



1           5.       Further, during the Board's investigation, Staff obtained pharmacy surveys  
2 from January 2003 through March 2009, which showed continuous prescribing of  
3 controlled substances by Respondent. However, there was no documentation in KV's  
4 medical record of these controlled substances, the dates Respondent prescribed the  
5 medications, the quantities of the medications he prescribed, any instructions for KV, or  
6 the number of refills. The continuous prescribing of the controlled substances included a  
7 nineteen-month period without a single office visit from KV, during which time she became  
8 pregnant and gave birth. The medications included Methotrexate and Indomethacin;  
9 however, Respondent did not provide counseling or precautions to KV. There also was no  
10 evidence that Respondent monitored KV for efficacy and adverse effects of the  
11 medications or closely monitored her for problems suggestive of noncompliance,  
12 substance abuse, or addiction.

13           6.       On February 28, 2009 and March 3, 2009, KV was admitted to the hospital  
14 for a Soma overdose. Following the March 3, 2009 admission, KV was discharged to a  
15 behavioral health clinic with noted impulsive use of Soma. On March 11, 2009, KV was  
16 discharged from the behavioral health clinic with a diagnosis of polysubstance  
17 dependence. On the day of her discharge and two weeks later, pharmacy records showed  
18 that KV filled two prescriptions for benzodiazepine written by Respondent.

19           7.       The standard of care prior to and during prescribing of long-term opioid  
20 medications, for chronic non-malignant pain that included Methotrexate and Indomethacin  
21 requires a physician to conduct an appropriate evaluation of the patient's pain problem that  
22 includes a pain history and a targeted physical examination and to prescribe medications  
23 based on objective findings. Additionally, the standard of care when prescribing controlled  
24 substances requires a physician to counsel the patient regarding precautions, to monitor  
25

1 for efficacy and adverse effects, and to closely monitor for problems suggestive of  
2 noncompliance, substance abuse and/or addiction.

3 8. Respondent deviated from the standard of care because he did not conduct  
4 an appropriate evaluation of KV's pain problem that included a pain history and a targeted  
5 physical examination and he did not prescribe the medications based on objective  
6 findings. Additionally, Respondent deviated from the standard of care because he did not  
7 counsel KV regarding precautions, he did not monitor her for efficacy and adverse effects,  
8 and he did not closely monitor for problems suggestive of noncompliance, substance  
9 abuse and/or addiction.

10 9. Respondent's prescribing led to perpetuation of polysubstance abuse and  
11 addiction, which resulted in two overdoses, dysfunctionality and admission to a behavioral  
12 health clinic. KV's overdose could have resulted in aspiration, brain damage, or death.  
13 Continued daily opioid use during KV's pregnancy could have contributed to miscarriage,  
14 stillbirth, low birth weight, and/or newborn withdrawal syndrome and methotrexate  
15 prescribing could have caused birth defects. Indomethacin taken during pregnancy could  
16 have caused a premature closure of the ductus arteriosus in KV's newborn, neonatal  
17 primary hypertension, neonatal oliguric renal failure and neonatal death. Additionally, the  
18 newborn could have developed poor feeding, excessive drowsiness, difficulty breathing,  
19 respiratory failure, and death if KV had been breastfeeding while taking the prescribed  
20 opioid medications.

21 10. A physician is required to maintain adequate legible medical records  
22 containing, at a minimum, sufficient information to identify the patient, support the  
23 diagnosis, justify the treatment, accurately document the results, indicate advice and  
24 cautionary warnings provided to the patient and provide sufficient information for another  
25 practitioner to assume continuity of the patient's care at any point in the course of

1 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because there  
2 was no documentation of the controlled substances prescribed, the dates Respondent  
3 prescribed the medications, the quantities of the medications he prescribed, any  
4 instructions for KV or the number of refills.

### 5 CONCLUSIONS OF LAW

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

8 2. The conduct and circumstances described above constitute unprofessional  
9 conduct pursuant to A.R.S. § 32-1401(27)(e) ("[f]ailure or refusing to maintain adequate  
10 records on a patient."), A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might  
11 be harmful or dangerous to the health of the patient or the public."), and A.R.S. § 32-  
12 1401(27)(ll) ("[c]onduct that the board determines is gross negligence, repeated  
13 negligence or negligence resulting in harm to or death of a patient.").

