

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2  
3 In the Matter of

4 **OCTAVIO G. FERNANDEZ, M.D.**

5 Holder of License No. 10957  
6 For the Practice of Allopathic Medicine  
In the State of Arizona.

Case No. MD-09-1538A

**ORDER FOR SURRENDER OF  
LICENSE AND CONSENT TO SAME**

7 Octavio G. Fernandez, M.D. ("Respondent") elects to permanently waive any right  
8 to a hearing and appeal with respect to this Order for Surrender of License; admits the  
9 jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order  
10 by the Board.

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of license number 10957 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-09-1538A after receiving a complaint  
17 alleging that Respondent was abusing alcohol.

18 4. On August 11, 2009, Respondent met with the Board's Addiction Medicine  
19 Contractor (AMC) and the AMC recommended that Respondent undergo a residential  
20 evaluation. On October 2, 2009, Respondent completed the residential evaluation with a  
21 diagnosis that included alcohol abuse. Subsequently, the AMC recommended that  
22 Respondent enter into a rehabilitation program with the Board. On November 30, 2009,  
23 Respondent entered into a Stipulated Rehabilitation Agreement (SRA) requiring that he  
24 abstain from consuming alcohol. However, prior to entering into the SRA, Respondent was  
25 administered a urine drug screen by his employer on November 25, 2009 that was positive

1 for ethyl alcohol. On December 3, 2009, Respondent was ordered to undergo chemical  
2 dependency treatment within 14 days. Respondent declined to enter treatment.

3 5. Respondent admits to the acts described above and that they constitute  
4 unprofessional conduct pursuant to A.R.S. § 32-1401(27)(f) (“[h]abitual intemperance in  
5 the use of alcohol of habitual substance abuse.”)

6 **CONCLUSIONS OF LAW**

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

9 2. The Board possesses statutory authority to enter into a consent agreement  
10 with a physician and accept the surrender of an active license from a physician who  
11 admits to having committed an act of unprofessional conduct. A.R.S. § 32-1451(T)(2).

12 **ORDER**

13 IT IS HEREBY ORDERED THAT Respondent immediately surrender License  
14 Number 10957, issued to Octavio G. Fernandez, M.D. for the practice of allopathic  
15 medicine in the State of Arizona, and return his wallet card and certificate of licensure to  
16 the Board.

17 DATED and effective this 11<sup>TH</sup> day of FEBRUARY, 2010.

18 ARIZONA MEDICAL BOARD



21 By: \_\_\_\_\_

22 Lisa S. Wynn  
23 Executive Director  
24  
25

**CONSENT TO ENTRY OF ORDER**

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

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

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

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

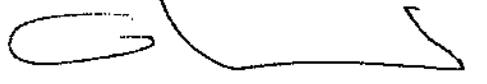
12          5.     All admissions made by Respondent are solely for final disposition of this  
13 matter and any subsequent related administrative proceedings or civil litigation involving  
14 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
15 or made for any other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

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

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

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

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

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8 OCTAVIO G. FERNANDEZ, M.D.

Dated: 02-08-2010

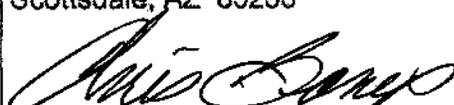
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10 EXECUTED COPY of the foregoing mailed by  
11 US Mail this 17<sup>th</sup> day of February, 2010 to:

12 Andrew Plattner  
13 Plattner, Schneidman, Schneider, P.C.  
14 4201 N. 24<sup>th</sup> Street, Suite 100  
15 Phoenix, Arizona 85015

16 ORIGINAL of the foregoing filed this  
17 17<sup>th</sup> day of February, 2010 with:

18 The Arizona Medical Board  
19 9545 East Doubletree Ranch Road  
20 Scottsdale, AZ 85258

21 

22 Arizona Medical Board Staff