

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **DUAN C. COPELAND, M.D.**

4 License No. 35699

5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-08-1290A

**CONSENT AGREEMENT FOR
STAYED REVOCATION AND
PROBATION**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Duan C. Copeland, 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) ("violating 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 has read and understands the conditions of probation.

6
7 
8 DUAN C. COPELAND, M.D.

DATED: 6/15/9

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
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 35699 for the practice of
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-08-1290A after receiving notification
8 from a hospital that Respondent had been asked to immediately terminate a surgical
9 procedure due to possible impairment.

10 4. On October 23, 2008, hospital staff reported concerns regarding
11 Respondent's possible impairment while performing surgery. The procedure was stopped
12 and Respondent underwent a breathalyzer test and urine drug screen. The breathalyzer
13 was negative; however, the urine drug screen was positive for opiates/Morphine and
14 benzodiazepines with a significantly elevated Morphine level. During the surgical
15 procedure, an intraoperative problem occurred and the hospital was not able to find
16 another urologist; therefore, the patient was transferred to another hospital where he
17 subsequently died.

18 5. During the Board's investigation, Respondent was ordered to undergo urine
19 and hair tests that were positive for Fentanyl, Benzodiazepines and Morphine. On October
20 29, 2008, during an investigational interview with Board Staff and the Board's Addiction
21 Medicine Specialist, Respondent admitted prescribing opiate medications for his wife and
22 mother-in-law, including Percocet, Vicodin, Trazodone, Lorazepam, Ativan, Diazepam and
23 sleep aids. It is a violation of Arizona statute to prescribe controlled substances to
24 members of the physician's immediate family. Respondent also admitted that he did not
25 have medical records for his wife or mother-in-law.

1 6. The Board's Addiction Medicine Specialist found that Respondent was
2 unsafe to practice medicine and recommended a comprehensive evaluation. Additionally,
3 on that same date, Respondent was issued an Interim Order for Residential Evaluation/
4 Treatment. On October 30, 2008, Respondent signed an Interim Order for Practice
5 Restriction.

6 7. On November 11 and 12, 2008, Respondent participated in a
7 comprehensive residential evaluation. The evaluator opined that Respondent was unsafe
8 to practice medicine and recommended inpatient treatment. On December 15, 2008,
9 Respondent was admitted to inpatient treatment and was discharged on February 6, 2009
10 with a diagnosis of Fentanyl dependence without physiologic dependence, and adjustment
11 disorder with anxiety. Respondent's recovery was noted to be stable. On February 12,
12 2009, Respondent entered into an Interim Consent Agreement for Participation in the
13 Board's Monitored Aftercare Program (MAP).

14 8. The standard of care requires a physician to not be impaired by
15 medications, drugs or alcohol when seeing, treating and performing procedures on
16 patients.

17 9. Respondent deviated from the standard of care by seeing and performing a
18 procedure on a patient when he was significantly impaired by medications.

19 10. There was potential for mistreatment and procedural errors on the patient
20 and there also was potential for over-prescribing, medication misuse and inappropriate
21 treatment of family members prescribed scheduled medications.

22 11. A physician is required to maintain adequate legible medical records
23 containing, at a minimum, sufficient information to identify the patient, support the
24 diagnosis, justify the treatment, accurately document the results, indicate advice and
25 cautionary warnings provided to the patient and provide sufficient information for another

1 practitioner to assume continuity of the patient's care at any point in the course of
2 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because he did
3 not have medical records for his wife or mother-in-law.

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)(e) ("[f]ailing or refusing to maintain adequate
9 records on a patient."); A.R.S. § 32-1401(27)(f) ("[h]abitual intemperance in the use of
10 alcohol or habitual substance abuse."); A.R.S. § 32-1401(27)(h) ("[p]rescribing or
11 dispensing controlled substances to members of the physician's immediate family."),
12 A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or
13 dangerous to the health of the patient or the public.") and .A.R.S. § 32-1401 (27)(II)
14 ("[c]onduct that the board determines is gross negligence, repeated negligence or
15 negligence resulting in harm to or the death of a patient.").

