

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2
3 In the Matter of

4 **PAUL A. AUPPERLE, M.D.**

5 Holder of License No. 30485
6 For the Practice of Allopathic Medicine
7 In the State of Arizona.

Case No. MD-04-0382A

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

8 **CONSENT AGREEMENT**

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

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

16 2. Respondent understands that by entering into this Consent Agreement he
17 voluntarily relinquishes any rights to a hearing or judicial review in State or federal court on
18 the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the
19 Board, and waives any other cause of action related thereto or arising from said Consent
20 Agreement.

21 3. Respondent acknowledges and understands that this Consent Agreement is
22 not effective until approved by the Board and signed by its Executive Director.

23 4. All admissions made by Respondent are solely for final disposition of this
24 matter and any subsequent related administrative proceedings or civil litigation involving
25 the Board and Respondent. Therefore, said admissions by Respondent are not intended
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 this State or any other
2 state or federal court.

3 5. Respondent acknowledges and agrees that, although the Consent
4 Agreement has not yet been accepted by the Board and issued by the Executive Director,
5 Respondent may not revoke his acceptance of the Consent Agreement. Respondent may
6 not make any modifications to the document. Any modifications to this original document
7 are ineffective and void unless mutually approved by the parties.

8 6. Respondent further understands that this Consent Agreement and Order,
9 once approved and signed is a public record that may be publicly disseminated as a
10 formal action of the Board and will be reported to the National Practitioner's Data Bank
11 and will be reported to the 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 8. ***Respondent has read and understands the condition(s) of probation.***

16 Paul A. Aupperle, M.D.
17 PAUL A. AUPPERLE, M.D.

16 9/19/05
17 Date

FINDINGS OF FACT

1
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 No. 30485 for the practice of allopathic
5 medicine in the State of Arizona.

6 3. The Board initiated case number MD-04-0382 after receiving a report from
7 the Phoenix Police Department that on March 23, 2004 Respondent had been stopped for
8 various traffic offenses and, after the traffic stop, was arrested for driving under the
9 influence of alcohol or drugs (pending laboratory results). Respondent was also in
10 possession of drug paraphernalia.

11 4. The laboratory results tested positive for amphetamine, methamphetamine
12 and Tetrahydrocannabinol (THC), and cannabis. Respondent admitted to smoking
13 methamphetamine on the evening he was arrested, both prior to the arrest and again after
14 he returned home. Respondent also admitted to using drugs to treat his diagnosed
15 Attention Deficit Hyperactivity Disorder (ADHD).

16 5. On March 26, 2004 Board staff and the Board's Contracted Addiction
17 Medicine Specialist ("Specialist") recommended that Respondent undergo an inpatient
18 evaluation within ten days. Respondent accepted the recommendation and underwent the
19 evaluation.

20 6. Respondent followed the recommendation of the evaluating facility and
21 remained for further treatment. Upon his release the treating facility recommended that
22 Respondent be monitored for 30 days prior to the Board considering allowing his return to
23 practice.

1 conditions of probation. The declarations shall be submitted on or before the 15th of
2 March, June, September and December of each year, beginning on or before September
3 15, 2005.

4 b. Respondent shall participate in the Board's Monitored Aftercare Program
5 pursuant to the following:

6 1. **Participation.** Respondent shall promptly enroll in and participate in the
7 Monitored Aftercare Program ("MAP") for the treatment and rehabilitation of physicians
8 who are impaired by alcohol or drug abuse. Respondent shall remain in MAP for five
9 years from the effective date of this Order. Respondent's participation in MAP may be
10 unilaterally terminated with or without cause at the Board's discretion at any time after the
11 issuance of this Order.

12 2. **Group Therapy.** Respondent shall attend MAP's group therapy sessions
13 one time per week for the duration of this Order, unless excused by the MAP group
14 therapist for good cause such as illness or vacation. Respondent shall instruct the MAP
15 group therapist to release to the Board, upon its request, all records relating to
16 Respondent's treatment, and to submit monthly reports to the Board regarding attendance
17 and progress. The reports shall be submitted on or before the 10th day of each month.

18 3. **12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-
19 step meetings or other self-help group meetings appropriate for substance abuse and
20 approved by the Board, for a period of ninety days beginning not later than either (a) the
21 first day following Respondent's discharge from chemical dependency treatment or (b) the
22 date of this Order.

