

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **ROBERT S. KINKADE, M.D.**

4 Holder of License No. 26410
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

Case No. MD-06-0442A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board
9 ("Board") and Robert S. Kinkade, M.D. ("Respondent"), the parties agreed to the following
10 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) to
13 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 will
21 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 force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) (“[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter”) and 32-1451.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Robert S. Kinkade M.D.
ROBERT S. KINKADE, M.D.

DATED: 7/10/07

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 26410 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-06-0442A after receiving notification of
7 a malpractice settlement involving Respondent's care and treatment of a fifty-three year-
8 old female patient ("SH").

9 4. SH presented to Respondent for evaluation of a left breast mass. However,
10 there is no documentation of this visit. On May 15, 2001, Respondent performed a fine
11 needle biopsy on SH that was reported by pathology as negative for malignancy.

12 5. On May 21, 2001, Respondent received a second pathology report that
13 stated the source of the specimen under the left breast was consistent with intraepithelial
14 carcinoma. In response to the Board's investigation, Respondent stated he called the
15 pathologist and discussed that the report reflected invasive breast cancer. However, there
16 is no documentation of this discussion.

17 6. Although the two reports conflicted, Respondent did not obtain another
18 specimen including a left axillary dissection specimen to reconcile the two reports.

19 7. On June 21, 2001, Respondent saw SH and informed her of the
20 intraepithelial carcinoma. After discussing her options with Respondent, SH opted for a left
21 modified radical mastectomy and a right simple mastectomy.

22 8. SH underwent the procedure on July 2, 2001. There were no malignancies
23 found.

1 ORDER

2 IT IS HEREBY ORDERED THAT:

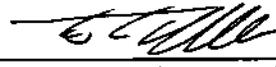
3 1. Respondent is issued a Letter of Reprimand for failing to obtain appropriate
4 indications prior to performing bilateral mastectomies and for failure to maintain adequate
5 medical records.

6 2. This Order is the final disposition of case number MD-06-0442A.

7 DATED AND EFFECTIVE this 10th day of August, 2007.



ARIZONA MEDICAL BOARD

10
11 By 
12 TIMOTHY C. MILLER, J.D.
Executive Director

13 ORIGINAL of the foregoing filed
14 this 10th day of August, 2007 with:

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

17 EXECUTED COPY of the foregoing mailed
18 this 10th day of August, 2007 to:

19 Robert S. Kinkade, M.D.
Address of Record

20 
21 Investigational Review