

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **JOEL A. HAYDEN, M.D.**

4 License No. 23390
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-09-1256A

**ORDER FOR LETTER OF REPRIMAND
AND PROBATION AND CONSENT TO
THE SAME**

7 Joel A. Hayden, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Letter of Reprimand and Probation;
9 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
10 this Order 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 23390 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-09-1256A after receiving a report from
17 the Board's Addiction Medicine Consultant (AMC) regarding Respondent's ability to safely
18 engage in the practice of medicine.

19 4. On September 18, 2009, Respondent entered into a confidential Stipulated
20 Agreement after completing treatment for substance abuse. The Agreement prohibited
21 Respondent from consuming alcohol. The Agreement also required that in the event of a
22 chemical dependency relapse, Respondent promptly enter into an Interim Consent
23 Agreement for Practice Restriction until completing long-term treatment. On October 5,
24 2009, Board Staff received notification from the AMC that Respondent had tested positive
25 for EthylGlucuronide, a metabolite of alcohol, and had admitted to consuming alcoholic

1 beverages. Respondent signed an Interim Practice Restriction and completed long term
2 residential treatment. On January 26, 2010, Respondent entered into an Interim Consent
3 Agreement for participation in the Board's Monitored Aftercare Program and the Interim
4 Practice Restriction was vacated.

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)(f) ("[h]abitual intemperance in the use of alcohol
10 or habitual substance abuse.") and A.R.S. § 32-1401(27)(r) ("[v]iolating a formal order,
11 probation, consent agreement or stipulation issued or entered into the board or its
12 executive director under the provisions of this chapter.

13 ORDER

14 IT IS HEREBY ORDERED THAT:

15 1. Respondent is issued a Letter of Reprimand.

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

18 a.1. Participation¹. Respondent shall promptly enroll in and participate in the
19 Board's program for the treatment and rehabilitation of physicians who are impaired by
20 alcohol or drug abuse ("MAP"). Respondent's participation in MAP may be unilaterally
21 terminated with or without cause at the Board's discretion at any time after the issuance of
22 this Order.

23 i. Respondent shall submit quarterly declarations under penalty of
24

25 ¹ Respondent's MAP participation is retroactive to January 26, 2010,

1 perjury stating whether there has been compliance with all conditions
2 of MAP. The declarations shall be submitted to the contractor retained
3 by the Board to administer the MAP program ("Contractor") on or
4 before the 15th of March, June, September and December of each
5 year, beginning on or before June, 2010.

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

13 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend
14 ninety 12-step meetings or other self-help group meetings appropriate for substance
15 abuse and approved by the MAP Contractor, for a period of ninety days beginning no later
16 than either (a) the first day following Respondent's discharge from chemical dependency
17 treatment or (b) the date of this Order.

18 **4.** Following completion of the ninety meetings in ninety days,
19 Respondent shall participate in a 12-step recovery program or other self-help program
20 appropriate for substance abuse as recommended by the MAP Contractor. Respondent
21 shall attend a minimum of three 12-step or other self-help program meetings per week for
22 a total of twelve per month. Two of the twelve meetings must be Caduceus meetings.
23 Respondent must maintain a log of all self-help meetings. The MAP Contractor will provide
24 the log to Respondent.

25 **5. Approved Primary Care Physician.** Respondent shall promptly

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

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

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

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

20 7. If a controlled substance is prescribed, dispensed, or administered to
21 Respondent by any person other than PCP, Respondent shall notify the PCP in writing
22 within 48 hours and notify the MAP Contractor immediately. The notification shall contain
23 all information required for the medication log entry specified in paragraph 8. Respondent
24 shall request that the notification be made a part of the medical record. This paragraph
25 does not authorize Respondent to take any *Medication* other than in accordance with

1 paragraph 6.

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

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

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

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

16 10. **Biological Fluid Collection.** During all times that Respondent is
17 physically present in the State of Arizona and such other times as the MAP Contractor
18 may direct, Respondent shall promptly comply with requests to submit to witnessed
19 biological fluid collection. If Respondent is directed to contact an automated telephone
20 message system to determine when to provide a specimen, Respondent shall do so within
21 the hours specified. For the purposes of this paragraph, in the case of an in-person
22 request, "promptly comply" means "immediately." In the case of a telephonic request,
23 "promptly comply" means that, except for good cause shown, Respondent shall appear
24 and submit to specimen collection no later than two hours after telephonic notice to appear
25 is given. The MAP Contractor in its sole discretion shall determine good cause.

