

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **GERALD TELEP, M.D.**

4 Holder of License No. 12749  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Board Case No. MD-05-0054A

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

(Probation)

7 The Arizona Medical Board ("Board") considered this matter at its public meeting on April  
8 6, 2006. Gerald Telep, M.D., ("Respondent") appeared before the Board with legal counsel Bruce  
9 Feder for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H).  
10 The Board voted to issue the following Findings of Fact, Conclusions of Law and Order after due  
11 consideration of the facts and law applicable to this matter.

12 **FINDINGS OF FACT**

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

15 2. Respondent is the holder of License No. 12749 for the practice of allopathic  
16 medicine in the State of Arizona.

17 3. On October 19, 1996 Respondent entered into a confidential Stipulated  
18 Rehabilitation Agreement ("SRA") with the Board when he self-reported alcohol impairment. The  
19 SRA requires Respondent abstain from drugs and alcohol. Respondent practices medicine in  
20 California and participates in the California Diversion Program. Under the terms of his SRA  
21 Respondent provides bi-annual compliance reports from the California Diversion Program. In  
22 early 2004 Board Staff discovered Respondent apparently relapsed in 2003 by using alcohol.  
23 Respondent was relieved of his duties to allow him time to focus on sobriety and he entered an  
24 intensive one-on-one program in denial management and relapse prevention. Respondent was  
25 allowed to return to work with limited work hours after three months. Respondent also signed a

1 new contract with the California Diversion Program. All reports since Respondent entered the  
2 new contract indicate he is in compliance with the California Diversion Program. Respondent's  
3 2003 relapse was a violation of his SRA.

4 4. Respondent testified he was practicing occupational medicine in California.  
5 Respondent testified he completed medical school in the United States Air Force and he entered  
6 active duty in the Air Force. Respondent testified he was fascinated by orthopedic surgery and  
7 the Air Force supported his return to the University of Arizona to complete an orthopedic surgery  
8 program. Respondent returned to California after seventeen years of active duty and entered  
9 private practice. Respondent's wife started bothering him about his drinking in the late 1980s, but  
10 he was in denial and did not think he had a drinking problem. In 1995 Respondent left his wife  
11 and continued to drink. Respondent testified he spoke with his doctor about his drinking and his  
12 doctor recommended the California Diversion Program. Respondent testified he called them the  
13 next day and entered the program. Respondent testified he became sober and ultimately  
14 returned to live with his family. Respondent testified that after many years of sobriety he became  
15 complacent, stopped following the program, and went through what is referred to as a "flight into  
16 wellness" or the idea he was cured. Respondent thought he had shown he had control over  
17 alcohol and could drink in a controlled fashion, but alcohol was detected on a urine screen and he  
18 admitted his relapse. Respondent testified he got cocky and confident that he had control over a  
19 chronic disease he will never have control over. Respondent testified he regrets his actions and  
20 they had a number of significant repercussions in his family and personal life. Respondent noted  
21 in retrospect his relapse was one of the better things that has happened to him because he has a  
22 better understanding of himself and his disease and he had changed his life – his exercise habits,  
23 his eating habits – and is working on some of his personality problems. Respondent testified he  
24 loves practicing medicine and would like to continue.



1 ORDER

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

3 IT IS HEREBY ORDERED:

4 Respondent is placed on probation for two years<sup>1</sup> with the following terms and conditions:

5 a. Respondent shall submit quarterly declarations under penalty of perjury on forms  
6 provided by the Board, stating whether there has been compliance with all conditions of probation.  
7 The declarations shall be submitted on or before the 15th of March, June, September and  
8 December of each year, beginning on or before December 2006.

9 b.1. Participation. Respondent shall promptly enroll in and participate in the Monitored  
10 Aftercare Program ("MAP") for the treatment and rehabilitation of physicians who are impaired by  
11 alcohol or drug abuse. Respondent's participation in MAP may be unilaterally terminated with or  
12 without cause at the Board's discretion at any time after the issuance of this Order.

13 2. Relapse Prevention Group. Respondent shall attend MAP's relapse prevention  
14 group therapy sessions one time per week for the duration of this Order, unless excused by the  
15 MAP relapse prevention group facilitator for good cause such as illness or vacation. Respondent  
16 shall instruct the MAP relapse prevention group facilitators to release to Board Staff, upon request,  
17 all records relating to Respondent's treatment, and to submit monthly reports to Board Staff  
18 regarding attendance and progress. The reports shall be submitted on or before the 10th day of  
19 each month.

20 3. 12 Step or Self-Help Group Meetings. Respondent shall attend ninety 12-step  
21 meetings or other self-help group meetings appropriate for substance abuse and approved by  
22 Board Staff, for a period of ninety days beginning not later than either (a) the first day following  
23

24 \_\_\_\_\_  
25 <sup>1</sup> The usual term of substance abuse probation is five years, however, there was a delay in the reporting of Respondent's relapse and Respondent has been successfully participating in the Board's program for the previous three years. The Board has given Respondent credit for those three years.

