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AZ MEDICAL BOARD

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

SUSAN VAN DYKE, M.D.

Holder of License No. 20156
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-05-0206A

**CONSENT AGREEMENT FOR
LICENSE REACTIVATION, STAYED
REVOCATION AND PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Susan Van Dyke, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent acknowledges that she has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that she has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

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

3. Respondent acknowledges and understands that this Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government

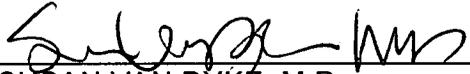
1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
2 any other state or federal court.

3 5. Respondent acknowledges and agrees upon signing this Consent
4 Agreement, and returning this document (or a copy thereof) to the Board's Executive
5 Director, Respondent may not revoke his acceptance of the Consent Agreement.
6 Respondent may not make any modifications to the document. Any modifications to this
7 original document are ineffective and void unless mutually approved by the parties.

8 6. Respondent further understands that this Consent Agreement, once
9 approved and signed, is a public record that may be publicly disseminated as a formal
10 action of the Board and will be reported to the National Practitioner Data Bank and to the
11 Arizona Medical Board's website.

12 7. If any part of the Consent Agreement is later declared void or otherwise
13 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in
14 force and effect.

15 8. ***Respondent has read and understands the condition(s) of probation***
16 ***including the terms and conditions for the Board to lift the stay of revocation and***
17 ***revoke her license.***

18
19
20 
SUSAN VAN DYKE, M.D.

DATED: 12/5/05

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 20156 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-05-0206A after receiving an
7 anonymous complaint that Demerol and the log accounting for Respondent's office supply
8 of Demerol were missing from her office.

9 4. In response to an inquiry from the Board regarding drugs missing from her
10 office, Respondent did not disclose her use of Demerol. Respondent eventually admitted
11 to having a substance abuse problem and to using excess Demerol from her office over a
12 three or four month time period. Respondent also admitted to checking herself into the
13 Betty Ford Center ("Betty Ford") in early April 2005 without notifying the Board of her
14 relapse. Respondent also admitted to voluntarily preemptively seeking treatment at
15 another treatment facility in 2002 when she recognized that her drinking was going to
16 become problematic.

17 5. Respondent participated in the Board's Monitored Aftercare Program
18 ("MAP") under a Stipulated Rehabilitation Agreement ("SRA") from 1992 through 1995.
19 On May 23, 2005 Respondent signed a request to inactivate her license with cause as
20 required by law because her SRA for substance abuse terminated in 1995 and she had
21 relapsed.

22 6. Respondent admitted to employing an unlicensed physician assistant ("PA")
23 to practice in her office. Respondent stated she hired the PA to work in her office before
24 she was in treatment with a plan that PA would only observe until licensure was issued to
25 PA. However, Respondent entered treatment prior to PA beginning her employment with

1 Respondent. Respondent stated she was unaware that PA was seeing patients in her
2 absence. PA saw 163 patients prior to being ordered to cease and desist seeing patients
3 by the Arizona Attorney General's Office. Respondent stated she provided for supervision
4 of her practice by three physicians while she was in treatment.

5 7. Respondent failed to disclose her treatment for alcohol dependence on her
6 2002 license renewal application and her treatment at a treatment facility on her 2004
7 license renewal application.

8 8. Respondent was discharged from Betty Ford on July 6, 2005.

9 9. On July 15, 2005 Respondent met with the Board's contracted addiction
10 medicine specialist ("Specialist") who recommended that she be monitored in MAP while
11 her underlying investigation was pending.

12 10. On July 19, 2005 Respondent agreed to participate in MAP on an interim
13 basis.

14 11. Specialist recommends Respondent's license be reactivated and she be
15 placed in MAP under a final Board Order.

16 **CONCLUSIONS OF LAW**

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

19 2. The conduct and circumstances described above constitute unprofessional
20 conduct pursuant to A.R.S. § 32-1401(27)(f) ("[h]abitual intemperance in the use of alcohol
21 or habitual substance abuse.").

22 3. The conduct and circumstances described above constitute unprofessional
23 conduct pursuant to A.R.S. § 32-1401(27)(cc) ("[m]aintaining a professional connection
24 with or lending one's name to enhance or continue the activities of an illegal practitioner of
25 medicine.").

1 years from the effective date of this Order. Respondent's participation in MAP may be
2 unilaterally terminated with or without cause at the Board's discretion at any time after the
3 issuance of this Order.

4 **2. Group Therapy.** Respondent shall attend MAP's group therapy sessions
5 one time per week for the duration of this Order, unless excused by the MAP group
6 therapist for good cause such as illness or vacation. Respondent shall instruct the MAP
7 group therapist to release to Board Staff, upon request, all records relating to
8 Respondent's treatment, and to submit monthly reports to Board Staff regarding
9 attendance and progress. The reports shall be submitted on or before the 10th day of
10 each month.

11 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-
12 step meetings or other self-help group meetings appropriate for substance abuse and
13 approved by Board Staff, for a period of ninety days beginning not later than either (a) the
14 first day following Respondent's discharge from chemical dependency treatment or (b) the
15 date of this Order.

16 **4.** Following completion of the ninety meetings in ninety days, Respondent shall
17 participate in a 12-step recovery program or other self-help program appropriate for
18 substance abuse as recommended by the MAP group therapist and approved by Board
19 Staff. Respondent shall attend a minimum of three 12-step or other self-help program
20 meetings per week.

21 **5. Board-Staff Approved Primary Care Physician.** Respondent shall
22 promptly obtain a primary care physician and shall submit the name of the physician to
23 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")
24 shall be in charge of providing and coordinating Respondent's medical care and treatment.
25 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from

1 the PCP and from health care providers to whom the PCP refers Respondent.
2 Respondent shall request that the PCP document all referrals in the medical record.
3 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and
4 provide a copy of this Order to the PCP. Respondent shall also inform all other health care
5 providers who provide medical care or treatment that Respondent is participating in MAP.

