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8
9 **BEFORE THE ARIZONA MEDICAL BOARD**

10 In the Matter of

11 **GREGORY L. PEARE, M.D.**

12 Holder of License No. 22350
For the Practice of Medicine
13 In the State of Arizona

14 Respondent

Case No. MD-02-0709

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

15 **CONSENT AGREEMENT**

16 **RECITALS**

17 In the interest of a prompt and judicious settlement of the above-captioned matter before
18 the Arizona Medical Board ("AMB" or "Board") and consistent with the public interest, statutory
19 requirements and responsibilities of the Board and pursuant to A.R.S. § 41-1092.07(F)(5) and
20 A.R.S. § 32-1401 *et seq.*, Gregory L. Peare, M.D. ("Respondent"), holder of license number 22350
21 to practice allopathic medicine in the State of Arizona ("Respondent") and the Board enter into the
22 following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as the
23 final disposition of this matter.

24 1. Respondent acknowledges that he has read and understands this Consent Agreement
25 and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement").

1 Respondent acknowledges that he has the right to consult with legal counsel regarding this matter
2 and has done so or chooses not to do so.

3 2. Respondent understands that he has a right to a public administrative hearing
4 concerning each allegation set forth in the above-captioned matter, at which administrative hearing
5 he could present evidence and cross-examine witnesses. By entering into this Consent Agreement,
6 Respondent freely and voluntarily relinquishes all rights to such an administrative hearing, as well
7 as all rights of rehearing, review, reconsideration, appeal, judicial review or any other
8 administrative and/or judicial action, concerning the matters set forth herein.

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

13 4. Respondent acknowledges and understands that this Consent Agreement is not
14 effective until approved by the Board and signed by its Executive Director or designee.

15 5. All admissions made by Respondent are solely for final disposition of this matter and
16 any subsequent related administrative proceedings or civil litigation involving the Board and
17 Respondent. Therefore, admissions by Respondent are not intended or made for any other use, such
18 as in the context of another state or federal government regulatory agency proceeding, civil or
19 criminal court proceeding, in the State of Arizona or any other state or federal court.

20 6. Respondent understands that this Consent Agreement deals with Board
21 Investigations **Case No. MD-02-0709** involving allegations of unprofessional conduct against
22 Respondent. The investigation into these allegations against Respondent shall be concluded upon
23 the Board's adoption of this Consent Agreement.

24 7. Respondent understands that this Consent Agreement does not constitute a dismissal
25 or resolution of other matters currently pending before the Board, if any, and does not constitute

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

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

11 9. Respondent further understands that this Consent Agreement, once approved and
12 signed, is a public record that may be publicly disseminated as a formal action of the Board and
13 may appear on the Arizona Medical Board's website and will be reported to the National
14 Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

15 10. Respondent understands that any violation of this Consent Agreement constitutes
16 unprofessional conduct under A.R.S. § 32-1401(27)(r) ([v]iolating a formal order, probation,
17 consent agreement or stipulation issued or entered into by the board or its executive director under
18 the provisions of this chapter) and shall result in disciplinary action under A.R.S. § 32-1451 *et seq.*

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

22 12. The parties mutually understand and agree that this order constitutes a final, binding
23 decision of this matter under investigation by the Board and referenced above and throughout this
24 Consent Agreement.

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2 Gregory L. Peare MD DATED: Sept. 13, 2004
3 Gregory L. Peare, M.D.

4
5 Peter F. Fisher DATED: September 9, 2004
6 Attorney for Respondent
7 Peter F. Fisher, Esq.

8 **FINDINGS OF FACT**

9 **CASE NO. MD-02-0709**

10 1. The Board is the duly constituted authority for regulating and controlling the practice
11 of allopathic medicine in the State of Arizona.

12 2. Respondent is the holder of license number **22350** for the practice of allopathic
13 medicine in the State of Arizona.

14 3. On or about October 2002, the Board initiated case number **MD-02-0709** after the
15 Board was notified by the plaintiff's attorney of a confidential medical malpractice settlement, and
16 resulting payment, that was reached on or about September 2002, by and between, Respondent's
17 insurer, Mutual Insurance Company of Arizona, plaintiff (also referred to as patient "F.M.") and
18 counsel.

19 4. The Board's investigation of case number **MD-02-0709** established the facts and
20 circumstances as described below.

21 5. At the time of surgery, F.M. was a forty-seven (47) year old woman who originally
22 injured her left shoulder in July 1999 when she fell from a ladder.

23 6. F.M. reinjured her left shoulder at work in February 2000 and April 2000.

24 7. F.M. works in a supermarket and performs a great deal of lifting. F.M. experienced
25 grinding in her left shoulder while performing lifting tasks necessary to her work.

1 8. On or about June 28, 2000, Respondent performed at Desert Sky Surgery Center
2 (“Desert Sky”) an arthroscopic evaluation with subacromial decompression and distal clavicle
3 excision and analysis of any adhesions and manipulation to F.M.’s left shoulder (“Procedure”).

