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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
PETER R. NASH, M.D.
Holder of License No. 11954
For the Practice of Medicine
In the State of Arizona.

Board Case No. MD-00-0716

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

(Decree of Censure & Probation)

This matter was considered by the Arizona Medical Board ("Board") at its public meeting on October 3, 2002. Peter R. Nash, M.D., ("Respondent") appeared before the Board with legal counsel Paul Giancola for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). After due consideration of the facts and law applicable to this matter, the Board voted to issue the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
2. Respondent is the holder of License No. 11954 for the practice of allopathic medicine in the State of Arizona.
3. The Board initiated case number MD-00-0716 after receiving information that Respondent had diverted Vicodin from his workplace to himself by removing Vicodin tablets from at least 11 bottles in his employer's dispensing stock, replacing the Vicodin with Naproxen, and returning the bottles to the dispensing stock.
4. During the Board's investigation Respondent admitted to having diverted the Vicodin to treat pain related to a prior surgery. Respondent entered an Interim order with the Board and underwent inpatient treatment and has been successfully monitored by the Board's Monitored Aftercare Program since March 2001.

1 5. Respondent testified at the formal interview that he had taken the 11 Vicodin
2 bottles from his employer and that doing so was a serious mistake on his part.
3 Respondent stated that although he returned the bottles to the dispensing stock containing
4 Naproxen rather than Vicodin, he always made sure to place the bottles in the back so that
5 they would not mistakenly be given to a patient. Respondent testified that he was taking
6 the Vicodin to deal with pain from two sinus surgeries for severe sinus pressure.
7 Respondent stated that he had made a tremendous mistake, but that the lapse in behavior
8 caused numerous positive changes in his life for which he is grateful, including a
9 significant improvement in his life and almost two years off of pain medication:

10 6. Respondent was asked how the Vicodin was dispensed at his workplace
11 and whether he believed it was possible for someone to have picked up and dispensed the
12 bottles that contained the Naproxen when they actually intended to dispense Vicodin.
13 Respondent stated that he believed it would have been unlikely because persons
14 dispensing medication normally pick up a bottle from the front of the cabinet and he placed
15 the altered bottles in the back of the stock.

16 7. Respondent was asked what the potential impact would have been on a
17 patient who received the Naproxen instead of the Vicodin. Respondent stated that there
18 was the potential for an allergic reaction, although such a reaction is not very common.
19 Respondent stated that a more significant impact would be a bleeding ulcer in someone
20 with stomach problems.

21 8. Respondent stated that no patient had ever been given the Naproxen when
22 he/she was supposed to receive Vicodin.

23 9. The standard of care required Respondent to dispense medications only for
24 that which is prescribed and to not substitute a secondary medication, which if prescribed
25

1 could cause an adverse reaction in a patient whose history was such that the medication
2 was contraindicated.

3 10. Respondent's conduct was unreasonable in that, given the standard of care,
4 he should not have dispensed of medication for other than that which was prescribed and
5 should not have substituted a secondary medication, which if prescribed could cause an
6 adverse reaction in a patient whose history contraindicated the medication.

7 **CONCLUSIONS OF LAW**

8 1. The Arizona Medical Board possesses jurisdiction over the subject matter
9 hereof and over Respondent.

10 2. The Board has received substantial evidence supporting the Findings of Fact
11 described above and said findings constitute unprofessional conduct or other grounds for
12 the Board to take disciplinary action.

13 3. The conduct and circumstances above in paragraphs 3, 4, 5, 7, 9 and 10
14 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(24)(a) ("[v]iolating any
15 federal or state law or rules and regulations applicable to the practice of medicine;") 32-
16 1401(24)(f) ("[h]abitual intemperance in the use of alcohol or habitual substance abuse;")
17 32-1401(24)(g) ("[u]sing controlled substances except if prescribed by another physician
18 for use during a prescribed course of treatment;") and 32-1401(24)(q) ("[a]ny conduct or
19 practice that is or might be harmful or dangerous to the health of the patient or the public.")

20 **ORDER**

21 Based upon the foregoing Findings of Fact and Conclusions of Law,

22 IT IS HEREBY ORDERED that:

23 1. Respondent is issued a Decree of Censure for dispensing medication for
24 other than that which was prescribed and for removing medication from bottles and
25 substituting a secondary medication.

