

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **MICHAEL EPNER, M.D.**

4 Holder of License No. 24722
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-04-0932A

**CONSENT AGREEMENT FOR
DECREE OF CENSURE AND CIVIL
PENALTY**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Michael Epner, M.D. ("Respondent"), the parties agreed to the following
10 disposition of this matter.

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

15 2. Respondent understands that by entering into this Consent Agreement, he
16 voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on
17 the 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. Respondent acknowledges and understands that this Consent Agreement is
21 not effective until approved by the Board and signed by its Executive Director.

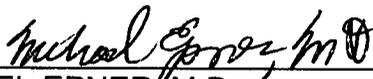
22 4. All admissions made by Respondent are solely for final disposition of this
23 matter and any subsequent related administrative proceedings or civil litigation involving
24 the Board and Respondent. Therefore, said admissions by Respondent are not intended
25 or made for any other use, such as in 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 acceptance of the Consent Agreement. Respondent
6 may not make any modifications to the document. Any modifications to this original
7 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 force
14 and effect.

15 
16 MICHAEL EPNER, M.D.

DATED: August 17, 2005

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 24722 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-04-0932 after receiving a complaint
7 from the father ("Father") of a seven-year-old child ("M.H.") who had been diagnosed with
8 autism and required continued care. Father requested M.H.'s medical records from
9 Respondent, but found that Respondent had retired and the practice was closed.

10 4. Father contacted Respondent and was informed that Respondent's medical
11 records had been transferred to another physician ("Physician") who shared office space
12 with Respondent, but was not in a business relationship with Respondent. Physician
13 attempted to locate M.H.'s medical records, but was unsuccessful.

14 5. Prior to Respondent's retirement, Physician agreed to accept the transfer of
15 Respondent's medical records provided that Respondent supply him with a patient list.
16 Respondent left his practice upon retirement without supplying Physician with the patient
17 list. Physician found Respondent's records in a storage closet and took them into his
18 practice.

19 6. Physician found that Respondent's records were left in disarray. Many
20 patient records had only first names on them and some charts did not have a patient label.
21 Physician spent considerable effort and money to identify the patient charts and bring
22 them into compliance. The records of M.H. were not found.

23 7. A physician is required to maintain adequate records on a patient. A.R.S.
24 §32-1401(27)(e).

1 8. Respondent failed to maintain adequate records on M.H., as well as his other
2 patients, by not identifying patient charts and by failing to ensure his records were properly
3 transferred to another physician.

4 **CONCLUSIONS OF LAW**

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

7 2. The conduct and circumstances described above constitute unprofessional
8 conduct pursuant to A.R.S. § 32-1401(27)(e) - ("[f]ailing or refusing to maintain adequate
9 records on a patient.").

10 **ORDER**

11 IT IS HEREBY ORDERED THAT:

12 1. Respondent is issued a Decree of Censure for failure to maintain adequate
13 medical records.

14 2. Respondent shall pay a civil penalty in the amount of \$5,000.00 within 60
15 days of the effective date of this order.

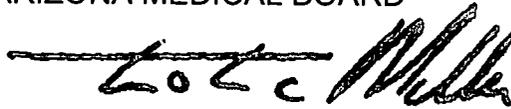
16 3. This Order is the final disposition of case number MD-04-0932A.

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

18
19 [SEAL]



20 ARIZONA MEDICAL BOARD

21 

22 By _____

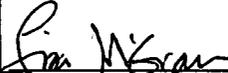
23 TIMOTHY C. MILLER, J.D.
24 Executive Director
25

1 ORIGINAL of the foregoing filed this
2 12th day of December, 2005 with:

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

6 EXECUTED COPY of the foregoing mailed
7 this 12th day of December, 2005 to:

8 Michael Epner, M.D.
9 Address of Record

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11 _____
12 Quality Assurance

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