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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
DONOVAN J. ANDERSON, M.D.
Holder of License No. **13491**
For the Practice of Allopathic Medicine
In the State of Arizona.

Board Case No. MD-04-0549A

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**
(Letter of Reprimand)

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

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. 13491 for the practice of allopathic medicine in the State of Arizona.
3. The Board initiated case number MD-04-0549A after receiving a complaint regarding Respondent. While the complaint was pending the complainant informed the Board that Respondent had discarded patient records in a dumpster behind his office. The complainant supplied the Board with a picture of the records in the dumpster and a box of records he retrieved from the dumpster. Respondent admitted to Board Staff that his office manager disposed of the patient records in the dumpster without regard to patient confidentiality. Respondent also informed Board Staff he now employs a shredding company to dispose of confidential patient records.

1 4. Respondent testified his current practice is a family practice in Mojave Valley and
2 emergency medicine in Needles, Arizona. Respondent testified he employs a Physician
3 Assistant, his wife as his office manager, and another employee. The Board asked how
4 Respondent's wife was qualified to be an office manager. Respondent testified his wife was an
5 occupational therapist and was trying to help him out by managing the office. The Board asked
6 how long Respondent's wife had been manager at the time she was cleaning out the office.
7 Respondent testified his wife had been the manager for about three or four years and she
8 became the manager because a previous office manager embezzled a large amount of money.
9 The Board directed Respondent to the photographs of the dumpster submitted by the
10 complainant and asked how many patient files were in the dumpster. Respondent testified he did
11 not know, but it looked like several boxes. Board Staff informed the Board there were 100 files in
12 the box the complainant supplied to the Board (92 from 1993 and 8 from 1994). Respondent
13 testified that before the boxes were put in the dumpster approximately 200 boxes of more current
14 records were transferred to his other office.

15 5. The Board asked Respondent's understanding of the correct disposal of patient
16 records. Respondent testified they have to be destroyed so that the patient's name cannot be
17 read and no confidential information is released. The Board asked where Respondent learned
18 about the proper disposal of records. Respondent testified he went to a record keeping class and
19 they probably told him in that class. The Board confirmed Respondent was referring to the record
20 keeping course offered by the Physician Assessment and Clinical Education ("PACE") program
21 that the Board previously ordered he attend. Respondent testified he probably did not share the
22 information he learned well enough with his wife.

23 6. Respondent testified he was sorry that this happened and he did not like having to
24 come before the Board. Respondent testified he has resolved all issues at hand and is not going
25 to go down this road again. Respondent testified he now has a shredding company dispose of

1 records. Respondent asked the Board to impose no more than an advisory letter because he
2 feared he would lose his insurance and his job in the emergency room if the Board disciplined
3 him.

4 7. The Board noted it ordered Respondent in 1999 to complete the PACE record
5 keeping course, yet was before the Board again with a medical records issue. The Board also
6 noted that Respondent's office manager disposed of the records, but Respondent is ultimately
7 responsible.

8 CONCLUSIONS OF LAW

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

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

14 3. The conduct and circumstances described above constitutes unprofessional
15 conduct pursuant to A.R.S. § 32-1401(27)(a) ("[v]iolating any federal or state laws, rules or
16 regulations applicable to the practice of medicine;") specifically, 45 CFR 164.502 (a covered
17 entity may not use or disclose protected health information except as permitted or required);
18 A.R.S. § 12-2292(A) (all medical records and payment records and information contained in
19 medical records and payment records are privileged and confidential. A health care provider may
20 only disclose that part or all of a patient's medical records and payment records as authorized by
21 state and federal law or with written authorization signed by a patient or the patient's health care
22 decision maker); and A.R.S. § 12-2297(B) (when a health care provided retires or sells the
23 provider's practice the provider shall take reasonable measures to ensure the provider's records
24 are retained pursuant to section 12-2297(A)).

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ORDER

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

IT IS HEREBY ORDERED:

Respondent is issued a Letter of Reprimand for improperly disposing of medical records.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review.

The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-102. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition 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 9th day of June, 2006.



THE ARIZONA MEDICAL BOARD

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

ORIGINAL of the foregoing filed this 9th day of June, 2006 with:

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

1 Executed copy of the foregoing
mailed by U.S. Mail this
2 9th day of June, 2006, to:

3 Daniel Jantsch
Olson, Jantsch & Bakker, PA
4 7243 North 16th Street
Phoenix, Arizona 85020-7250

5 Donovan J. Anderson, M.D.
6 Address of Record

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