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

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

11 a. "Medication" means a prescription-only drug, controlled substance,
12 and over-the counter preparation, other than plain aspirin, plain ibuprofen,
13 and plain acetaminophen.

14 **7.** If a controlled substance is prescribed, dispensed, or is administered to
15 Respondent by any person other than PCP, Respondent shall notify the PCP in writing
16 within 48 hours. The notification shall contain all information required for the medication
17 log entry specified in paragraph 8. Respondent shall request that the notification be made
18 a part of the medical record. This paragraph does not authorize Respondent to take any
19 *Medication* other than in accordance with paragraph 6.

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

- 1 a. Name and dosage of *Medication* taken or administered;
- 2 b. Date taken or administered;
- 3 c. Name of prescribing or administering physician;
- 4 d. Reason *Medication* was prescribed or administered.

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

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

9 **10. Biological Fluid Collection.** During all times that Respondent is physically
10 present in the State of Arizona and such other times as Board Staff may direct,
11 Respondent shall promptly comply with requests from Board Staff, the MAP group
12 therapist, or the MAP Director to submit to witnessed biological fluid collection. If
13 Respondent is directed to contact an automated telephone message system to determine
14 when to provide a specimen, Respondent shall do so within the hours specified by Board
15 Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly
16 comply" means "immediately." In the case of a telephonic request, "promptly comply"
17 means that, except for good cause shown, Respondent shall appear and submit to
18 specimen collection not later than two hours after telephonic notice to appear is given.
19 The Board in its sole discretion shall determine good cause.

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

1 MAP Director.

2 12. Respondent shall cooperate with collection site personnel regarding
3 biological fluid collection. Repeated complaints from collection site personnel regarding
4 Respondent's lack of cooperation regarding collection may be grounds for termination
5 from MAP.

6 13. **Out of State Travel and/or Unavailability at Home or Office Telephone**
7 **Number.** Respondent shall provide Board Staff at least three business days advance
8 written notice of any plans to be away from office or home when such absence would
9 prohibit Respondent from responding to an order to provide a biological fluid specimen or
10 from responding to communications from the Board. The notice shall state the reason for
11 the intended absence from home or office, and shall provide a telephone number that may
12 be used to contact Respondent.

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

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

20 16. **Treatment.** Respondent shall submit to all medical, substance abuse, and
21 mental health care and treatment ordered by the Board, or recommended by the MAP
22 Director.

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

25 18. **Interviews.** Respondent shall appear in person before the Board and its

1 Staff and MAP committees for interviews upon request, upon reasonable notice.

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

5 **20. Relapse, Violation.** In the event of chemical dependency relapse by
6 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent
7 shall promptly enter into an Interim Consent Agreement for Practice Restriction that
8 requires, among other things, that Respondent not practice medicine until such time as the
9 Board considers the relapse or violation of the Order as described in Paragraph Two of
10 this Order.

11 **21. Notice Requirements.**

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

22 (B) Respondent is further required to notify, in writing, all employers,
23 hospitals and free standing surgery centers where Respondent currently has or in the
24 future gains employment or privileges, of a chemical dependency relapse, use of drugs or
25 alcohol in violation of this Order and/or entry into a treatment program. Within seven days

1 of any of these events Respondent shall provide the Board written confirmation of
2 compliance with this notification requirement.

3 (C) Respondent shall immediately submit to the Board under penalty of
4 perjury, on a form provided by the Board, the name(s) and address(es) of all employers
5 and all hospitals and free standing surgery centers where Respondent currently holds
6 privileges to practice. Respondent is further required to, under penalty of perjury, on a
7 form provided by the Board, immediately notify the Board of any changes in employment
8 and of any hospitals and free standing surgery centers where Respondent gains privileges
9 after the effective date of this Order.

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

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

23 24. Respondent shall immediately obtain a treating psychiatrist/psychotherapist
24 approved by Board Staff and shall remain in treatment with the
25 psychiatrist/psychotherapist for a minimum of 12 months. Respondent shall comply with

1 the psychiatrist's/psychotherapist's recommendations for continuing care and treatment.
2 Respondent shall instruct the psychiatrist/psychotherapist to submit quarterly written
3 reports to the Board regarding diagnosis, prognosis, and recommendations for continuing
4 care and treatment. The reports must be submitted on or before the 15th day of March,
5 June, September and December of each year. After 12 months, Respondent may submit
6 a request to the Executive Director requesting termination of the requirement that
7 Respondent remain in treatment with a psychiatrist/psychotherapist. The decision to
8 terminate will be based, in part, upon the treating psychiatrist's/psychotherapist's
9 recommendation for continued care and treatment.

10 **25.** This Order supersedes all previous consent agreements and stipulations
11 between the Board and Respondent.

12 **26.** The Board retains jurisdiction and may initiate new action based upon any
13 violation of this Order.

14 **27.** This Order is the final disposition of case number MD-05-0206A.

15 DATED AND EFFECTIVE this 12th day of December, 2005.

17
18 (SEAL)



ARIZONA MEDICAL BOARD

19
20 A handwritten signature in black ink, appearing to read "Timothy C. Miller", is written over a horizontal line.

21 By _____
22 TIMOTHY C. MILLER, J.D.
Executive Director

23 ORIGINAL of the foregoing filed this
24 12th day of December, 2005 with:

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

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EXECUTED COPY of the foregoing mailed
by US Mail this 12th day of December, 2005, to:

Susan Van Dyke, M.D.
Address of Record

Lina McGraw
Investigational Review