

1 query of Respondent's wife showed that Respondent prescribed her controlled substances
2 including Hydrocodone-Acetaminophen and Promethazine. Board staff obtained hard
3 copies of the prescriptions and noted that they were signed by Respondent. Board staff
4 requested that Respondent submit his medical records on GE. The following month,
5 Respondent's attorney told Board staff that Respondent does not have any medical
6 records on his son and that he did not treat him.

7 5. Additionally, Board staff obtained medical records from Respondent's
8 treating physicians. The internal medicine physician's records document that Respondent
9 suffers from right upper extremity reflex sympathetic dystrophy and a deformity of the right
10 hand. The records also indicated that by July of 2012, Respondent was no longer
11 practicing as an OB/GYN surgeon due to constant pain in his right hand.

12 6. Board staff met with Respondent for an investigational interview and he
13 stated that he was not aware that the medications he prescribed to his son were controlled
14 medications until he received notification of the Board's investigation. Respondent stated
15 that he is currently working as a director for Mohave Community College and as a traveling
16 medical marijuana certifier. He stated that he no longer practices as an OB/GYN due to his
17 disability.

18 7. Board staff subsequently queried the CSPMP regarding both EG and
19 Respondent's wife with Respondent as the prescriber, the results of which indicated that
20 Respondent has discontinued his prescribing to them of controlled substances. There was
21 no quality of care review performed regarding Respondent's prescribing to EG by a
22 Medical Consultant as there were no records maintained by Respondent.

23 8. At the Formal Interview, Respondent testified that he gave his son the
24 medications because his son has "a terrible problem with muscle spasms of his masseter
25 and TMJ. He's been beaten severely . . . and he now has TMJ on both sides and he

1 basically is in agony all the time.” He also stated that his son needs pain medications but
2 he has problems obtaining them because they live in a rural area and his son is under 18.

3 9. Respondent also argued that he did not knowingly make a misrepresentation
4 when Board staff asked him if he had “dispensed” controlled substances to his son
5 because he understood “dispense” to mean “prepare and give.” According to Respondent,
6 his wife was the only one who actually gave the controlled substances to their son.

7 10. At the Formal Interview, Board members expressed sympathy for the health
8 issues suffered by Respondent’s son. However, they concluded it was wrong to prescribe
9 controlled substances to children in a manner that causes them to become addicted or
10 suffer dependency and withdrawal.

11 11. Board members also questioned Respondent’s claim that he did not know he
12 was prescribing controlled substances. The cough medicine he prescribed to his son
13 contained Hydrocodone, a well know controlled substance, so the Board concluded that
14 Respondent’s claim of ignorance was not credible.

15 CONCLUSIONS OF LAW

16 1. The Board possesses jurisdiction over the subject matter hereof and over
17 Respondent.

18 2. The conduct and circumstances described above constitute unprofessional
19 conduct pursuant to A.R.S. § 32-1401(27)(e) (“[f]ailing or refusing to maintain adequate
20 records on a patient.”)

21 3. The conduct and circumstances described above constitute unprofessional
22 conduct pursuant to A.R.S. § 32-1401(27)(h) (“[p]rescribing or dispensing controlled
23 substances to members of the physician’s immediate family.”)

24 4. Under A.R.S. § 32-1401(9), “dispense” means “the delivery by a doctor of
25 medicine of a prescription drug or device to a patient, except for samples packaged for

1 individual use by licensed manufacturers or repackagers of drugs, and includes the
2 **prescribing**, administering, packaging, labeling and security necessary to prepare and
3 safeguard the drug or device for delivery [emphasis added].” Therefore, Respondent met
4 the definition of ‘dispense’ when he prescribed controlled substances to his son.

5
6 5. The conduct and circumstances described above constitute unprofessional
7 conduct pursuant to A.R.S. § 32-1401(27)(t)(“[k]nowingly making any false or fraudulent
8 statement, written or oral, in connection with the practice of medicine or if applying for
9 privileges or renewing an application for privileges at a health care institution.”)

10
11 **ORDER**

12 IT IS HEREBY ORDERED THAT:

13 1. Respondent is issued a Letter of Reprimand.

14 2. Respondent is placed on probation for three months with the following terms
15 and conditions:

16 **Continuing Medical Education**

17 Respondent shall within three months obtain of the effective date of this
18 Order obtain 15-20 hours of Board Staff pre-approved Category I Continuing Medical
19 Education (CME)in an intensive, in-person prescribing course. Upon completion of the
20 CME, Respondent shall provide Board Staff with satisfactory proof of attendance. The
21 CME hours shall be in addition to the hours required for the biennial renewal of medical
22 license. The probation shall terminate upon successful completion of the CME.

23 b. **Obey All Laws**

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

4 c. Tolling

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

12
13 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

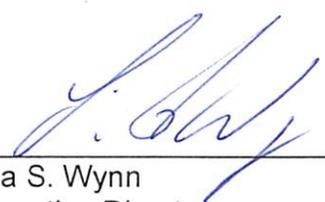
14 Respondent is hereby notified that he has the right to petition for a rehearing or
15 review. The petition for rehearing or review must be filed with the Board's Executive
16 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
17 petition for rehearing or review must set forth legally sufficient reasons for granting a
18 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after
19 date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed,
20 the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

21 Respondent is further notified that the filing of a motion for rehearing or review is
22 required to preserve any rights of appeal to the Superior Court.

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24 DATED AND EFFECTIVE this 8th day of AUGUST, 2013.

25 ARIZONA MEDICAL BOARD

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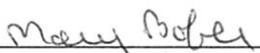
Lisa S. Wynn
Executive Director

EXECUTED COPY of the foregoing mailed
this 8th day of August, 2013 to:

Kraig J. Marton, Esq.
Jaburg & Wilk
3200 North Central, 20th Floor
Phoenix, AZ 85012-2440

ORIGINAL of the foregoing filed
this 8th day of August, 2013 with:

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



Arizona Medical Board Staff