4 9. During the Procedure and while under Respondent’s care, F.M. was given 7 cc’s of a
5 concentration of undiluted epinephrine 1:1,000 rather than 1:100,000.

6 10. Apparently, Respondent typically used Lidocaine with epinephrine (1:100,000).
7 However, this concentration was presently unavailable, so Respondent used epinephrine by itself
8 without realizing that the concentration was 1:1,000 rather than 1:100,000.

9 11. When F.M. suddenly became hypertensive, Respondent recognized that 1:1,000
10 epinephrine had been injected into F.M.

11 12. On or about June 28, 2000, F.M. was admitted to Yuma Regional Medical Center
12 (“Yuma”) where a cardiogram indicated that F.M. suffered a non-Q-wave myocardial infarction.
13 An Arizona licensed medical doctor who is ABMS Board certified in cardiovascular disease,
14 critical care medicine and internal medicine provided F.M.’s treatment at Yuma (“Cardiologist”).

15 13. The Cardiologist noted in his records dated June 30, 2000, that F.M. suffered “a
16 myocardial infarction that is evidenced by minimal electrocardiographic changes and significant
17 cardiac enzyme changes.”

18 14. F.M. was released from Yuma on or about July 1, 2000 with the following
19 instructions from the Cardiologist: F.M. should continue on a low dose of aspirin and beta blocker
20 for several months with a follow-up visit to the Cardiologist’s office on or about July 3, 2000.

21 15. There has been no subsequent evidence submitted which would indicate that F.M.
22 did not recover from the arthroscopy or myocardial infarction or has experienced additional
23 difficulties.

24 16. F.M.’s myocardial infarction was a direct result of Respondent’s inadvertently
25 administering to F.M the incorrect concentration of epinephrine.

1 17. The standard of care requires the physician to always ensure that the proper
2 concentration of medication is prepared prior to administering the medication to the patient.

3 18. Respondent fell below the standard of care by failing to ascertain the proper
4 concentration of epinephrine prior to injecting the epinephrine into F.M.

5
6 **CONCLUSIONS OF LAW**

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

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

12 3. The conduct and circumstances described above constitute unprofessional conduct
13 pursuant to A.R.S. § 32-1401(27)(ll) - ("Conduct that the Board determines is gross negligence,
14 repeated negligence or negligence resulting in harm to or the death of a patient.")

15 **ORDER**

16 Based on the above Findings of Fact and Conclusions of Law and under the authority
17 granted to the Board by A.R.S. § 41-1092.07(F)(5) and A.R.S. § 32-1451(T)(2) and (3):

18 **IT IS HEREBY ORDERED:**

19
20 1. That a **Letter of Reprimand** is imposed upon **Gregory L. Peare, M.D.**, holder of
21 license number **22350** for his unprofessional conduct, including the following: Administering the
22 incorrect concentration of epinephrine, 1/1,000 rather than the correct concentration of 1/100,000,
23 to patient F.M., which resulted in patient F.M.'s myocardial infarction.

24 2. That **Gregory L. Peare, M.D.**, holder of license number **22350**, shall within one (1)
25 year of the effective date of this Order obtain the following:

1 **Ten (10) hours** of Board staff pre-approved Continuing Medical Education
2 ("CME") in **Outpatient/Minor Surgery Pharmacological Management** and
3 provide Board staff with satisfactory proof of attendance.

4 The CME hours described herein shall be *in addition* to the hours required for the biennial
5 renewal of Respondent's medical license.

6 3. That **RESPONDENT SHALL BE ON PROBATION** from the effective date of
7 this Order until Respondent has completed all of the CME described above. Upon submission of
8 evidence of completion of the above-described CME requirement, and such evidence is reasonably
9 satisfactory to the Board, the Board's Executive Director is authorized to terminate this Order of
10 Probation.

11 DATED AND EFFECTIVE this 18th day of October, 2004.



14 ARIZONA MEDICAL BOARD

15
16 By *Barry A. Cassidy*
17 BARRY A. CASSIDY, Ph.D., PA-C
18 Executive Director

19
20 **EXECUTED ORIGINAL** of the foregoing filed this 18th day of October, 2004 with:
21 Arizona Medical Board
22 9545 East Doubletree Ranch Road
23 Scottsdale, Arizona 85258.

24 **EXECUTED COPY** of the foregoing mailed this 18th day of October, 2004 to:
25 Gregory L. Peare, M.D.
2281 West 24th Street, Suite 2
Yuma, Arizona 85364-6197
Respondent

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EXECUTED COPY of the foregoing mailed this 18th day of October, 2004, to:
Peter F. Fisher, Esq.
Bradford Law Offices, PLLC
4131 North 24th Street, Suite C-201
Phoenix, Arizona 85016-6256
Counsel for Respondent

EXECUTED COPY of the foregoing mailed this 18th day of October, 2004, to:
Ann-Marie Anderson, Esq.
Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007
Attorneys for the State



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