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

8 12. Respondent shall cooperate with collection site personnel regarding
9 biological fluid collection. Repeated complaints from collection site personnel regarding
10 Respondent's lack of cooperation regarding collection may be grounds for termination
11 from MAP.

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

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

22 15. Examination. Respondent shall submit to mental, physical, and
23 medical competency examinations at such times and under such conditions as directed by
24 the MAP Contractor to assist in monitoring Respondent's ability to safely perform as a
25 physician and Respondent's compliance with the terms of this Order.

1 **16. Treatment.** Respondent shall submit to all medical, substance
2 abuse, and mental health care and treatment ordered by the MAP Contractor.

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

5 **18. Interviews.** Respondent shall appear in person before the Board and
6 its Staff and MAP Contractor for interviews upon request, upon reasonable notice.

7 **19. Address and Phone Changes, Notice.** Respondent shall
8 immediately notify the MAP Contractor in writing of any change in office or home
9 addresses and telephone numbers.

10 **20. Relapse, Violation.** In the event of chemical dependency relapse by
11 Respondent or Respondent's use of drugs or alcohol in violation of the Order,
12 Respondent's license shall be **summarily suspended pending a hearing for**
13 **revocation.** In the alternative, Respondent may **SURRENDER HIS LICENSE** if he agrees
14 in writing to being impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).

15 **21. Notice Requirements.**

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

1 (B) Respondent is further required to notify, in writing, all employers, hospitals
2 and free standing surgery centers where Respondent currently has or in the future gains
3 employment or privileges, of a chemical dependency relapse, use of drugs or alcohol in
4 violation of this Order and/or entry into a treatment program. Within seven days of any of
5 these events Respondent shall provide the MAP Contractor written confirmation of
6 compliance with this notification requirement.

7 22. Public Record. This Order is a public record.

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

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

1 submitted on or before the 15th day of March, June, September and December of each
2 year, beginning on or before June, 2010. Respondent shall provide the psychiatrist with a
3 copy of this order. Respondent shall pay the expenses of all the psychiatric care and be
4 responsible for the preparation of the quarterly reports. After **twelve months**, Respondent
5 may submit a written request to the Executive Director requesting termination of the
6 requirement that Respondent remain in treatment with a psychiatrist. The decision to
7 terminate will be based, in part, upon the treating psychiatrist's recommendation for
8 continued care and treatment.

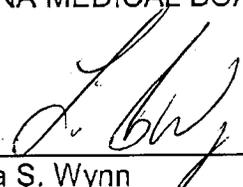
9 25. This Order supersedes all previous consent agreements and
10 stipulations between the Board and/or the Executive Director and Respondent.

11 26. The Board retains jurisdiction and may initiate new action based upon
12 any violation of this Order.

13 DATED AND EFFECTIVE this 14TH day of APRIL, 2010.



ARIZONA MEDICAL BOARD

By 

Lisa S. Wynn
Executive Director

CONSENT TO ENTRY OF ORDER

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

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

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

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

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

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

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

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

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

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

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

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8 _____
9 JOEL A. HAYDEN, M.D.

DATED: 3/7/10

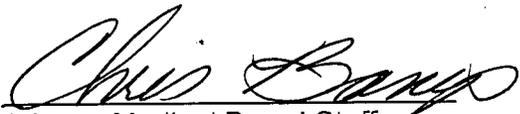
9 EXECUTED COPY of the foregoing mailed
10 this 15th day of April, 2010 to:

11 Joel A. Hayden
12 Address of Record

13 Sucher & Greenberg, P.C.
14 Address on file

15 ORIGINAL of the foregoing filed
16 this 15th day of April, 2010 with:

17 Arizona Medical Board
18 9545 E. Doubletree Ranch Road
19 Scottsdale, AZ 85258

20 
21 _____
22 Arizona Medical Board Staff
23
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25