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BEFORE THE ARIZONA MEDICAL BOARD

AZ MEDICAL BOARD

1  
2 In the Matter of

Case No. MD-06-0328A

3 **FRANC WILLIAM BRODAR, M.D.**

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

4 License No. 24079  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board  
9 ("Board") and Franc William Brodar, 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 that he has the right to consult with legal counsel regarding  
14 this 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 waiver,

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

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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.

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

  
FRANC WILLIAM BRODAR, M.D.

DATED: 11/14/06

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 24079 for the practice of  
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-06-0328A after receiving a complaint  
7 that Respondent provided a prescription to a female employee/patient ("DC") without  
8 conducting a physical examination. On receipt of the complaint Board Staff confirmed  
9 Respondent wrote DC a prescription for Lorazepam (anti-anxiety medication) 1 mg #15  
10 on December 1, 2005.

11 4. During an investigative interview with Board Staff Respondent admitted to  
12 prescribing the Lorazepam to DC without keeping a medical record and without first  
13 conducting a physical examination. Respondent also admitted to prescribing  
14 Hydrocodone to DC. Respondent stated he prescribed Hydrocodone to DC and to  
15 himself under the name of another physician and diverted the medication for his own use.  
16 Respondent admitted to using Hydrocodone from 2004 to 2006.

17 5. On July 14, 2006 Respondent signed an Interim Consent Agreement for  
18 practice restriction and entered treatment for chemical dependency. Respondent  
19 successfully completed treatment and was discharged on August 18, 2006 with a  
20 diagnosis of prescription opiate dependence and alcohol abuse. The treatment center  
21 noted Respondent was safe to return to the practice of medicine without restriction.

22 6. On August 31, 2006 the Board's Executive Director vacated the Interim  
23 Order for Practice Restriction and placed Respondent in the Board's Monitored Aftercare  
24 Program on an interim basis.

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1 prescription medication or a prescription-only device as defined in section 32-1901 to a  
2 person unless the licensee first conducts a physical examination of that person or has  
3 previously established a doctor-patient relationship. . . ."

4 **ORDER**

5 IT IS HEREBY ORDERED THAT:

6 1. Respondent is issued a Letter of Reprimand for inappropriately prescribing  
7 for office staff without keeping a medical record and without conducting a physical  
8 examination and for prescribing Hydrocodone under another physician's name and  
9 diverting it for his own use.

10 2. Respondent is placed on Probation for five years with the following terms  
11 and conditions:

12 a. Respondent shall submit quarterly declarations under penalty of perjury on  
13 forms provided by the Board, stating whether there has been compliance with all  
14 conditions of probation. The declarations shall be submitted on or before the 15th of  
15 March, June, September and December of each year, beginning on or before March  
16 2006.

17 b.1. **Participation.** Respondent shall promptly enroll in and participate in the  
18 Board's program for the treatment and rehabilitation of physicians who are impaired by  
19 alcohol or drug abuse ("MAP"). Respondent's participation in MAP may be unilaterally  
20 terminated with or without cause at the Board's discretion at any time after the issuance  
21 of this Order.

22 2. **Relapse Prevention Group.** Respondent shall attend MAP's relapse  
23 prevention group therapy sessions one time per week for the duration of this Order,  
24 unless excused by the MAP relapse prevention group facilitator for good cause such as  
25 illness or vacation. Respondent shall instruct the MAP relapse prevention group

1 facilitators to release to Board Staff, upon request, all records relating to Respondent's  
2 treatment, and to submit monthly reports to Board Staff regarding attendance and  
3 progress. The reports shall be submitted on or before the 10th day of each month.

4       **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend ninety  
5 12-step meetings or other self-help group meetings appropriate for substance abuse and  
6 approved by Board Staff, for a period of ninety days beginning not later than either (a) the  
7 first day following Respondent's discharge from chemical dependency treatment or (b)  
8 the date of this Order.

9       **4.** Following completion of the ninety meetings in ninety days, Respondent  
10 shall participate in a 12-step recovery program or other self-help program appropriate for  
11 substance abuse as recommended by the MAP Director and approved by Board Staff.  
12 Respondent shall attend a minimum of three 12-step or other self-help program meetings  
13 per week for a total of twelve per month. Two of the twelve meetings must be Caduceus  
14 meetings. Respondent must maintain a log of all self-help meetings. Board Staff will  
15 provide the log to Respondent.

