

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **BENNY CELNIKER, M.D.**

4 Holder of License No. 3729
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-08-1489A

**CONSENT AGREEMENT FOR
DECREE OF CENSURE AND
PROBATION**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Benny Celniker, 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 12. Respondent acknowledges that, pursuant to A.R.S. § 32-2533(E), he cannot
6 act as a supervising physician for a physician assistant while his license is under
7 probation.

8 13. ***Respondent has read and understands the conditions of probation.***

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Benny Celniker, MD
BENNY CELNIKER, M.D.

DATED: 6/22/09

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 3729 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-08-1489A after receiving notification of
7 a malpractice settlement involving Respondent's care and treatment of a sixty-two year-old
8 female patient ("EN").

9 4. Respondent provided care and treatment for EN from 1995 through 2005.
10 EN was on hormonal therapy and numerous adjustments to her regimen were required. In
11 1997, EN reported to Respondent that she was experiencing occasional spotting. A
12 subsequent ultrasound revealed a lining of 5mm. In September 2001, EN presented to
13 Respondent and reported bleeding. Respondent did not perform an evaluation but
14 continued her hormone therapy. The hormone therapy was discontinued in January 2004
15 and EN did not report any bleeding again until May 2005. Respondent restarted her on
16 hormone therapy without performing an evaluation.

17 5. In June 2005, EN presented to Respondent and reported moderate bleeding.
18 Respondent scheduled an endometrial biopsy; however, EN did not return until September
19 2005 for the evaluation at which time she reported only spotting. Although the biopsy
20 sample was reported to be unsatisfactory, Respondent signed off on the report. There was
21 no indication that Respondent performed another biopsy. Subsequently, EN transferred
22 her care to another physician who performed another biopsy on March 8, 2006 that
23 revealed endometrioid adenocarcinoma. EN eventually underwent a hysterectomy and
24 subsequently died from endometrial cancer.

1 Respondent shall **within six months** of the effective date of this Order
2 obtain **10 hours** of Board Staff pre-approved Category I Continuing Medical Education
3 (CME) in the **management of post-menopausal bleeding**. Respondent shall provide
4 Board Staff with satisfactory proof of attendance. The CME hours shall be in addition to
5 the hours required for the biennial renewal of medical license. The probation shall
6 terminate upon successful completion of the CME.

7 b. Obey All Laws

8 Respondent shall obey all state, federal and local laws, all rules governing
9 the practice of medicine in Arizona, and remain in full compliance with any court ordered
10 criminal probation, payments and other orders.

11 c. Tolling

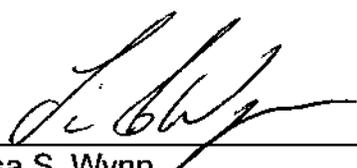
12 In the event Respondent should leave Arizona to reside or practice outside
13 the State or for any reason should Respondent stop practicing medicine in Arizona,
14 Respondent shall notify the Executive Director in writing within ten days of departure and
15 return or the dates of non-practice within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

19 3. This Order is the final disposition of case number MD-08-1489A.

20 DATED AND EFFECTIVE this 6TH day of AUGUST, 2009.



ARIZONA MEDICAL BOARD

By 
Lisa S. Wynn
Executive Director

1 ORIGINAL of the foregoing filed
2 this 6 day of August, 2009 with:

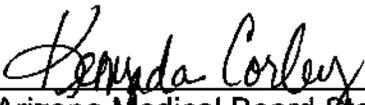
3 Arizona Medical Board
4 9545 E. Doubletree Ranch Road
5 Scottsdale, AZ 85258

6 EXECUTED COPY of the foregoing mailed
7 this 6 day of August, 2009 to:

8 James Frisbie
9 Kent & Wittekind
10 111 W. Monroe, Suite 1000
11 Phoenix, Arizona 85003

12 EXECUTED COPY of the foregoing mailed
13 this 6 day of August, 2009 to:

14 Benny Celniker, M.D.
15 Address of Record

16 
17 _____
18 Arizona Medical Board Staff