

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **GARRY W. POHORETSKY, M.D.**

4 License No. 19736
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-06-0551A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND AND
PROBATION**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Garry W. Pohoretsky, 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 he has the right to consult with legal counsel regarding this
14 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

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

5 12. ***Respondent has read and understands the condition(s) of probation.***

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GARRY W. POHORETSKY, M.D.

DATED: 11/30/06

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2 **FINDINGS OF FACT**

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

5 2. Respondent is the holder of license number 19736 for the practice of
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-06-0551A on July 3, 2006 when
8 Respondent notified the Board he had been charged with felony criminal damage, felony
9 endangerment and with misdemeanor driving under the influence.

10 4. On November 23, 2003 Respondent was involved in a motor vehicle
11 accident causing damage to three other vehicles. Respondent was taken to the hospital
12 where his blood alcohol concentration was measured as .182.

13 5. On May 17, 2006 Respondent was arraigned in Pima County Superior Court
14 on charges of felony criminal damage, felony endangerment and misdemeanor driving
15 under the influence. Respondent was released on his own recognizance and signed
16 conditions of release that prohibited him from consuming alcohol.

17 6. A health professional who has been charged with a misdemeanor involving
18 conduct that may affect patient safety or a felony after receiving or renewing a license or
19 certificate must notify the health professional's regulatory board in writing within ten
20 working days after the charge is filed. Respondent did not notify the Board of his felony or
21 misdemeanor charges within ten days after he was informed of and acknowledged the
22 charges at his May 17, 2006 arraignment.

23 7. An evaluation of Respondent supports a diagnosis of substance abuse.

24 **CONCLUSIONS OF LAW**

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

1 seeds or alcohol. Respondent shall not take any medication unless prescribed by
2 Respondent's primary care physician. Respondent shall not self-prescribe any
3 medication.

4 b. During all times that Respondent is physically present in the state of
5 Arizona and such other times as Board Staff may direct, Respondent shall promptly
6 comply with requests to submit to witnessed biological fluid collection. If
7 Respondent is directed to contact an automated telephone message system to
8 determine when to provide a specimen, he shall do so within the hours specified by
9 Board Staff. For the purposes of this paragraph, in the case of an in-person
10 request, Respondent shall appear at the designated location for collection of the
11 biological fluid specimen within no more than two hours from the time Respondent
12 is given notification to provide a specimen for testing.

13 c. Within **five days** from the date of this Order, Respondent shall provide
14 Board Staff in writing with one telephone number that shall be used to contact
15 Respondent on a 24 hour per day/seven day per week basis to submit to biological
16 fluid collection. For the purposes of this section, telephonic notice shall be deemed
17 given at the time a message to appear is left at the contact telephone number
18 provided by Respondent. Respondent shall also promptly inform the Board of any
19 changes in Respondent's work schedule and location. In the event Respondent is
20 unable to comply for any reason with a specific request by Board Staff to supply a
21 specimen for testing, Respondent shall deliver a written explanation of his failure to
22 comply within three business days from the date of non-compliance. Respondent
23 authorizes any person or organization conducting tests on the collected samples to
24 provide testing results to the Board and the program director.
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1 d. Respondent shall cooperate with collection site personnel regarding
2 biological fluid collection.

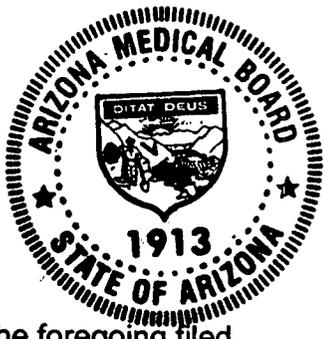
3 e. Respondent shall obey all state, federal and local laws, all rules
4 governing the practice of medicine in Arizona, and remain in full compliance with
5 any court order criminal probation, payments and other orders.

6 f. In the event Respondent should leave Arizona to reside or practice
7 outside the State or for any reason should Respondent stop practicing medicine in
8 Arizona, Respondent shall notify the Executive Director in writing within ten days of
9 departure and return or the dates of non-practice within Arizona. Non-practice is
10 defined as any period of time exceeding thirty days during which Respondent is not
11 engaging in the practice of medicine. Periods of temporary or permanent residence
12 or practice outside Arizona or of non-practice within Arizona, will not apply to the
13 reduction of the probationary period.

14 3. This Order is the final disposition of case number MD-06-0551A.

15 DATED AND EFFECTIVE this 9th day of February, 2008. 7

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17 (SEAL)



ARIZONA MEDICAL BOARD

18
19 By 

TIMOTHY C. MILLER, J.D.
Executive Director

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21 ORIGINAL of the foregoing filed
22 this 9th day of February, 2006 with:

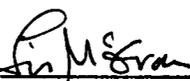
23 Arizona Medical Board
24 9545 E. Doubletree Ranch Road
25 Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed
2 this 9th day of February, 2008 to:

3 David S. Gingras
4 Jaburg & Wilk, P.C.
5 3200 N. Central Avenue, Suite 2000
6 Phoenix AZ 85012

7 EXECUTED COPY of the foregoing mailed
8 this 9th day of February, 2008 to:

9 Garry W. Pohoretsky, M.D.
10 Address of Record

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Investigational Review

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