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8
9 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
10 **IN THE STATE OF ARIZONA**

11 In the Matter of

12 **JANICE A. McDONALD, M.D.**

13 Holder of License No. 23251
For the Practice of Medicine
14 In the State of Arizona,

15 Respondent.

Investigation Case Nos. 12652, 12935,
13239, 13247, 13523, 14435

**CONSENT AGREEMENT AND ORDER
FOR SURRENDER OF LICENSE**

16
17 **CONSENT AGREEMENT**

18 **RECITALS**

19 In the interest of a prompt and judicious settlement of this case, consistent with the public
20 interest, statutory requirements and responsibilities of the Arizona State Board of Medical Examiners
21 (“Board”), and under A.R.S. §§ 32-1401 *et seq.* and 41-1092.07(F)(5), Janice A. McDonald, M.D.,
22 holder of license number 23251 to practice allopathic medicine in the State of Arizona
23 (“Respondent”), and the Board enter into the following Recitals, Findings of Fact, Conclusions of
24 Law and Order (“Consent Agreement”) as the final disposition of this matter.
25

26 1. Respondent has read and understands this Consent Agreement as set forth herein, and

1 has had the opportunity to discuss this Consent Agreement with an attorney. Respondent voluntarily
2 enters into this Consent Agreement for the purpose of avoiding the expense and uncertainty of an
3 administrative hearing.

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

12
13 3. Respondent agrees that the Board may adopt this Consent Agreement or any part of
14 this agreement, under A.R.S. § 32-1451(G)(5). Respondent understands that this Consent
15 Agreement or any part of the agreement may be considered in any future disciplinary action against
16 her.

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18 4. Respondent understands that this Consent Agreement does not constitute a dismissal
19 or resolution of other matters currently pending before the Board, if any, and does not constitute any
20 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other
21 pending or future investigation, action or proceeding. Respondent also understands that acceptance
22 of this Consent Agreement does not preclude any other agency, subdivision or officer of this state
23 from instituting other civil or criminal proceedings with respect to the conduct that is the subject of
24 this Consent Agreement.

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26 5. Respondent acknowledges and agrees that, upon signing this Consent Agreement and

1 returning this document to the Board's Executive Director, Respondent may not revoke her
2 acceptance of the Consent Agreement or make any modifications to the document, regardless of
3 whether the Consent Agreement has been issued by the Executive Director. Any modification to this
4 original document is ineffective and void unless mutually approved by the parties in writing.

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6 6. Respondent understands that the foregoing Consent Agreement shall not become
7 effective unless and until adopted by the Board and signed by its Executive Director.

8 7. Respondent understands and agrees that if the Board does not adopt this Consent
9 Agreement, she will not assert as a defense that the Board's consideration of this Consent Agreement
10 constitutes bias, prejudice, prejudgment or other similar defense.

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12 8. Respondent understands that this Consent Agreement is a public record that may be
13 publicly disseminated as a formal action of the Board, and shall be reported as required by law to the
14 National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

15 9. Respondent understands that any violation of this Consent Agreement constitutes
16 unprofessional conduct under A.R.S. § 32-1401(25)(r)([v]iolating a formal order, probation, consent
17 agreement or stipulation issued or entered into by the board or its executive director under the
18 provisions of this chapter) and may result in disciplinary action under A.R.S. § 32-1451.

19
20 DATED: August 17, 2001

Janice A. McDonald, M.D.
21 JANICE A. McDONALD, M.D.

22 Reviewed and Approved as to form:

23
24 By: 
25 BOOKER T. EVANS, JR., ESQ.
26 Attorney for Respondent

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1 **FINDINGS OF FACT**

2 By stipulation of the parties, this Consent Agreement is entered into for final disposition of
3 the matters described therein. Respondent acknowledges that sufficient evidence exists for the Board
4 to make the following Findings of Fact:
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6 1. The Board possesses jurisdiction over the subject matter and over Respondent as a
7 licensee of the Board, under A.R.S. § 32-1401, *et seq.*

8 2. The Board is the duly constituted authority for the regulation and control of the
9 practice of allopathic medicine in the State of Arizona.

10 3. Respondent is the holder of License No. 23251 for the practice of allopathic medicine
11 in the State of Arizona.

12 4. On or about May 26, 1999, Respondent closed her sole Arizona medical practice
13 located in Scottsdale, Arizona. According to Respondent, she, through a consultant, provided a
14 telephonic message service for patients who called her service after May 26th, including referrals to
15 other local physicians. She did not send any written notices to her patients that she was closing her
16 medical practice. Respondent's practice consisted of approximately 5,000 patients, and her medical
17 specialty is dermatology.
18

19 5. Prior to Respondent closing her medical practice, Respondent hired Jim Wolfe of
20 Wolfe Consulting Group to assist her in the closing of her medical practice. Specifically, Mr. Wolfe
21 implemented a voice mail system that instructed Respondent's patients on how to request their
22 medical records from Respondent, to leave a message for Respondent, and to refer patients to other
23 dermatologists. According to Respondent, it appears that the voice mail system failed due to
24 mechanical or electrical problems outside the control of Respondent. As a result, some requests for
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26

1 patient records went unanswered and some patients did not receive their medical records for several
2 months, or did not have their medical records transferred to other physicians, or did not receive
3 timely responses to their inquiries.