16       **5. Board-Staff Approved Primary Care Physician.** Respondent shall  
17 promptly obtain a primary care physician and shall submit the name of the physician to  
18 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")  
19 shall be in charge of providing and coordinating Respondent's medical care and  
20 treatment. Except in an *Emergency*, Respondent shall obtain medical care and  
21 treatment only from the PCP and from health care providers to whom the PCP refers  
22 Respondent. Respondent shall request that the PCP document all referrals in the  
23 medical record. Respondent shall promptly inform the PCP of Respondent's  
24 rehabilitation efforts and provide a copy of this Order the PCP. Respondent shall also

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1 inform all other health care providers who provide medical care or treatment that  
2 Respondent is participating in MAP.

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

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

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

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

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

25 a. Name and dosage of *Medication* taken or administered;

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

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

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

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

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

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

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

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

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

19           **16. Treatment.** Respondent shall submit to all medical, substance abuse, and  
20 mental health care and treatment ordered by the Board.

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

23           **18. Interviews.** Respondent shall appear in person before the Board and its  
24 Staff and MAP committees for interviews upon request, upon reasonable notice.

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

4           **20. Relapse, Violation.** In the event of chemical dependency relapse by  
5 Respondent or Respondent's use of drugs or alcohol in violation of the Order,  
6 Respondent shall promptly enter into an Interim Consent Agreement for Practice  
7 Restriction that requires, among other things, that Respondent not practice medicine until  
8 such time as Respondent successfully completes long-term inpatient or residential  
9 treatment program for chemical dependency designated by Board Staff and obtains  
10 affirmative approval from the Board or the Executive Director to return to the practice of  
11 medicine. Prior to approving Respondent's request to return to the practice of medicine,  
12 Respondent may be required to submit to witnessed biological fluid collection, undergo  
13 any combination of physical examination, psychiatric or psychological evaluation and/or  
14 successfully pass the special purpose licensing examination or the Board may conduct  
15 interviews for the purpose of assisting it in determining the ability of Respondent to safely  
16 return to the practice of medicine. **In no respect shall the terms of this paragraph**  
17 **restrict the Board's authority to initiate and take disciplinary action for violation of**  
18 **this Order.**

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1           **21.    Notice Requirements.**

2           **(A)** Respondent shall immediately provide a copy of this Order to all  
3 employers and all hospitals and free standing surgery centers where Respondent  
4 currently has privileges. Within 30 days of the date of this Order, Respondent shall  
5 provide the Board with a signed statement of compliance with this notification  
6 requirement. Upon any change in employer or upon the granting of privileges at  
7 additional hospitals and free standing surgery centers, Respondent shall provide the  
8 employer, hospital or free standing surgery center with a copy of this Order. Within 30  
9 days of a change in employer or upon the granting of privileges at additional hospitals  
10 and free standing surgery centers, Respondent shall provide the Board with a signed  
11 statement of compliance with this notification requirement.

12           **(B)** Respondent is further required to notify, in writing, all employers,  
13 hospitals and free standing surgery centers where Respondent currently has or in the  
14 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
15 alcohol in violation of this Order and/or entry into a treatment program. Within seven  
16 days of any of these events Respondent shall provide the Board written confirmation of  
17 compliance with this notification requirement.

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

19           **23.    Out-of-State.** In the event Respondent resides or practices as a physician  
20 in a state other than Arizona, Respondent shall participate in the rehabilitation program  
21 sponsored by that state's medical licensing authority or medical society. Respondent  
22 shall cause the monitoring state's program to provide written reports to the Board  
23 regarding Respondent's attendance, participation, and monitoring. The reports shall be  
24 due quarterly on or before the 15th day of March, June, September, and December of  
25 each year, until the Board terminates this requirement in writing. The monitoring state's



1 ORIGINAL of the foregoing filed  
this 8<sup>th</sup> day of December 2006 with:

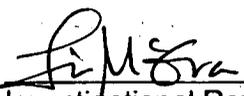
2 Arizona Medical Board  
3 9545 E. Doubletree Ranch Road  
4 Scottsdale, AZ 85258

5 EXECUTED COPY of the foregoing mailed  
this 8<sup>th</sup> day of December, 2006 to:

6 Mr. Calvin Raup  
7 Shughart Thomson & Kilroy  
8 3636 N Central Avenue, Suite 1200  
Phoenix, AZ 85012-1998

9 EXECUTED COPY of the foregoing mailed  
this 8<sup>th</sup> day of December, 2006 to:

10 Franc William Brodar, M.D.  
11 Address of Record

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13 \_\_\_\_\_  
Investigational Review

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