1 Respondent's discharge from chemical dependency treatment or (b) the date of this Order.

2       **4.**       Following completion of the ninety meetings in ninety days, Respondent shall  
3 participate in a 12-step recovery program or other self-help program appropriate for substance  
4 abuse as recommended by the MAP Director and approved by Board Staff. Respondent shall  
5 attend a minimum of three 12-step or other self-help program meetings per week.

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

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

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

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

23       **7.**       If a controlled substance is prescribed, dispensed, or is administered to Respondent  
24 by any person other than PCP, Respondent shall notify the PCP in writing within 48 hours and  
25 notify the MAP Director immediately. The notification shall contain all information required for the

1 medication log entry specified in paragraph 8. Respondent shall request that the notification be  
2 made a part of the medical record. This paragraph does not authorize Respondent to take any  
3 *Medication* other than in accordance with paragraph 6.

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

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

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

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

18 **10. Biological Fluid Collection.** During all times that Respondent is physically present  
19 in the State of Arizona and such other times as Board Staff may direct, Respondent shall promptly  
20 comply with requests from Board Staff or MAP Director to submit to witnessed biological fluid  
21 collection. If Respondent is directed to contact an automated telephone message system to  
22 determine when to provide a specimen, Respondent shall do so within the hours specified by  
23 Board Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly  
24 comply" means "immediately." In the case of a telephonic request, "promptly comply" means that,  
25 except for good cause shown, Respondent shall appear and submit to specimen collection not

1 later than two hours after telephonic notice to appear is given. The Board in its sole discretion  
2 shall determine good cause.

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

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

12 **13. Out of State Travel and/or Unavailability at Home or Office Telephone Number.**

13 Respondent shall provide Board Staff at least three business days advance written notice  
14 of any plans to be away from office or home when such absence would prohibit Respondent from  
15 responding to an order to provide a biological fluid specimen or from responding to  
16 communications from the Board. The notice shall state the reason for the intended absence from  
17 home or office, and shall provide a telephone number that may be used to contact Respondent.

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

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

25 **16. Treatment.** Respondent shall submit to all medical, substance abuse, and mental

1 health care and treatment ordered by the Board.

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

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

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

8       **20. Relapse, Violation.** In the case of chemical dependency relapse by Respondent or  
9 Respondent's use of drugs or alcohol in violation of the Order, Respondent's license shall be  
10 summarily suspended and the matter referred to formal hearing for revocation of his license. In the  
11 alternative, Respondent may surrender his license. A.R.S. § 32-1451(T). **In no respect shall the**  
12 **terms of this paragraph restrict the Board's authority to initiate and take disciplinary action**  
13 **for violation of this Order.**

14       **21. Notice Requirements.**

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

24               **(B)** Respondent is further required to notify, in writing, all employers, hospitals and  
25 free standing surgery centers where Respondent currently has or in the future gains employment

1 or privileges, of a chemical dependency relapse, use of drugs or alcohol in violation of this Order  
2 and/or entry into a treatment program. Within seven days of any of these events Respondent shall  
3 provide the Board written confirmation of compliance with this notification requirement.

4 **22. Public Record.** This Order is a public record.

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

16 **24.** This Order supersedes all previous consent agreements and stipulations between  
17 the Board and/or the Executive Director and Respondent.

18 **25.** The Board retains jurisdiction and may initiate new action based upon any violation  
19 of this Order.

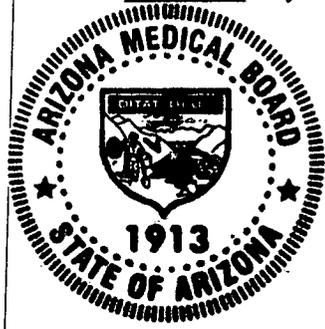
20 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

21 Respondent is hereby notified that he has the right to petition for a rehearing or review.  
22 The petition for rehearing or review must be filed with the Board's Executive Director within thirty  
23 (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review  
24 must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-102.  
25 Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a

1 petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35)  
2 days after it is mailed to Respondent.

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

5 DATED this 9<sup>th</sup> day of June, 2006.



THE ARIZONA MEDICAL BOARD

By *Timothy C. Miller*  
TIMOTHY C. MILLER, J.D.  
Executive Director

11 ORIGINAL of the foregoing filed this  
12 9<sup>th</sup> day of June, 2006 with:

13 Arizona Medical Board  
14 9545 East Doubletree Ranch Road  
15 Scottsdale, Arizona 85258

16 Executed copy of the foregoing  
17 mailed by U.S. Mail this  
18 9<sup>th</sup> day of June, 2006, to:

19 Bruce Feder  
20 Feder Law Office PA  
21 PO Box 44560  
22 Phoenix, Arizona 85064-4560

23 Gerald Telep, M.D.  
24 Address of Record

25 *Jim M. Gra*