

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **MARK P. SALERNO, M.D.**

4 Holder of License No. 25300
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-02-0716
MD-02-0310

**CONSENT AGREEMENT FOR
STAYED REVOCATION AND
PROBATION**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Mark P. Salerno, 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.

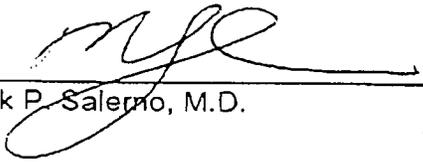
22 4. All admissions made by Respondent are solely for final disposition of this
23 matter and any subsequent related administrative proceedings or civil litigation involving
24 the Board and Respondent. Therefore, said admissions by Respondent are not intended
25 or made for any other use, such as in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

15 
16 _____
17 Mark P. Salerno, M.D.

DATED: 3/4/04

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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 25300 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-02-0310 after receiving notification that
7 Respondent orchestrated his own kidnapping on May 6, 2002. On May 15, 2002, the
8 Board entered into an Interim Consent Agreement with Respondent for a Practice
9 Restriction and Evaluations, prohibiting Respondent from practicing clinical medicine
10 involving direct patient care and from prescribing any form of prescription medications until
11 meeting with the Board and affirmatively receiving the Board's approval to return to the
12 active practice of medicine. The Consent Agreement also required Respondent to undergo
13 psychological/psychometric and psychiatric evaluations within 30 days.

14 4. Respondent completed the evaluations ordered in the May 15, 2002 Consent
15 Agreement. Based on the results of those evaluations, on June 13, 2002, the Board
16 entered into a Consent Agreement with Respondent for a Non-Disciplinary Practice
17 Limitation ("Limitation Agreement"). The Limitation Agreement required Respondent to
18 obtain a treating psychiatrist and remain in treatment until further order of the Board;
19 required Respondent to undergo random biological fluid testing for six months; and
20 required Respondent to provide a telephone number where he could be reached by Board
21 Staff 24 hours per day, seven days a week.

22 5. On October 31, 2002, Respondent was reported missing by his wife. On
23 November 16, 2002, Respondent was located in Pennsylvania. Respondent was not in
24 compliance with the Limitation Agreement during the time he was missing.

25

1 6. The Board initiated case number MD-02-07816 based on Respondent's non-
2 compliance with the June 13, 2002 Limitation Agreement. On November 19, 2002, the
3 Board entered into an Interim Consent Agreement for a Practice Restriction prohibiting
4 Respondent from practicing clinical medicine involving direct patient care and from
5 prescribing any form of prescription medications until meeting with the Board and
6 affirmatively receiving the Board's approval to return to the active practice of medicine.

7 7. On July 25, 2003, Respondent submitted a written request for Board
8 consideration to return to medical practice.

9 8. On August 7, 2003, the Board's approved psychiatrist ("Psychiatrist")
10 evaluated Respondent and discussed Respondent's current treatment with his treating
11 psychiatrist, his prescribed medications, his personal issues, and his request to return to
12 medical practice. Psychiatrist concluded that Respondent could return to practice provided
13 he continued treatment with his treating psychiatrist and continued his prescribed
14 medications. Psychiatrist also recommended that if Respondent returned to medical
15 practice, that Respondent should be limited to working 20 hours a week for the first four
16 months, increasing by 10-hour increments every four months to a maximum of 40 hours a
17 week, with limitations on his on-call and extra work abilities. Respondent's treating
18 psychiatrist agreed to provide the Board with quarterly reports regarding Respondent's
19 compliance with treatment, and Respondent agreed to provide documentation of his
20 quarterly lithium levels.

21 9. On August 27, 2003, the Board's Medical Director ("Medical Director")
22 reviewed Respondent's psychiatric reports and agreed with Psychiatrist's
23 recommendations. Medical Director further recommended that Respondent only work in a
24 group setting, ensuring continuity of care for his patients in the event he suffered another
25 bipolar episode.

1 average of 10 hours every four months to a maximum average of 40 hours a week, plus
2 reasonable on-call responsibilities. Respondent shall maintain a log of all hours worked.
3 This log will shall be made available to the Board and its staff upon request.

4 B. Group Practice

5 Respondent shall only practice medicine in a group practice setting. For purposes
6 of this Consent Agreement "group practice" means that Respondent shall practice with
7 other physicians. Respondent shall maintain a written arrangement with at least one
8 physician in the practice to provide coverage for his practice in the event of Respondent's
9 absence or unavailability.

10 C. Treating Psychiatrist

11 Respondent shall retain his current, Board approved, treating psychiatrist and
12 remain in treatment with the psychiatrist until further order of the Board. Respondent shall
13 comply with the psychiatrist recommendations for continuing care and treatment.
14 Respondent shall instruct the psychiatrist to release to the Board, upon its request, all
15 records relating to treatment of Respondent, and to submit quarterly written reports to the
16 Board regarding diagnosis, prognosis, and recommendations for continuing care and
17 treatment of Respondent. The reports shall be submitted on or before the 15th day of
18 March, June, September and December of each year, beginning on or before March 15,
19 2004.

