BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **MAZEN H. KHAYATA, M.D.** Holder of License No. 20382 For the Practice of Allopathic Medicine In the State of Arizona	Case No. MD-07-0018A **CONSENT AGREEMENT FOR LETTER OF REPRIMAND**

CONSENT AGREEMENT

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

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

2. By entering into this Consent Agreement, Respondent 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. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

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

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,

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

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

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

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

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

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

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

M Khayata

MAZEN H. KHAYATA, M.D.

DATED: 9/1/07

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 number 20382 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-07-0018A after receiving notification of a malpractice settlement involving Respondent's care and treatment of a forty-five year-old female patient ("KF").

4. On September 5, 2002, KF presented to Respondent, a neurosurgeon, for a consultation after experiencing a loss of consciousness and being diagnosed in the emergency department (ED) with a 10 mm extraaxial calcification in the left frontal region. Respondent recommended further evaluation with magnetic resonance imaging ("MRI") and magnetic resonance venogram ("MRV"). The brain MRI and MRV, completed on September 16, 2002, showed the same tumor meningioma without involvement of superior sagittal sinus as on the computed tomography (CT) scan obtained in the ED.

5. Respondent ordered a magnetic resonance imaging (MRI) study that confirmed the location of the tumor was adjacent to the sinus and recommended surgery to remove the tumor.

6. On February 17, 2003, KF underwent image-guided left frontal craniotomy and resection of the meningioma. Following surgery, KF suffered a seizure, a known complication of craniotomy surgery. The postoperative imaging studies and pathology report showed the tumor had not been resected. Respondent did not review the postoperative studies, follow up with the results, or develop a new treatment plan to address the retained tumor. Additionally, Respondent did not inform KF that he was unsuccessful in removing the tumor.

7. KF continued her care with another neurologist. On July 3, 2003, KF underwent another MRI while undergoing treatment with the other neurologist that revealed the presence of the retained tumor.

8. The standard of care requires a physician to resect the original tumor targeted for surgical treatment.

9. Respondent deviated from the standard of care because he did not resect the original tumor targeted.

10. The standard of care requires a neurosurgeon to review the pathology report and to identify that the tumor was not resected.

11. Respondent deviated from the standard of care because he did not review the pathology report and he did not identify that the tumor was not resected.

12. The standard of care requires a physician to inform the patient of the outcome of the surgery and to follow up with a new treatment plan when it has been noted that the tumor was not adequately resected.

13. Respondent deviated from the standard of care because he did not inform KF that the tumor was not resected and he did not follow up with a new treatment plan.

14. By not removing the tumor, KF is at risk for tumor growth and subsequent symptoms related to the tumor growth.

CONCLUSIONS OF LAW

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

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

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for failure to remove a targeted tumor during surgery; for failure to inform the patient that he was unsuccessful in removing the tumor; for failure to review the pathology report and for failure to follow up with a new treatment plan when the tumor was not removed.

2. This Order is the final disposition of case number MD-07-0018A.

DATED AND EFFECTIVE this 12th day of October, 2007.

(SEAL)

ARIZONA MEDICAL BOARD

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

ORIGINAL of the foregoing filed this 12th day of October 2007 with:

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

EXECUTED COPY of the foregoing mailed this 12th day of October, 2007 to:

Mazen H. Khayata, M.D.
Address of Record

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Investigational Review