.

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

20                   **5. Board-Staff Approved Primary Care Physician.** Respondent shall  
21 promptly obtain a primary care physician and shall submit the name of the physician to  
22 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")  
23 shall be in charge of providing and coordinating Respondent's medical care and treatment.  
24 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from  
25 the PCP and from health care providers to whom the PCP refers Respondent.

1 Respondent shall request that the PCP document all referrals in the medical record.  
2 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and  
3 provide a copy of this Order the PCP. Respondent shall also inform all other health care  
4 providers who provide medical care or treatment that Respondent is participating in MAP.

5 a. "*Emergency*" means a serious accident or sudden illness that, if not  
6 treated immediately, may result in a long-term medical problem or loss of life.

7 6. **Medication.** Except in an *Emergency*, Respondent shall take no  
8 *Medication* unless the PCP or other health care provider to whom the PCP refers  
9 Respondent prescribes the *Medication*. Respondent shall not self-prescribe any  
10 *Medication*.

11 a. "*Medication*" means a prescription-only drug, controlled substance,  
12 and over-the counter preparation, other than plain aspirin, plain ibuprofen,  
13 and plain acetaminophen.

14 7. If a controlled substance is prescribed, dispensed, or is administered  
15 to Respondent by any person other than PCP, Respondent shall notify the PCP in writing  
16 within 48 hours and notify the MAP Director immediately. The notification shall contain all  
17 information required for the medication log entry specified in paragraph 8. Respondent  
18 shall request that the notification be made a part of the medical record. This paragraph  
19 does not authorize Respondent to take any *Medication* other than in accordance with  
20 paragraph 6.

21 8. **Medication Log.** Respondent shall maintain a current legible log of  
22 all *Medication* taken by or administered to Respondent, and shall make the log available to  
23 the Board Staff upon request. For *Medication* (other than controlled substances) taken on  
24 an on-going basis, Respondent may comply with this paragraph by logging the first and  
25 last administration of the *Medication* and all changes in dosage or frequency. The log, at

1 a minimum, shall include the following:

- 2 a. Name and dosage of *Medication* taken or administered;
- 3 b. Date taken or administered;
- 4 c. Name of prescribing or administering physician;
- 5 d. Reason *Medication* was prescribed or administered.

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

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

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

21 **11.** Respondent shall provide Board Staff in writing with one telephone  
22 number that shall be used to contact Respondent on a 24 hour per day/seven day per  
23 week basis to submit to biological fluid collection. For the purposes of this section,  
24 telephonic notice shall be deemed given at the time a message to appear is left at the  
25 contact telephone number provided by Respondent. Respondent authorizes any person

1 or organization conducting tests on the collected samples to provide testing results to the  
2 Board and the MAP Director.

3           **12. Respondent shall cooperate with collection site personnel regarding**  
4 **biological fluid collection. Repeated complaints from collection site personnel regarding**  
5 **Respondent's lack of cooperation regarding collection may be grounds for termination**  
6 **from MAP.**

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

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

17           **15. Examination. Respondent shall submit to mental, physical, and**  
18 **medical competency examinations at such times and under such conditions as directed by**  
19 **the Board to assist the Board in monitoring Respondent's ability to safely perform as a**  
20 **physician and Respondent's compliance with the terms of this Order.**

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

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

25           **18. Interviews. Respondent shall appear in person before the Board and**

1 its Staff and MAP committees for interviews upon request, upon reasonable notice.

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

5           **20. Relapse, Violation.** In the event of chemical dependency relapse by  
6 Respondent or Respondent's use of drugs or alcohol in violation of the Order,  
7 Respondent's license shall be **REVOKED**. Respondent agrees to waive formal hearing on  
8 the revocation. In the alternative, Respondent may **SURRENDER HIS LICENSE** if he  
9 agrees in writing to being impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).

