

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

PAUL D. DLUGIE, M.D.

Holder of License No. 28012
For the Practice of Allopathic Medicine
In the State of Arizona.

Case Nos. MD-08-0967A
MD-09-0159A

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

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Paul D. Dlugie, 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.

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.***

9
10 

11 PAUL D. DLUGIE, M.D.

DATED: 07-08-2009

12
13 **FINDINGS OF FACT**

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

16 2. Respondent is the holder of license number 28012 for the practice of
17 allopathic medicine in the State of Arizona.

18 3. The Board initiated case numbers MD-08-0967A and MD-09-0159A after
19 receiving a complaint regarding Respondent's care and treatment of a thirty-two year-old
20 male patient ("BP") and a fifty-seven male patient ("RW").

21 4. From October 2006 through August 2008, BP presented to Respondent for
22 chronic pain management and treatment. Respondent prescribed Oxycodone, Soma
23 Xanax, and Seroquel. Respondent also prescribed self-injected intramuscular Toradol
24 twice a day for seven months, which is in excess of the recommended duration.
25 Additionally, Respondent's documentation of RW's chronic pain was sparse and did not

1 support the complexity level of services that were billed for his treatment. Specifically,
2 there was no documented comprehensive exam or history, any monitoring or rationale for
3 continued long-term opioid management.

4 5. After approximately twenty months of treatment, BP underwent inpatient
5 treatment for substance abuse. During the course of treatment, BP's Oxycodone was
6 decreased and Seroquel, Soma, and Xanax were discontinued. BP's discharged diagnosis
7 included opioid abuse, pain disorder with psychological and physical factors, and
8 personality disorder. The discharge recommendations included continued psychiatric care
9 and avoidance of opioid dose escalations. Upon discharge, Respondent received some of
10 BP's inpatient treatment records. Additionally, when BP resumed care with Respondent,
11 he substantially escalated BP's Oxycodone dosage despite the treatment facility's
12 recommendation.

13 6. During the Board's investigation, three patient medical records were
14 reviewed to address concerns of overbilling. At multiple visits, Respondent billed the
15 patients for comprehensive evaluations and management services; however, there was no
16 documentation that Respondent performed comprehensive exams or history, monitored
17 the patients, or documented any rationale for continuing long-term opioid management of
18 chronic non-malignant pain even though he billed for those services.

19 7. In July 2007, RW established care with Respondent for chronic pain
20 management and treatment. There was brief documentation regarding RW's chronic pain;
21 however, there was no documented physical exam, past medical history, review of
22 symptoms, social history or alcohol use. During the course of treatment, Respondent
23 frequently adjusted RW's medications without documenting the dosage or any rationale for
24 the change. Pharmacy surveys obtained by the Board during the investigation showed that
25 Respondent prescribed excessive amounts of Tylenol containing opioids, in the absence

1 of counseling of combined toxicity with alcohol, and he also prescribed duplicative short
2 acting opioids and benzodiazepines.

3 8. Additionally, on multiple occasions Respondent documented that RW was
4 hyponatremic and that his weight fluctuated. Respondent added Aldactone and later
5 changed to it Lasix to treat RW's fluid retention and edema. There was no indication that
6 Respondent addressed RW's hyponatremia despite complaints of disequilibrium and
7 frequent falls or weight fluctuations. Specifically, Respondent did not obtain further lab
8 testing, perform a directed physical assessment or questioning regarding associated
9 symptoms, or discuss RW's alcohol use and fluid/salt intake. Ultimately, RW was
10 hospitalized after a fall in which he sustained a left humeral fracture and multiple rib
11 fractures. Hospital staff noted significant daily alcohol abuse and severe hyponatremia.
12 RW underwent in-patient alcohol withdrawal protocol and treatment for hyponatremia.
13 Following discharge, RW returned to Respondent who was aware of the hospital
14 admission and diagnosis of alcohol abuse; however, he continued prescribing opioids for
15 RW's chronic pain and increased the dosage for complaints of increased pain.

16 9. The standard of care requires a physician to prescribe in a rational manner
17 and to coordinate care or refer the patient for a consultation with a psychiatrist or addiction
18 medicine or pain management specialist for a diagnosis of opioid dependence/addiction or
19 alcohol abuse. The standard of care also requires a physician to obtain further lab testing
20 to evaluate hyponatremia and weight fluctuations, including repeat sodium, serum, and
21 urine osmolality and electrolytes; to obtain baseline labs when diuretics are prescribed for
22 hyponatremia; to repeat electrolyte testing within two weeks after the addition of Aldactone
23 and/or Lasix and to obtain labs, including electrolytes/Na⁺ when a patient on Aldactone
24 and Lasix presents with complaints of disequilibrium.