16 ORDER

17 IT IS HEREBY ORDERED THAT:

18 1. IT IS HEREBY ORDERED THAT License Number 35699, issued to Duan C.
19 Copeland, M.D. for the practice of allopathic medicine in the State of Arizona, is revoked.
20 However, this revocation is stayed with the following conditions:

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

23 a. Respondent shall submit quarterly declarations under penalty of
24 perjury on forms provided by the Board, stating whether there has been compliance with
25 all conditions of probation. The declarations shall be submitted on or before the 15th of

1 March, June, September and December of each year, beginning on or before September,
2 2009.

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

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

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

20 4. Following completion of the ninety meetings in ninety days,
21 Respondent shall participate in a 12-step recovery program or other self-help program
22 appropriate for substance abuse as recommended by the MAP Director and approved by
23 Board Staff. Respondent shall attend a minimum of three 12-step or other self-help
24

25 _____
¹ Respondent's MAP participation is retroactive to February 12, 2009.

1 program meetings per week for a total of twelve per month. Two of the twelve meetings
2 must be Caduceus meetings. Respondent must maintain a log of all self-help meetings.
3 Board Staff will provide the log to Respondent.

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

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

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

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

23 7. If a controlled substance is prescribed, dispensed, or is administered
24 to Respondent by any person other than PCP, Respondent shall notify the PCP in writing
25 within 48 hours and notify the MAP Director immediately. The notification shall contain all

1 information required for the medication log entry specified in paragraph 8. Respondent
2 shall request that the notification be made a part of the medical record. This paragraph
3 does not authorize Respondent to take any *Medication* other than in accordance with
4 paragraph 6.

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

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

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

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

19 10. **Biological Fluid Collection.** During all times that Respondent is
20 physically present in the State of Arizona and such other times as Board Staff may direct,
21 Respondent shall promptly comply with requests from Board Staff or MAP Director to
22 submit to witnessed biological fluid collection. If Respondent is directed to contact an
23 automated telephone message system to determine when to provide a specimen,
24 Respondent shall do so within the hours specified by Board Staff. For the purposes of this
25 paragraph, in the case of an in-person request, "promptly comply" means "immediately."

1 In the case of a telephonic request, "promptly comply" means that, except for good cause
2 shown, Respondent shall appear and submit to specimen collection not later than two
3 hours after telephonic notice to appear is given. The Board in its sole discretion shall
4 determine good cause.

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

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

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

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

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

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

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

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

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

14 20. **Notice Requirements.**

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

25 (B) Respondent is further required to notify, in writing, all employers,

1 hospitals and free standing surgery centers where Respondent currently has or in the
2 future gains employment or privileges, of a chemical dependency relapse, use of drugs or
3 alcohol in violation of this Order and/or entry into a treatment program. Within seven days
4 of any of these events Respondent shall provide the Board written confirmation of
5 compliance with this notification requirement.

6 21. **Public Record.** This Order is a public record.

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

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

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

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

11 4. Upon any alleged violation of this Order, including chemical dependency
12 relapse or use of drugs or alcohol in violation of the Order, Respondent shall be given
13 notice and an opportunity to be heard on the alleged violations. Thereafter, the Board shall
14 revoke Respondent's license.

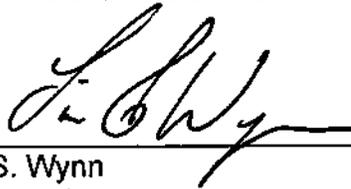
15 5. This Order is the final disposition of case number MD-08-1290A.

16 DATED AND EFFECTIVE this 5TH day of AUGUST, 2009.



ARIZONA MEDICAL BOARD

By



Lisa S. Wynn
Executive Director

21 ORIGINAL of the foregoing filed
22 this 6th day of August, 2009 with:
Arizona Medical Board
23 9545 E. Doubletree Ranch Road
24 Scottsdale, AZ 85258

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

1 Stephen Myers
2 Myers & Jenkins, P.C.
3 One E. Camelback Road, Suite 500
4 Phoenix, Arizona 85012

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

7 Duan C. Copeland, M.D.
8 Address of Record

9 
10 _____
11 Investigational Review
12
13
14
15
16
17
18
19
20
21
22
23
24
25