

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **LEE SIMON YOSOWITZ, M.D.**

4 Holder of License No. 12610
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

Case No. MD-05-0975A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Lee Simon Yosowitz, M.D. ("Respondent"), the parties agreed to the
10 following disposition of this matter.

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

15 2. By entering into this Consent Agreement, Respondent voluntarily
16 relinquishes any rights to a hearing or judicial review in state or federal court on the
17 matters alleged, or to challenge this Consent Agreement in its entirety as issued by the
18 Board, and waives any other cause of action related thereto or arising from said Consent
19 Agreement.

20 3. This Consent Agreement is not effective until approved by the Board and
21 signed by its Executive Director.

22 4. The Board may adopt this Consent Agreement of any part thereof. This
23 Consent Agreement, or any part thereof, may be considered in any future disciplinary
24 action against Respondent.

25 5. This Consent Agreement does not constitute a dismissal or resolution of other
matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other
2 pending or future investigation, action or proceeding. The acceptance of this Consent
3 Agreement does not preclude any other agency, subdivision or officer of this State from
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject
5 of this Consent Agreement.

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

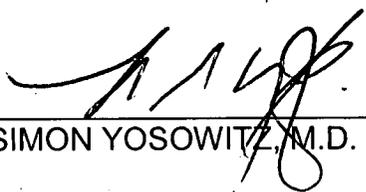
12 7. Upon signing this agreement, and returning this document (or a copy thereof) to
13 the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are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

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will
21 be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

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

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

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8 LEE SIMON YOSOWITZ, M.D.

DATED: 7/6/06.

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1 **FINDINGS OF FACT**

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

4 2. Respondent is the holder of license number 12610 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-05-0975A after receiving notification of
7 a malpractice settlement involving Respondent's care and treatment of a 38 year-old
8 female patient ("MW").

9 4. On June 18, 2003 MW presented to Respondent for care during her
10 pregnancy. MW had a past medical history of hypertension, hypothyroidism and obesity.
11 MW also had a risk factor of advanced maternal age. Respondent noted that MW was
12 taking Levoxyl (thyroid medication) and Labetalol (blood pressure medication).
13 Respondent saw MW throughout her pregnancy and noted that at 26 weeks gestation
14 MW's primary care physician increased her Levoxyl dosage.

15 5. On December 8, 2003, at 29 weeks gestation, Respondent evaluated MW
16 and noted her blood pressure was elevated to 146/90, she had a weight gain of 11 pounds
17 in three weeks, and trace protein in her urine. Respondent increased MW's Labetalol
18 dosage and ordered a consultation with another physician group for a possible diagnosis
19 of chronic hypertension and advanced maternal age. Respondent also ordered a blood
20 test that included a one hour glucola test to screen for diabetes.

21 6. MW presented for the consultation on December 11, 2003 and she followed
22 up with Respondent in his office on December 15, 2003. Respondent noted MW's blood
23 pressure was 148/86, she had a weight gain of seven pounds in one week, and her
24 proteinuria was 500 (3+). MW's reflexes were normal and she denied headache, visual
25 changes or abdominal pain (symptoms often associated with pre-eclampsia). Respondent

1 discussed the consultation findings with MW and informed her of the importance of
2 following up with him weekly. Respondent stated he informed MW she needed to be
3 hospitalized, but she refused. However, Respondent's medical records do not reflect this
4 conversation.

5 7. A physician is required to maintain adequate legible medical records
6 containing, at a minimum, sufficient information to identify the patient, support the
7 diagnosis, justify the treatment, accurately document the results, indicate advice and
8 cautionary warnings provided to the patient and provide sufficient information for another
9 practitioner to assume continuity of the patient's care at any point in the course of
10 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because there
11 was no information to support his claim that he informed MW she should be hospitalized.

12 8. On December 16, 2003 MW had a seizure in her home. She was transported
13 to the hospital ("Hospital") apneic and in asystole requiring intubation and advanced
14 cardiac life support (ACLS). Hospital staff performed an immediate Cesarean Section. MW
15 remained unresponsive after the procedure and died on December 22, 2003. The infant
16 died on December 29, 2003.

17 9. The standard of care for an obstetrical patient with elevated blood pressure
18 required Respondent to evaluate the patient for pre-eclampsia and treat the patient to
19 prevent an eclamptic event.

20 10. Respondent deviated from the standard of care because he delayed or failed
21 to admit MW to the hospital or another treating institution. Respondent also failed to
22 recognize the signs and symptoms of pre-eclampsia.

23 11. Respondent's actions led to the death of MW and her baby.
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1 CONCLUSIONS OF LAW

2 1. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

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

7 3. The conduct and circumstances described above constitute unprofessional
8 conduct pursuant to A.R.S. § 32-1401 (27)(q) – (“[a]ny conduct or practice that is or might
9 be harmful or dangerous to the health of the patient or the public.”)

10 4. The conduct and circumstances described above constitute unprofessional
11 conduct pursuant to A.R.S. § 32-1401 (27)(ll) – (“[c]onduct that the board determines is
12 gross negligence, repeated negligence or negligence resulting in harm to or the death of a
13 patient.”)

14 ORDER

15 IT IS HEREBY ORDERED THAT:

16 1. Respondent is issued a Letter of Reprimand for failure to evaluate and treat
17 pre-eclamptic symptoms resulting in maternal and fetal death.

18 2. This Order is the final disposition of case number MD-05-0975A.

19 DATED AND EFFECTIVE this 11th day of August, 2006.

20
21 (SEAL)



22 ARIZONA MEDICAL BOARD

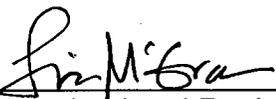
23 By Timothy C. Miller
24 TIMOTHY C. MILLER, J.D.
25 Executive Director

1 ORIGINAL of the foregoing filed this
2 11th day of August, 2006 with:

3 Arizona Medical Board
4 9545 E. Doubletree Ranch Road
5 Scottsdale, AZ 85258

6 EXECUTED COPY of the foregoing mailed
7 this 11th day of August, 2006 to:

8 Lee Simon Yosowitz, M.D.
9 Address of Record

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11 _____
12 Investigational Review
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