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

3 a. Respondent shall submit quarterly declarations under penalty of perjury on
4 forms provided by the Board, stating whether there has been compliance with all
5 conditions of probation. The declarations shall be submitted on or before the 15th of
6 March, June, September and December of each year, beginning on or before December
7 15, 2001.

8 b. Respondent shall pay the costs associated with monitoring his probation as
9 designated by the Board each and every year of probation. Such costs may be adjusted
10 on an annual basis. Costs are payable to the Board no later than 60 days after the
11 effective date of this Order and thereafter on an annual basis. Failure to pay these costs
12 within 30 days of the due date constitutes a violation of probation.

13 c. Respondent shall not dispense controlled substances.

14 d.1. Participation. Respondent shall promptly enroll in and participate in the
15 Monitored Aftercare Program ("MAP") for the treatment and rehabilitation of physicians
16 who are impaired by alcohol or drug abuse. Respondent shall remain in MAP for five
17 years from the effective date of this Order. Respondent's participation in MAP may be
18 unilaterally terminated with or without cause at the Board's discretion at any time after the
19 issuance of this Order.

20 2. Group Therapy. Respondent shall attend MAP's group therapy sessions
21 one time per week for the duration of this Order, unless excused by the MAP group
22 therapist for good cause such as illness or vacation. Respondent shall instruct the MAP
23 group therapist to release to the Board, upon its request, all records relating to his
24 treatment, and to submit monthly reports to the Board regarding attendance and progress.
25 The reports shall be submitted on or before the 10th day of each month.

1 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-
2 step meetings or other self-help group meetings appropriate for substance abuse and
3 approved by the Board, for a period of ninety days beginning not later than either (a) the
4 first day following his discharge from chemical dependency treatment or (b) the date of this
5 Order.

6 **4.** Following completion of the ninety meetings in ninety days, Respondent shall
7 participate in a 12-step recovery program or other self-help program appropriate for
8 substance abuse as recommended by the MAP group therapist and approved by the
9 Board. Respondent shall attend a minimum of three 12-step or other self-help program
10 meetings per week.

11 **5. Board-Approved Primary Care Physician.** Respondent shall promptly
12 obtain a primary care physician and shall submit the name of the physician to Board Staff
13 in writing for approval. The Board-approved primary care physician ("PCP") shall be in
14 charge of providing and coordinating Respondent's medical care and treatment. Except in
15 an *Emergency*, Respondent shall obtain his medical care and treatment only from the PCP
16 and from health care providers to whom the PCP refers Respondent from time to time.
17 Respondent shall request that the PCP document all referrals in the medical record.
18 Respondent shall promptly inform the PCP of his rehabilitation efforts and provide a copy
19 of this Order to that physician. Respondent shall also inform all other health care
20 providers who provide medical care or treatment that he is participating in the Board's
21 rehabilitation program.

22 **6. Medication.** Except in an *Emergency*, Respondent shall take no *Medication*
23 unless the *Medication* is prescribed by his PCP or other health care provider to whom the
24 PCP makes a referral. Respondent shall not self-prescribe any *Medication*.

25 **7.** If a controlled substance is prescribed, dispensed, or is administered to

1 Respondent by any person other than PCP, Respondent shall notify the PCP in writing
2 within 48 hours. The notification shall contain all information required for the medication
3 log entry specified in paragraph 8. Respondent shall request that the notification be made
4 a part of the medical record. This paragraph does not authorize Respondent to take any
5 *Medication* other than in accordance with paragraph 6.

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

- 12 a. Name and dosage of *Medication* taken or administered;
- 13 b. Date taken or administered;
- 14 c. Name of prescribing or administering physician;
- 15 d. Reason *Medication* was prescribed or administered.

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

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

20 **10. Biological Fluid Collection.** During all times that Respondent is physically
21 present in the State of Arizona and such other times as Board Staff may direct,
22 Respondent shall promptly comply with requests from Board Staff, the MAP group
23 therapist, or the MAP director to submit to witnessed biological fluid collection. If
24 Respondent is directed to contact an automated telephone message system to determine
25 when to provide a specimen, he shall do so within the hours specified by Board Staff. For

1 the purposes of this paragraph, in the case of an in-person request, "promptly comply"
2 means "immediately". In the case of a telephonic request, "promptly comply" means that,
3 except for good cause shown, Respondent shall appear and submit to specimen collection
4 not later than two hours after telephonic notice to appear is given. The Board in its sole
5 discretion shall determine good cause.