20 D. Prescription Medication

21 Respondent shall continue to take medication, as prescribed by his treating
22 psychiatrist.

23 E. Medication Log

24 Respondent shall maintain a current legible log of all Medication taken by or
25 administered to Respondent, and shall make the log available to the Board and its Staff

1 upon request. For *Medication* (other than controlled substances) taken on an on-going
2 basis, Respondent may comply with this paragraph by logging the first and last
3 administration of the *Medication* and all changes in dosage or frequency. The log, at a
4 minimum, shall include the following:

- 5 i. Name and dosage of *Medication* taken or administered;
- 6 ii. Date taken or administered;
- 7 iii. Name of prescribing or administering physician;
- 8 iv. Reason *Medication* was prescribed or administered

9 F. Biological Fluid Testing

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

20 G. Examinations

21 Respondent shall submit to mental, physical, and medical competency
22 examinations at such times and under such conditions as directed by the Board to assist
23 the Board in monitoring Respondent's ability to safely engage in the practice of medicine
24 and compliance with the terms of this Order.

25

1 H. Treatment

2 Respondent shall submit to all medical, substance abuse, and mental health care
3 and treatment ordered by the Board.

4 I. Notice of Address and Phone Changes

5 Within 5 days from the date of this order, Respondent shall provide Board staff in
6 writing with one telephone number that shall be used to contact Respondent on a 24 hour
7 per day/seven day per week basis to submit to biological fluid collection. For the purposes
8 of this section, telephonic notice shall be deemed given at the time a message to appear is
9 left at the contact telephone number provided by Respondent. Respondent shall also
10 promptly inform the Board of any changes in Respondent's work schedule and location. In
11 the event Respondent is unable to comply with a specific request by Board Staff to supply
12 a specimen for testing, Respondent shall deliver a written explanation of his failure to
13 comply within three business days from the date of non-compliance. Respondent
14 authorizes any person or organization conducting tests on the collected samples to
15 provide testing results to the Board.

16 J. Cooperation with Collection Site Personnel

17 Respondent shall cooperate with collection site personnel regarding biological fluid
18 testing.

19 K. Obey All Laws

20 Respondent shall obey all state, federal and local laws, all rules governing the
21 practice of medicine in Arizona, and remain in full compliance with any court order criminal
22 probation, payments and other orders.

23 L. Notice Requirements

24 1. Respondent shall immediately provide a copy of this Order to all
25 employers and hospitals and free standing surgery centers at which Respondent currently

1 has privileges. Within 30 days of the date of the Order, Respondent shall provide the
2 Board with a signed statement that Respondent has complied with this notification
3 requirement. Upon any change in employer or upon the granting of privileges at additional
4 hospitals or free standing surgery centers, Respondent shall provide the employer,
5 hospital or free standing surgery center with a copy of this Order. Within 30 days of a
6 change in employer or upon the granting of privileges at additional hospitals or free
7 standing surgery centers, Respondent shall provide the Board with a signed statement
8 that Respondent has complied with this notification requirement.

9 2. Respondent shall immediately submit to the Board, under
10 penalty of perjury, on a form provided by the Board, the name(s) and address(es) of all
11 employers and all hospitals and free-standing surgery centers at which Respondent
12 currently holds privileges to practice. Respondent is further required to, under penalty of
13 perjury, on a form provided by the Board, immediately notify the Board of any changes in
14 his employment and of any hospitals and freestanding surgery centers at which
15 Respondent gains privileges after the effective date of this Order.

16 M. Quarterly Declarations

17 Respondent shall submit quarterly declarations under penalty of perjury on forms
18 provided by the Board, stating whether there has been compliance with all the conditions
19 of probation. The declarations must be submitted on or before the 15th of March, June,
20 September and December of each year, beginning on or before March 15, 2004.

21 N. Tolling

22 In the event Respondent should leave Arizona to reside or practice outside the
23 State or for any reason should Respondent stop practicing medicine in Arizona,
24 Respondent shall notify the Executive Director in writing within ten days of departure and
25 return or the dates of non-practice within Arizona. Non-practice is defined as any period of

1 time exceeding thirty days during which Respondent is not engaging in the practice of
2 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
3 non-practice within Arizona, will not apply to the reduction of the probationary period.

4 O. Violation of Consent Agreement

5 1. Respondent agrees the Board or its designee shall have sole,
6 complete and absolute discretion to determine whether Respondent has violated the
7 Consent Agreement. Any violation of the Consent Agreement as determined by the Board
8 or its designee shall cause Respondent's stay to be lifted and his allopathic license shall
9 be immediately revoked.

