

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

In the Matter of:

MICHAEL J. BORER, M.D.

Holder of License No. 25920
For the Practice Medicine
In the State of Arizona.

Investigation Nos. 12750, 12911, 12913, 12953,
13057, 13058, 13060, 13093, 13204, 13260,
13294, 13353, 13354, 13356, 13383, 13387, 13388

CONSENT AGREEMENT AND ORDER

CONSENT AGREEMENT

In the interest of a prompt and judicious settlement of the above-captioned matter before the Arizona State Board of Medical Examiners (Board) and consistent with the public interest, statutory requirements and responsibilities of the Board and pursuant to A.R.S. § 41-1092.07(F)(5), Michael J. Borer, M.D. (Respondent) and the Board enter into this Consent Agreement and Order as the final disposition of this matter.

1. Respondent acknowledges that he has read and understands everything contained in the Consent Agreement, Findings of Fact, Conclusions of Law, and Order.

2. Respondent understands that by entering into this Consent Agreement and Order, Respondent voluntarily relinquishes any rights to challenge in state or federal court this Consent Agreement and Order in its entirety as issued by the Board and waives any other cause of action related thereto or arising from the Order.

3. Respondent acknowledges and understands that this Consent Agreement and Order will not become effective until approved by the Board and signed by the Board's Executive Director or designee.

4. All admissions made by Respondent in regards to these matters are solely for

1 final disposition of these matters and any subsequently related administrative proceedings are
2 civil litigation involving Board and Respondent. Therefore, admissions by Respondent are not
3 intended or made for any other use, such as in the context of another state or federal regulatory
4 agency proceeding, civil or court proceeding, in the State of Arizona or any other state or federal
5 court.
6

7 5. Respondent acknowledges and agrees that, upon signing this agreement and
8 returning this document to the Board's Executive Director, Respondent may not revoke his
9 acceptance of the Consent Agreement and Order or make any modifications to the document,
10 regardless of whether the Consent Agreement and Order has been issued by the Executive
11 Director. Any modifications to this original document are ineffective and void unless mutually
12 approved by the parties.
13

14 6. Respondent further understands that this Consent Agreement and Order, once
15 approved and signed, shall constitute a public record which may be publicly disseminated as a
16 formal action of the Board.
17

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

22 8. Respondent acknowledges that any violation of this Order constitutes
23 unprofessional conduct pursuant to A.R.S. §32-1401(25)(r), and may result in disciplinary
24 action pursuant to A.R.S. §32-1451.
25

26 9. The parties mutually understand and agree that this Order constitutes a final
decision in the matter under investigation by the Board and referenced above in Case

1 Nos.12750, 12911, 12913, 12953, 13057, 13058, 13060, 13093, 13204, 13260, 13294, 13353,
2 13354, 13356, 13383, 13387, 13388 and any other matters expressly stated in the Findings of
3 Fact and Conclusions of Law.

4
5
6 DATED: 18 Dec 2001

ACCEPTED BY:
Michael J. Borer
MICHAEL J. BORER, M.D.

7
8 REVIEWED AND APPROVED AS TO FORM BY:
9 Duane Olson
10 DUANE OLSON
11 Counsel for Respondent

12 FINDINGS OF FACT

13 By stipulation of the parties, the following Findings of Fact, Conclusions of Law and
14 Consent Order are entered for final disposition of the matters described therein. Respondent
15 acknowledges that sufficient evidence exists for the Board to make the following Findings of
16 Fact:

- 17
- 18 1. The Board is the duly constituted authority for the regulation and control of the
19 practice of allopathic medicine in the State of Arizona.
 - 20 2. Respondent is the holder of License No. 25920 for the practice of allopathic
21 medicine in the State of Arizona.
 - 22 3. Investigation Nos. 12750, 12911, 12913, 12953, 13057, 13058, 13060, 13093,
23 13204, 13260, 13294, 13353, 13354, 13356, 13383, 13387, 13388 were initiated when the
24 Board received information regarding possible inappropriate cataract surgery and post-surgical
25 care and treatment by Respondent.
26

- 1 4. Inv. No.12750: Respondent performed cataract surgery on patient E.S. August
2 24, 1998, and installed a lens in his left eye. As a result, E.S. developed Cystoid Macular Edema
3 (CME). Respondent failed to advise E.S. of the possibility of CME prior to the surgery.
4
- 5 5. Inv. No.12911: Respondent performed cataract surgery on patient R.S. March
6 28, 1999, and the surgery was not completed. R.S. went to another physician to have the
7 surgery completed.
- 8 6. Inv. No.12913: On March 17, 1999, Respondent performed cataract surgery on
9 R.B.'s right eye. R.B.'s vision became worse and she developed other health problems.
10
- 11 7. Inv. No.12953: The Board of Medical Examiners reviewed 22 patient charts
12 from Respondent relating to his cataract surgery procedures. The reviewers found deficiencies
13 in each of these charts.
- 14 8. Inv. No.13057: Respondent performed cataract surgery on patient L.K. in
15 November 1998. Dr. Borer inappropriately performed surgery to remove a cataract in the
16 patient's right eye and allowed an unlicensed person to operate a laser in treating the patient's
17 right eye. Respondent had difficulty in operating the laser and asked for assistance from the
18 person who delivered the laser to his office.
- 19
- 20 9. Inv. No.13058: Respondent performed laser cataract surgery on patient J.T. on
21 November 11, 1998. A tear developed in posterior capsule during the cataract surgery which
22 Respondent failed to recognize or appropriately address.
- 23
- 24 10. Inv. No.13060: Respondent performed cataract surgery on patient L.M. on
25 January 27, 1999, in which he removed the cataract resulting in further impaired vision.
26 Respondent's medical record is incomplete and there is inadequate informed consent from the

1 patient.