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

13 12. Respondent shall cooperate with collection site personnel regarding
14 biological fluid collection. Repeated complaints from collection site personnel regarding
15 Respondent's lack of cooperation regarding collection may be grounds for termination
16 from the program.

17 13. Payment for Services. Respondent shall pay for all costs, including
18 personnel and contractor costs, associated with participating in the Monitored
19 Aftercare Program at time service is rendered, or within 30 days of each invoice
20 sent to him.

21 14. Examination. Respondent shall submit to mental, physical, and medical
22 competency examinations at such times and under such conditions as directed by the
23 Board to assist the Board in monitoring his ability to safely perform as a physician and his
24 compliance with the terms of this Order.

25 15. Treatment. Respondent shall submit to all medical, substance abuse, and

1 mental health care and treatment ordered by the Board, or recommended by the MAP
2 director.

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

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

7 **18. Address and Phone Changes, Notice.** Respondent shall immediately
8 notify the Board in writing of any change in office or home addresses and telephone
9 numbers. Respondent shall provide Board Staff at least three business days advance
10 written notice of any plans to be away from office or home for more than five consecutive
11 days. The notice shall state the reason for the intended absence from home or office, and
12 shall provide a telephone number that may be used to contact Respondent.

13 **19. Relapse, Violation.** In the case of chemical dependency relapse by
14 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent
15 shall promptly enter into an Interim Consent Agreement that requires, among other things,
16 that Respondent not practice medicine until such time as he successfully completes an
17 inpatient or residential treatment program for chemical dependency designated by the
18 Board or Staff and obtains affirmative approval to return to the practice of medicine. Prior
19 to approving Respondent's request to return to the practice of medicine, Respondent may
20 be required to submit to witnessed biological fluid collection, undergo any combination of
21 physical examination, psychiatric or psychological evaluation and/or successfully pass the
22 special purpose licensing examination or the Board may conduct interviews for the
23 purpose of assisting it in determining the ability of Respondent to safely return to the
24 practice of medicine. **In no respect shall the terms of this paragraph restrict the**
25 **Board's authority to initiate and take disciplinary action for violation of this Order.**

1 **20. Notice Requirements.**

2 **(A)** Respondent shall immediately provide a copy of this Order to all
3 employers and all hospitals and freestanding surgery centers at which he currently has
4 privileges. Within 30 days of the date of this Order, Respondent shall provide the Board
5 with a signed statement that he has complied with this notification requirement. Upon any
6 change in employer or upon the granting of privileges at additional hospitals and free
7 standing surgery centers, Respondent shall provide the employer, hospital or free standing
8 surgery center with a copy of this Order. Within 30 days of a change in employer or upon
9 the granting of privileges at additional hospitals and free standing surgery centers,
10 Respondent shall provide the Board with a signed statement that he has complied with this
11 notification requirement.

12 **(B)** Respondent is further required to notify, in writing, all employers,
13 hospitals and free standing surgery centers at which Respondent currently has or in the
14 future gains employment or privileges, of a chemical dependency relapse, use of drugs or
15 alcohol in violation of this Order and/or entry into a treatment program. Within seven days
16 of any of these events Respondent shall provide the Board written confirmation that he has
17 complied with this notification requirement.

18 **(C)** Respondent shall immediately submit to the Board under penalty of
19 perjury, on a form provided by the Board, the name(s) and address(es) of all employers
20 and all hospitals and free standing surgery centers at which he currently holds privileges to
21 practice. Respondent is further required to, under penalty of perjury, on a form provided
22 by the Board, immediately notify the Board of any changes in employment and of any
23 hospitals and free standing surgery centers at which he gains privileges after the effective
24 date of this Order.

25 **21. Public Record.** This Order is a public record.

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RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that she has the right to petition for a rehearing or review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a rehearing or review. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

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

DATED this 4th day of December, 2002.