10 2. Respondent unequivocally and absolutely relinquishes and
11 waives all rights before any administrative, state or federal court of competent jurisdiction
12 to rehear, review, reconsider, appeal or any other type of administrative and/or judicial
13 action concerning the Board's, or its designee's, determination that Respondent violated
14 the Consent Agreement which shall lift Respondent's stay and revoke his allopathic
15 license.

16 3. Respondent agrees and is aware that the only opportunity
17 granted to him to present information to the Board or its designee that he has not violated
18 the Consent Agreement is a discussion before the Board on the alleged violation(s). The
19 Board or its designee will provide a written notice to Respondent of the alleged violation(s)
20 and the date, time, and place where the discussion will be held. Respondent can be
21 represented by an attorney at that discussion. The discussion is not an evidentiary-type
22 hearing, but a dialogue between parties. Respondent can waive his opportunity for
23 discussion before the Board or its designee. The Board's or its designee's, determination
24 that Respondent has violated the Consent Agreement is a final and binding decision on
25 Respondent, and as stated in the above paragraph there is no appeal from that decision.

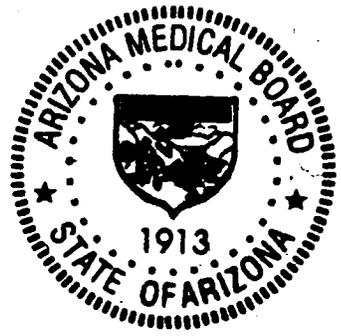
1 Upon receipt of the Board's, or its designee's, written decision that Respondent violated
2 the Consent Agreement, Respondent's license shall be revoked.

3 3. Respondent may request termination of probationary terms A (Limited
4 Practice) and B (Group Practice) after 5 years from the effective date of this Consent
5 Agreement.

6 4. This Order is the final disposition of case number MD-02-0716 and MD-02-
7 0310.

8 DATED AND EFFECTIVE this 8th day of March, 2004.

10 (SEAL)



ARIZONA MEDICAL BOARD

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

14 ORIGINAL of the foregoing filed this
15 8th day of March, 2004 with:

16 Arizona Medical Board
17 9545 E. Doubletree Ranch Road
18 Scottsdale, AZ 85258

18 EXECUTED COPY of the foregoing mailed by
19 Certified Mail this 8th day of March, 2004 to:

20 Mark P. Salerno, M.D.
21 Address of Record

22 *Erin McGraw*
23 Information Services

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3 In the Matter of

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7 In the State of Arizona.

Board Case No. MD-02-0716
MD-02-0310

**AMENDMENT TO CONSENT
AGREEMENT FOR STAYED
REVOCATION AND PROBATION
DATED MARCH 8, 2004**

8
9 At its public meeting on April 6, 2006 the Arizona Medical Board ("Board") was
10 presented with the request of Mark P. Salerno ("Respondent") to modify the Consent
11 Agreement for Stayed Revocation and Probation dated March 8, 2004 ("2004 Order"). The
12 terms and conditions of the 2004 Order are incorporated herein by reference. Paragraph
13 2(F) of the Order required Respondent to submit to random biological fluid testing.
14 Respondent has been compliant with this requirement and there have been no positive
15 tests. Respondent is complaint with all other requirements of the 2004 Order. The Board
16 was presented with evidence that Respondent should no longer be required to submit to
17 random biological fluid testing.

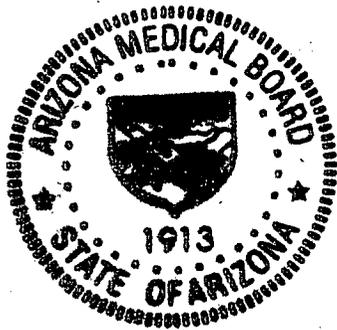
18 The Board voted to issue the following amendment to the March 8, 2004 Order after
19 due consideration of the facts and law applicable to this matter.

20 **ORDER**

21 IT IS HEREBY ORDERED that:

22 1. Paragraph 2(F) of the Consent Agreement for Stayed Revocation and
23 Probation dated March 8, 2004 is deleted.
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1 DATED this 7th day of April, 2006.



ARIZONA MEDICAL BOARD

7
8 By *Timothy C. Miller*
9 TIMOTHY C. MILLER, J.D.
10 Executive Director

11 ORIGINAL of the foregoing filed this
12 10th day of April, 2006 with:

13 The Arizona Medical Board
14 9545 East Doubletree Ranch Road
15 Scottsdale, Arizona 85258

16 Executed copy of the foregoing
17 mailed by U.S. Mail this
18 10th day of April, 2006 to:

19 Mark P. Salerno, M.D.
20 Address of Record
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23
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25