25

1 10. Respondent deviated from the standard of care because he did not prescribe
2 in a rational manner to BP and RW and he did not coordinate care with a specialist for
3 BP's opioid dependence/addiction or RW's alcohol abuse. Respondent also deviated from
4 the standard of care because he did not obtain further lab testing to evaluate RW's
5 hyponatremia and weight fluctuations; he did not obtain baseline labs when he prescribed
6 Aldactone and Lasix to RW and he did not repeat electrolytes testing within two weeks
7 after the addition of Aldactone and Lasix when RW presented with complaints of
8 disequilibrium.

9 11. There was perpetuation of BP's addiction, abuse and/or aberrant drug taking
10 due to Respondent's prescribing pattern following intensive residential treatment for opioid
11 dependence and abuse and there was potential harm increased risk of serious adverse
12 events associated with Toradol administration greater than five consecutive days. The
13 extended use of Toradol may have been the cause or contributing factor for BP's elevation
14 in liver enzymes, development of hypertension, and/or development of chronic
15 gastrointestinal distress.

16 12. RW suffered a fall while severely hyponatremic that resulted in a fractured
17 humerus and multiple ribs after Respondent failed to appropriately address hyponatremia
18 and likely exacerbated this by improper prescribing of Aldactone. There was an
19 inadvertent perpetuation of prescription drug abuse. There was potential for seizure,
20 cerebral swelling and herniation, coma or death from hyponatremia. There also was
21 potential harm associated with perpetuation of substance abuse, including overdose,
22 aspiration, brain damage, death, and hepatotoxicity from excessive prescribing of Tylenol
23 in combination with RW's excessive alcohol use. Additionally, the diuretics may have
24 contributed to RW's hyponatremia and orthostatic changes with resultant falls and
25

1 fractures. Respondent also did not address findings suggestive of alcoholism with potential
2 for injury, gastrointestinal bleeding, alcoholic liver disease and alcohol induced dementia.

3 13. A physician is required to maintain adequate legible medical records
4 containing, at a minimum, sufficient information to identify the patient, support the
5 diagnosis, justify the treatment, accurately document the results, indicate advice and
6 cautionary warnings provided to the patient and provide sufficient information for another
7 practitioner to assume continuity of the patient's care at any point in the course of
8 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because his
9 documentation of chronic pain was sparse; there was no documented comprehensive
10 exam or histories, review of symptoms, monitoring, rational for treatment or change in
11 medications or dosage; no documented counseling of combined toxicity with alcohol and
12 no documentation that he addressed a patient's hyponatremia.

13 CONCLUSIONS OF LAW

14 1. The Board possesses jurisdiction over the subject matter hereof and over
15 Respondent.

16 2. The conduct and circumstances described above constitute unprofessional
17 conduct pursuant to A.R.S. § 32-1401 (27)(e) ("[f]ailing or refusing to maintain adequate
18 records on a patient."), A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might
19 be harmful or dangerous to the health of the patient or the public."), and A.R.S. § 32-1401
20 (27)(u) ("[c]harging a fee for services not rendered or dividing a professional fee for patient
21 referrals among health care providers or health care institutions or between these
22 providers and institutions or a contractual arrangement that has the same effect.

23 ORDER

24 IT IS HEREBY ORDERED THAT:

25 1. Respondent is issued a Decree of Censure.

1 2. Respondent is placed on probation for **one year** with the following terms and
2 conditions:

3 a. Continuing Medical Education

4 Respondent shall within **one year** of the effective date of this Order obtain **20**
5 **hours** of Board Staff pre-approved Category I Continuing Medical Education (CME) in a
6 **comprehensive opiate prescribing and pain management course, 15 - 20 hours** of
7 CME in the **management of electrolyte disturbances**, and **15 - 20 hours** of CME in a
8 **comprehensive billing course**. Respondent shall provide Board Staff with satisfactory
9 proof of attendance. The CME hours shall be in addition to the hours required for the
10 biennial renewal of medical license. The probation shall terminate upon successful
11 completion of the CME.

12 b. Obey All Laws

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

16 c. Tolling

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

24 3. This Order is the final disposition of case numbers MD-08-0967A and MD-
25 09-0159A.

DATE ~~ISSUED~~ EFFECTIVE this 5TH day of AUGUST, 2009.



ARIZONA MEDICAL BOARD

By *Lisa S. Wynn*
Lisa S. Wynn
Executive Director

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

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

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

Paul D. Dlugie, M.D.
Address of Record

Kenyada Corley
Arizona Medical Board Staff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25