10           **21. Notice Requirements.**

11           **(A)** Respondent shall immediately provide a copy of this Order to all  
12 employers and all hospitals and free standing surgery centers where Respondent currently  
13 has privileges. Within 30 days of the date of this Order, Respondent shall provide the  
14 Board with a signed statement of compliance with this notification requirement. Upon any  
15 change in employer or upon the granting of privileges at additional hospitals and free  
16 standing surgery centers, Respondent shall provide the employer, hospital or free standing  
17 surgery center with a copy of this Order. Within 30 days of a change in employer or upon  
18 the granting of privileges at additional hospitals and free standing surgery centers,  
19 Respondent shall provide the Board with a signed statement of compliance with this  
20 notification requirement.

21           **(B)** Respondent is further required to notify, in writing, all employers,  
22 hospitals and free standing surgery centers where Respondent currently has or in the  
23 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
24 alcohol in violation of this Order and/or entry into a treatment program. Within seven days  
25 of any of these events Respondent shall provide the Board written confirmation of

1 compliance with this notification requirement.

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

3           **23. Out-of-State.** In the event Respondent resides or practices as a  
4 physician in a state other than Arizona, Respondent shall participate in the rehabilitation  
5 program sponsored by that state's medical licensing authority or medical society.  
6 Respondent shall cause the monitoring state's program to provide written reports to the  
7 Board regarding Respondent's attendance, participation, and monitoring. The reports  
8 shall be due quarterly on or before the 15th day of March, June, September, and  
9 December of each year, until the Board terminates this requirement in writing. The  
10 monitoring state's program and Respondent shall immediately notify the Board if  
11 Respondent: a) is non-compliant with any aspect of the monitoring requirements; b)  
12 relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug  
13 test(s), missed and/or late urine drug tests, or otherwise rejected urine drug tests; and e) is  
14 required to undergo any additional treatment.

15           **24.** This Order supersedes all previous consent agreements and  
16 stipulations between the Board and/or the Executive Director and Respondent.

17           **25.** The Board retains jurisdiction and may initiate new action based upon  
18 any violation of this Order.

19           **26.** Respondent shall immediately obtain a treating psychiatrist approved  
20 by Board Staff and shall remain in treatment with the psychiatrist until further order of the  
21 Executive Director. Respondent shall comply with the psychiatrist's recommendations for  
22 continuing care and treatment. Respondent shall instruct the psychiatrist to release to  
23 Board Staff, upon request, all records relating to Respondent's treatment, and to submit  
24 quarterly written reports to Board Staff regarding diagnosis, prognosis, medications, and  
25 recommendations for continuing care and treatment of Respondent. The reports shall be

1 submitted on or before the 15th day of March, June, September and December of each  
2 year, beginning on or before September, 2009. Respondent shall provide the psychiatrist  
3 with a copy of this order. Respondent shall pay the expenses of all the psychiatric care  
4 and be responsible for the preparation for the quarterly reports. After twelve months,  
5 Respondent may submit a written request to the Executive Director requesting termination  
6 of the requirement that Respondent remain in treatment with a psychiatrist. The decision  
7 to terminate will be based, in part, upon the treating psychiatrist's recommendation for  
8 continued care and treatment.

9 27. This Order supersedes all previous consent agreements and  
10 stipulations between the Board and/or the Executive Director and Respondent.

11 28. The Board retains jurisdiction and may initiate new action based  
12 upon any violation of this Order.

13 3. This Order is the final disposition of case number MD-09-0256A.

14 EXECUTED AND EFFECTIVE this 4<sup>th</sup> day of June, 2009.



ARIZONA MEDICAL BOARD

17 By Amade Rich  
18 Lisa S. Wynn  
19 Executive Director

20 ORIGINAL of the foregoing filed  
21 this 4<sup>th</sup> day of June, 2009 with:

22 Arizona Medical Board  
23 9545 E. Doubletree Ranch Road  
24 Scottsdale, AZ 85258

25 EXECUTED COPY of the foregoing mailed  
this 4<sup>th</sup> day of June, 2009 to:

Calvin Raup  
Raup & Hergenroether PLLC  
One Renaissance Square

1 Two N. Central Avenue, Suite 1100  
2 Phoenix, Arizona 85004-0001  
3 EXECUTED COPY of the foregoing mailed  
4 this 4<sup>th</sup> day of June, 2009 to:

5 Sudhir P. Agarwal, M.D.  
6 Address of Record

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8 \_\_\_\_\_  
9 Investigational Review

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