2 11. Inv. No. 13093: Respondent performed cataract surgery on O.B. on May 19,
3 1999, resulting in further vision impairment. Respondent did not have proper informed consent
4 for the surgery.

5 12. Inv. No.13204: Respondent performed cataract surgery on patient M.W.'s right
6 eye on May 19, 1999. During a post-operative visit, Respondent advised M.W. she needed
7 cataract surgery on her left eye, which he performed in July 1999. This surgery resulted in
8 further vision impairment.

9 13. Inv. No.13260: Respondent performed cataract surgery on patient B.C. on
10 March 31, 1999, which resulted in additional damage to the left eye. Patient went to another
11 physician who performed surgery on June 24, 1999, to correct the problem.

12 14. Inv. No.13294: Respondent performed cataract surgery on patient E.W. on
13 August 18, 1999. Respondent allegedly lost the lens he implanted in her eye. Patient alleges the
14 lens Respondent lost during the procedure has not been located by subsequent treating
15 physicians. Another physician performed surgery on E.W. in September 1999, to correct
16 Respondent's surgical error.

17 15. Inv. No.13353: Respondent performed cataract surgery on patient G.L.'s right
18 eye on January 20, 1999, which resulted in worsening of the patient's vision.

19 16. Inv. No.13354: Respondent performed cataract surgery on patient L.K. in
20 December 1998, and January 1999, which resulted in worsening of the patient's vision.

21 17. Inv. No.13356: Respondent performed cataract surgery on patient M.C. on
22 March 10, 1999. The surgery resulted in worsening of the patient's vision.

1 18. Inv. No.13383: Respondent performed cataract surgery on patient R.H. on
2 September 23, 1998. On March 1, 1999, Respondent performed laser surgery on the left eye.
3 On June 24, 1999, Dr. Campion performed a follow-up laser surgery. He also advised R.H. that
4 his retina was damaged and nothing else could be done for him.

5
6 19. Inv. No.13387: Respondent performed cataract surgery on patient M.G. on
7 January 20, 1999. The patient's pupil was left enlarged and continues to be enlarged, causing
8 patient M.G. discomfort.

9
10 20. Inv. No.13388: Respondent performed cataract surgery on patient L.B. on
11 March 2, 1999. Patient's vision did not improve and, in fact, became worse. Patient contacted
12 another physician who advised him that his vision could not be improved.

13 CONCLUSIONS OF LAW

- 14 1. The Board possesses jurisdiction over the subject matter and over Respondent.
15 2. The conduct and circumstances described above in paragraphs 4 to 20, above,
16 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(g), (any conduct or practice
17 which is or might be harmful or dangerous to the health of a patient or the public).
18 3. The conduct and circumstances described above in paragraphs 4 to 20, above,
19 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(ii) (any conduct that the
20 Board determines is gross negligence, repeated negligence or negligence resulting in harm to or
21 the death of a patient).
22

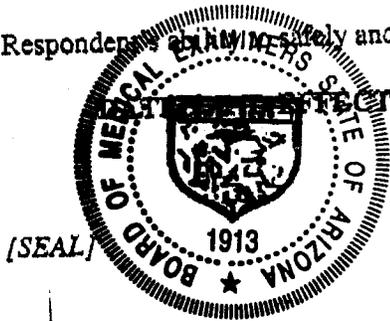
23 CONSENT ORDER

24 **IT IS THEREFORE ORDERED** that the following practice restriction is entered:

25 Respondent Michael Borer, M.D., License No. 25920, shall not practice clinical
26

1 medicine, surgery or any medicine involving direct patient care and is prohibited from
2 prescribing any form of treatment including prescription medication, until he meets with the
3 Board and affirmatively receives the Board's approval to return to practice. The Board may
4 require any combination of staff approved physical examination, psychiatric and/psychological
5 evaluations, or successful passage of the Special Purpose Licensing Examination or other
6 competency examination/evaluation or interview it finds necessary to assist it in determining
7 Respondent's ability to safely and competently return to the practice of clinical medicine.

8
9 REACTIVE this 7th day of November 2001.



13
14 BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

Claudia Foutz
15
16 CLAUDIA FOUTZ
Executive Director

17 Original of the foregoing filed this
18 7 day of November, 2001 with:

19 Arizona Board of Medical Examiners
20 9545 E. Doubletree Ranch Road
21 Scottsdale, Arizona 85258

22 Executed Copy of the foregoing mailed
23 mailed by U.S. Certified Mail, this
24 7 day of November, 2001 to:

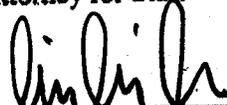
25 Michael J. Borer, M.D.
26 P O Box 2968
LaMesa, CA 91943-2968
Respondent

///
///

1 Copy of the foregoing mailed this
2 7 day of November, 2001 with:

3 Duane A. Olson, Esq.
4 Olson, Jantsch, Bakker & Blakey
5 7243 North 16th Street
6 Phoenix, Arizona 85020
7 Attorney for Respondent

8 M. Elizabeth Burns
9 Assistant Attorney General
10 1275 W. Washington, CIV/LES
11 Phoenix, Arizona 85007
12 Attorney for State

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14 _____
15 Board Operations
16 #328630

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