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5 6. Because some patients did not receive their patient records in a timely manner, the
6 Board received complaints from Respondent's patients. According to Respondent, only one of the
7 patients made a written request to her office. Respondent's staff never made her aware of the other
8 requests, whether those were written or oral. Accordingly, the Board opened five investigations on
9 the complaints it received against Respondent.

10
11 7. On or about December 8, 1999, the Board sent five letters to Respondent. These five
12 letters stated the complaints against Respondent and requested that Respondent provide to the Board
13 her side of the story about these complaints, and provide records or other information that
14 Respondent possessed about the patients. Respondent was required to provide the aforementioned
15 information to the Board by December 23, 1999. Respondent failed to provide the information in
16 a timely manner to the Board. According to Respondent, her staff, secreted the requests from her,
17 and attempted to provide responses to the Board; these responses were not executed by Respondent.

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19 8. On or about May 12, 2000, Respondent provided the information that the Board
20 requested in its letters of December 8, 1999. Some of the information that Respondent provided
21 included patient records. The Board reviewed the patient records and concluded that Respondent
22 did not adequately record in those records necessary medical information about the treatments these
23 patients received from Respondent.

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25 9. On September 25, 2000, Respondent, represented by counsel, participated in an
26 Investigational Interview with Board staff. At the interview, Respondent admitted that several of
her patients who requested their medical records from Respondent did not receive them in a timely

1 manner.

2 10. In addition to the five Board Investigation Case Nos. 12652, 12935, 13239, 13247,
3 and 13523 involving allegations of unprofessional conduct against Respondent, there is one other
4 pending investigation before the Board concerning Respondent. Board Investigation Case No. 14435
5 involves allegations of unprofessional conduct under A.R.S. §§ 32-1451(25)(rr) and 32-1435(B)
6 relating to failing to inform the Board of Respondent's current residence address, office address, and
7 telephone number. The investigation into these allegations against Respondent shall be concluded
8 upon the adoption of the present Consent Agreement for Surrender of License by the Board, and
9 Respondent's surrender of her license.
10

11 **CONCLUSIONS OF LAW**

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13 1. The Board is the duly constituted authority for the regulation and control of the
14 practice of allopathic medicine in the State of Arizona, under A.R.S. § 32-1401, *et seq.*

15 2. The conduct and circumstances described above regarding Respondent constitutes
16 unprofessional conduct under A.R.S. § 32-1401(25)(a) ([v]iolating any federal or state laws or rules
17 and regulations applicable to the practice of medicine-i.e., A.R.S. § 12-2291(A) ([o]n the written
18 request of a patient for access to or copies of the patient's medical records, the health care provider
19 in possession of the records shall provide the medical records to the patient or the person designated
20 in writing by the patient . . .).

21
22 **ORDER**

23 Based upon the above Findings of Fact and Conclusions of Law and under the authority
24 granted to the Board by A.R.S. §§ 41-1092.07(F)(5) and 32-1451(R)(2),
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IT IS HEREBY ORDERED that:

1. License No. 23251, which was issued to Respondent for the practice of allopathic medicine in the State of Arizona, shall be deemed **SURRENDERED**, upon adoption of this Consent Agreement by the Board, and Respondent shall immediately return License No. 23251 to the Board.

DATED AND EFFECTIVE this 12th day of October, 2001.

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

[SEAL]

By *Claudia Foutz*
CLAUDIA FOUTZ
Executive Director
TOM ADAMS
Deputy Director

COPY of the foregoing mailed by
U.S. Certified Mail this 12 day of
October, 2001 to:

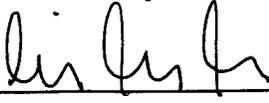
Janice A. McDonald, M.D.
c/o Booker T. Evans, Jr., Esq.
Quarles & Brady Streich Lang, LLP
Renaissance One, Two N. Central Avenue
Phoenix, Arizona 85004-2391

COPY of the foregoing mailed
this 12 day of October, 2001, to:

Booker T. Evans, Jr., Esq.
Quarles & Brady Streich Lang, LLP
Renaissance One, Two N. Central Avenue
Phoenix, Arizona 85004-2391
Attorney for Respondent

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1 Roberto Pulver
2 Assistant Attorney General
3 1275 W. Washington, CIV/LES
4 Phoenix, Arizona 85007
5 Attorney for the State



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