23 4. Following completion of the ninety meetings in ninety days, Respondent shall
24 participate in a 12-step recovery program or other self-help program appropriate for
25 substance abuse as recommended by the MAP group therapist and approved by the

1 Board. Respondent shall attend a minimum of three 12-step or other self-help program
2 meetings per week.

3 **5. Board-Approved Primary Care Physician.** Respondent shall promptly
4 obtain a primary care physician and shall submit the name of the physician to Board Staff
5 in writing for approval. The Board-approved primary care physician ("PCP") shall be in
6 charge of providing and coordinating Respondent's medical care and treatment. Except in
7 an *Emergency*, Respondent shall obtain medical care and treatment only from the PCP
8 and from health care providers to whom the PCP refers Respondent from time to time.
9 Respondent shall request that the PCP document all referrals in the medical record.
10 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and
11 provide a copy of this Order to that physician. Respondent shall also inform all other
12 health care providers who provide medical care or treatment that Respondent is
13 participating in the Board's rehabilitation program.

14 **6. Medication.** Except in an *Emergency*, Respondent shall take no *Medication*
15 unless the PCP or other health care provider to whom the PCP makes a referral
16 *prescribes the Medication*. Respondent shall not self-prescribe any *Medication*.

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

23 **8. Medication Log.** Respondent shall maintain a current legible log of all
24 *Medication* taken by or administered to Respondent, and shall make the log available to
25 the Board and its Staff upon request. For *Medication* (other than controlled substances)

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

- 4 a. Name and dosage of *Medication* taken or administered;
- 5 b. Date taken or administered;
- 6 c. Name of prescribing or administering physician;
- 7 d. Reason *Medication* was prescribed or administered.

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

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

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

23 **11.** Respondent shall provide Board Staff in writing with one telephone number
24 that shall be used to contact Respondent on a 24 hour per day/seven day per week basis
25 to submit to biological fluid collection. For the purposes of this section, telephonic notice

1 shall be deemed given at the time a message to appear is left at the contact telephone
2 number provided by Respondent. Respondent authorizes any person or organization
3 conducting tests on the collected samples to provide testing results to the Board and the
4 MAP director.

5 **12.** Respondent shall cooperate with collection site personnel regarding
6 biological fluid collection. Repeated complaints from collection site personnel regarding
7 Respondent's lack of cooperation regarding collection may be grounds for termination
8 from the program.

9 **13. Payment for Services.** Respondent shall pay for all costs, including
10 personnel and contractor costs, associated with participating in the Monitored Aftercare
11 Program at time service is rendered, or within 30 days of each invoice sent to Respondent.

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

16 **15. Treatment.** Respondent shall submit to all medical, substance abuse, and
17 mental health care and treatment ordered by the Board, or recommended by the MAP
18 Director.

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

21 **17. Interviews.** Respondent shall appear in person before the Board and its
22 Staff and committees for interviews upon request, upon reasonable notice.

23 **18. Address and Phone Changes, Notice.** Respondent shall immediately
24 notify the Board in writing of any change in office or home addresses and telephone
25 numbers. Respondent shall provide Board Staff at least three business days advance

1 written notice of any plans to be away from office or home when such absence would
2 prohibit Respondent from responding to an order to provide a biological fluid specimen or
3 to communications from the Board. The notice shall state the reason for the intended
4 absence from home or office, and shall provide a telephone number that may be used to
5 contact Respondent.

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

20 **20. Notice Requirements.**

21 **(A)** Respondent shall immediately provide a copy of this Order to all employers and
22 all hospitals and free standing surgery centers at which Respondent currently has
23 privileges. Within 30 days of the date of this Order, Respondent shall provide the Board
24 with a signed statement of compliance with this notification requirement. Upon any
25 change in employer or upon the granting of privileges at additional hospitals and free

1 standing surgery centers, Respondent shall provide the employer, hospital or free standing
2 surgery center with a copy of this Order. Within 30 days of a change in employer or upon
3 the granting of privileges at additional hospitals and freestanding surgery centers,
4 Respondent shall provide the Board with a signed statement of compliance with this
5 notification requirement.

6 (B) Respondent is further required to notify, in writing, all employers, hospitals and
7 free standing surgery centers at which Respondent currently has or in the future gains
8 employment or privileges, of a chemical dependency relapse, use of drugs or alcohol in
9 violation of this Order and/or entry into a treatment program. Within seven days of any of
10 these events Respondent shall provide the Board written confirmation of compliance with
11 this notification requirement.

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

19 21. **Public Record.** This Order is a public record.

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

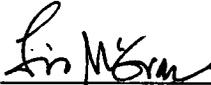
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Executed copy of the foregoing
mailed this
12th day of October, 2005, to:

Mr. Andrew Plattner
Plattner Schneidman & Schneider P.C.
1707 E Highland Avenue, Ste 190
Phoenix, AZ 85016-4692

Executed copy of the foregoing
mailed this
12th day of October, 2005, to:

Paul A. Aupperle, M.D.
Address of Record.



Quality Assurance