

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

EMMANUEL G. ACOSTA, M.D.

Holder of License No. 31245
For the Practice of Allopathic Medicine
In the State of Arizona

Case No. MD-06-0364A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Emmanuel G. Acosta, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

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

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement of any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

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.

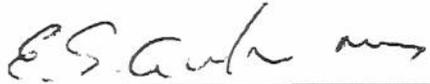
12 7. Upon signing this agreement, and returning this document (or a copy thereof) to
13 the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are 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) ("violating 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 

DATED: 5/29/07

8 EMMANUEL G. ACOSTA, M.D.

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

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 31245 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-06-0364A after receiving a disciplinary
7 alert from the Florida Department of Health.

8 4. On April 18, 2006 Respondent entered into a Consent Agreement
9 ("Agreement") for a reprimand with the Florida Board of Medicine. The Agreement
10 stipulated that Respondent violated rules related to his failure to maintain proper patient
11 medical records, inappropriate prescribing and falling below the standard of patient care.

12 5. From approximately August 2002 to June 10, 2003, while employed by an
13 internet drug company, Respondent reviewed internet questionnaires submitted by
14 patients and would either approve or disapprove the patient's prescription order based on
15 the information the patient submitted.

16 6. On March 12, 2003, Respondent prescribed Phentermine or Xenical
17 capsules to JQ, AS, LP, RM, JA, CE, SL and SM for obesity management, weight loss and
18 weight management. Xenical and Phentermine are indicated for obese patients with an
19 initial Body Mass Index ("BMI") greater than 30 kg/m² or less than 27 kg/m² in the
20 presence of other risk factors including hypertension, diabetes, hyperlipidemia and
21 dyslipidemia and is contraindicated in patients with advanced arteriosclerosis,
22 cardiovascular disease, hypertension, hyperthyroidism, chronic malabsorption syndrome
23 and a hypersensitivity to Phentermine and Xenical. Prior to prescribing the medication,
24 Respondent did not perform a physical examination on the patients, he did not perform an
25 evaluation on the patients to determine their BMI, he did not take their blood pressure and

1 ORIGINAL of the foregoing filed
this 8th day of June, 2007 with:

2
3 Arizona Medical Board
9545 E. Doubletree Ranch Road
4 Scottsdale, AZ 85258

5 EXECUTED COPY of the foregoing mailed
this 8th day of June, 2007 to:

6 Emmanuel G. Acosta, M.D.
7 Address of Record

8 
9 _____
Investigational Review

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25