ARIZONA MEDICAL BOARD

BARRY A. CASSIDY, Ph.D., PA-C
Executive Director

ORIGINAL of the foregoing filed this 5th day of December, 2002 with:

The Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing
mailed by U.S. Certified Mail this 5th day of December, 2002, to:

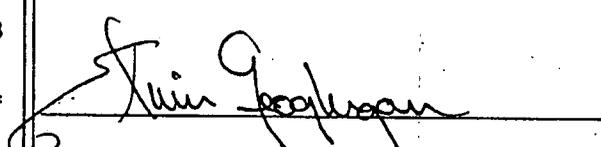
Paul Giancola
Snell & Wilmer LLP
400 East Van Buren
Phoenix, Arizona 85004-0001

1 Executed copy of the foregoing
2 mailed by U.S. Mail this
3 5 day of December, 2002, to:

4 Peter R. Nash, M.D.
5 Prescott Valley Primary & Urgent Care Clinic
6 3051 Windsong Dr
7 Prescott Valley AZ 86314-2248

8 Copy of the foregoing hand-delivered this
9 5 day of December, 2002, to:

10 Christine Cassetta
11 Assistant Attorney General
12 Sandra Waitt, Management Analyst
13 Lynda Mottram, Senior Compliance Officer
14 Investigations (Investigation File)
15 Arizona Medical Board
16 9545 East Doubletree Ranch Road
17 Scottsdale, Arizona 85258

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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
PETER R. NASH, M.D.
Holder of License No. 11954
For the Practice of Allopathic Medicine
In the State of Arizona.

Board Case No. MD-00-0716
**AMENDMENT TO DECREE OF
CENSURE AND PROBATION
DATED DECEMBER 4, 2002**

At its public meeting on August 12, 2004 the Arizona Medical Board ("Board") was presented with a request to modify the Decree of Censure and Probation ("Board Order") entered by the Board on December 4, 2002 involving Peter R. Nash, M.D. ("Respondent"). Paragraph 23 of the Board Order required Respondent to obtain a treating psychiatrist and have the psychiatrist submit quarterly written reports to the Board regarding his progress. Respondent requested that the Board remove Paragraph 23 of the Board Order as he no longer required treatment on a quarterly basis. The terms and conditions of the Board Order are incorporated herein by reference. After due consideration of the facts and law applicable to this matter, the Board voted to amend the December 4, 2002 Decree of Censure and Probation by issuing the following Order.

ORDER

IT IS HEREBY ORDERED that:

1. Paragraph 23 of the Board Order for Decree of Censure and Probation dated December 4, 2002 is amended to require Respondent to instruct the treating psychiatrist to submit annual reports regarding Respondent's care. The first report shall be filed by June 2005.

1 DATED this 24 day of August, 2004.



ARIZONA MEDICAL BOARD

6 By Andrea J. Kane Assistant
for BARRY A. CASSIDY, Ph.D., PA-C Director
Executive Director

7
8 ORIGINAL of the foregoing filed this
24th day of August, 2004 with:

9 The Arizona Medical Board
10 9545 East Doubletree Ranch Road
11 Scottsdale, Arizona 85258

12 Executed copy of the foregoing
13 mailed by U.S. Certified Mail this
24th day of August, 2004, to:

14 Peter R. Nash, M.D.
15 Address of Record

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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
PETER NASH, M.D.
Holder of License No. **11954**
For the Practice of Allopathic Medicine
In the State of Arizona.

Board Case No. MD-00-0716

**AMENDMENT TO ORDER
FOR DECREE OF CENSURE
AND PROBATION DATED
DECEMBER 4, 2002**

At its public meeting on December 1, 2004 the Arizona Medical Board ("Board") was presented with the request of Peter Nash, M.D. ("Respondent") to modify the Order for Decree of Censure and Probation ("Board Order") entered by the Board on December 4, 2002. Respondent requested that the Board remove Paragraph 2(c) of the Board Order prohibiting him from dispensing controlled substances. The terms and conditions of the Board Order are incorporated herein by reference.

The Board was informed that the Board's contracted addiction medicine specialists supported the request. The Board voted to amend the Board Order by issuing the following Order after due consideration of the facts and law applicable to this matter.

ORDER

IT IS HEREBY ORDERED that:

Paragraph 2(c) of the Board Order dated December 4, 2002 is deleted.

DATED this 8th day of December, 2004.

ARIZONA MEDICAL BOARD

By Barbara Kane
BARBARA KANE
Assistant Director

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ORIGINAL of the foregoing filed this
5th day of December, 2004 with:

The Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing
mailed by U.S. Certified Mail this
5th day of December, 2004, to:

Peter Nash, M.D.
Address of Record