### 14 ORDER

15 IT IS HEREBY ORDERED THAT:

16 1. Respondent is issued a Letter of Reprimand.  
17 2. Respondent is placed on probation for one year with the following terms and  
18 conditions:

19 a. Continuing Medical Education

20 Respondent shall within **one year** of the effective date of this Order obtain  
21 **15 - 20 hours** of Board Staff pre-approved Category I Continuing Medical Education  
22 (CME) in a **comprehensive prescribing course** and shall **undergo the Physician**  
23 **Assessment and Clinical Education Program in medical recordkeeping**. Respondent  
24 shall provide Board Staff with satisfactory proof of attendance. The CME hours shall be in  
25 addition to the hours required for the biennial renewal of medical license.

1           b.     Chart Reviews

2           Board Staff or its agents shall conduct periodic chart reviews. Based upon  
3 the chart review, the Board retains jurisdiction to take additional disciplinary or remedial  
4 action.

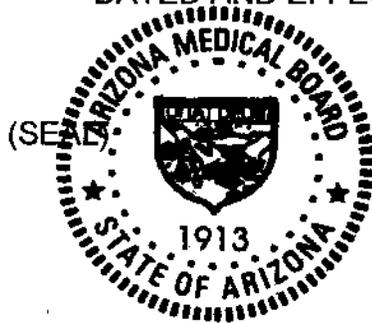
5           c.     Obey All Laws

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

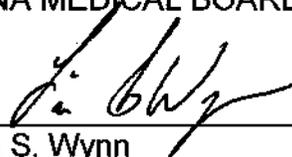
9           d.     Tolling

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

17          DATED AND EFFECTIVE this 2<sup>ND</sup> day of DECEMBER, 2009.



ARIZONA MEDICAL BOARD

20 By   
21 Lisa S. Wynn  
22 Executive Director

23                   CONSENT TO ENTRY OF ORDER

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

1           2.     Respondent acknowledges and agrees that this Order is entered into freely  
2 and voluntarily and that no promise was made or coercion used to induce such entry.

3           3.     By consenting to this Order, Respondent voluntarily relinquishes any rights to  
4 a hearing or judicial review in state or federal court on the matters alleged, or to challenge  
5 this Order in its entirety as issued by the Board, and waives any other cause of action  
6 related thereto or arising from said Order.

7           4.     The Order is not effective until approved by the Board and signed by its  
8 Executive Director.

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

15          6.     Upon signing this agreement, and returning this document (or a copy thereof)  
16 to the Board's Executive Director, Respondent may not revoke the consent to the entry of  
17 the Order. Respondent may not make any modifications to the document. Any  
18 modifications to this original document are ineffective and void unless mutually approved  
19 by the parties.

20          7.     This Order is a public record that will be publicly disseminated as a formal  
21 disciplinary action of the Board and will be reported to the National Practitioner's Data  
22 Bank and on the Board's web site as a disciplinary action.

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

25

1 9. If the Board does not adopt this Order, Respondent will not assert as a  
2 defense that the Board's consideration of the Order constitutes bias, prejudice,  
3 prejudgment or other similar defense.

4 10. Any violation of this Order constitutes unprofessional conduct and may result  
5 in disciplinary action. A.R.S. § § 32-1401(27)(r) (“[v]iolating a formal order, probation,  
6 consent agreement or stipulation issued or entered into by the board or its executive  
7 director under this chapter”) and 32-1451.

8 11. Respondent acknowledges that, pursuant to A.R.S. § 32-2533(E), he cannot  
9 act as a supervising physician for a physician assistant while his license is under  
10 probation.

11 12. **Respondent has read and understands the conditions of probation.**

12 

13 DATED: 10/10/2009

14 GERALD S. ASIN, M.D.

15 EXECUTED COPY of the foregoing mailed  
16 this 2<sup>nd</sup> day of December, 2009 to:

17 Gerald S. Asin, M.D.  
18 Address of Record

19 ORIGINAL of the foregoing filed  
20 this 2<sup>nd</sup> day of December, 2009 with:

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

24   
25 Arizona Medical Board Staff