

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

PATRICK J. DEAN, M.D.Applicant For the Practice of Allopathic
Medicine In the State of Arizona.

Case No. MD-07-L015A

**CONSENT AGREEMENT TO ISSUE
MEDICAL LICENSE AND FOR
LETTER OF REPRIMAND WITH
PROBATION****CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Patrick J. Dean, M.D. ("Applicant"), the parties agreed to the following disposition of this matter.

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

2. By entering into this Consent Agreement, Applicant voluntarily relinquishes any rights to a further 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 or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Applicant.

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

1 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
2 other pending or future investigation, action or proceeding. The acceptance of this
3 Consent Agreement does not preclude any other agency, subdivision or officer of this
4 State from instituting other civil or criminal proceedings with respect to the conduct that is
5 the subject of this Consent Agreement.

6 6. All admissions made by Applicant are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Applicant. Therefore, said admissions by Applicant are not intended or
9 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
13 thereof) to the Board's Executive Director, Applicant may not revoke the acceptance of the
14 Consent Agreement. Applicant 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, Applicant 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
21 will 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
25 force and effect.

1
2 **FINDINGS OF FACT**

3 1. The Arizona Medical Board ("Board") is the authority for licensing and
4 regulating the practice of allopathic medicine in the State of Arizona.

5 2. On or about January 19, 2006, Patrick J. Dean, M.D. ("Applicant")
6 submitted an application for licensure with the Board.

7 3. Applicant is a pathologist who is the president and an employee of GI
8 Pathology, PLLC, which is a nation-wide gastrointestinal pathology practice operated
9 from Memphis, Tennessee. He is board certified in anatomic and clinical pathology.

10 4. Because of the nation-wide practice of GI Pathology, PLLC, the
11 pathologists it employs hold multiple medical licenses issued by various states'
12 licensing boards.

13 5. Paragraph 3 of the application requested that Applicant disclose all
14 licenses held by him and any pending license application(s). Applicant failed to
15 disclose that he also had a pending application for licensure in North Carolina.

16 6. By letter dated September 15, 2006, Applicant disclosed to the Board that
17 he had entered into a Consent Order with the North Carolina Medical Board. The
18 Consent Order provided that the North Carolina Medical Board would issue
19 Applicant a medical license and would reprimand that license due to Applicant's
20 unlicensed practice of medicine in North Carolina.

21 7. The Board's investigation of Applicant's application revealed that between
22 July 2004 and November 2005, Applicant had reviewed over 600 North Carolina
23 patient specimens prior to becoming licensed in North Carolina. Applicant was
24 financially compensated for that work.

25 8. By letter dated October 8, 2004, Applicant wrote to one of his company's
North Carolina clients, Ms. Phyllis Wade of Salem Gastroenterology Associates, P.A.,

1 regarding the issue of North Carolina medical licensure. Applicant stated that his
2 company had obtained a legal opinion from counsel "that, from a 'letter of the law'
3 reading, physicians of GI Pathology Partners require medical licensure in the State of
4 North Carolina." Applicant further advised Ms. Wade that his company's physicians
5 were in the process of applying for licensure in North Carolina.

6 9. Applicant informed Ms. Wade that he would "personally accept the risk to
7 continue to work with you, if you on your end accept the risk to continue to work with
8 us." Applicant stated the following reasons for his willingness to continue to do
9 business with the client prior to obtaining North Carolina licensure:

10 a. I currently hold medical licensure in four states and my application for
11 North Carolina licensure is being/has been submitted. To suggest that I
12 am arbitrarily ignoring North Carolina law carries no weight. Once we
13 became aware of the specific licensure requirements, we filed for medical
14 licensure immediately.

15 b. The risk, in my estimation, is weak. As researched by [counsel], there
16 has never been an example of "prosecution or termination of license for
17 the proposed activities."

18 c. Finally, it would appear that the legalistic concern regarding licensure
19 has not been raised out of a high-minded concern for ethics and the law.
20 Since GI Pathology Partners delivers the finest quality and service to
21 gastroenterologists (fellowship-educated gastrointestinal pathologists only
22 diagnosis [sic] and next day turnaround time nationwide). I will not kowtow
23 to venal arguments designed to scare little children in the dark. I will not
24 abandon my gastroenterologist colleagues.

25 10. On or about September 14, 2006, Applicant was issued a medical
license in North Carolina after executing the Consent Order.

11 11. By letter dated September 29, 2006, the Medical Board of California
12 disclosed to Applicant that it had conducted an investigation of his unlicensed practice
13 of medicine in North Carolina. The Medical Board of California offered Applicant the
14 choice of accepting a Public Letter of Reprimand, which is a public disciplinary action,
15 in lieu of formal disciplinary proceedings. On October 18, 2006, Applicant agreed in
16 writing to a Public Letter of Reprimand.

1 12. By letter dated October 12, 2006, the Connecticut Medical Examining
2 Board informed Applicant that it would not pursue any action against Applicant's
3 Connecticut medical license as a result of his unlicensed medical practice in North
4 Carolina. Applicant had voluntarily disclosed the North Carolina matter to the
5 Connecticut Medical Examining Board.

6 13. By letter dated October 18, 2006, the Office of Chief Counsel for the
7 Commonwealth of Pennsylvania Department of State informed Applicant that it
8 decided not to file formal charges against Applicant's Pennsylvania medical license
9 due to his unlicensed practice of medicine in North Carolina.

10 14. By letter dated October 18, 2006, the State of New York Department of
11 Health informed Applicant that the issue of his unlicensed medical practice in North
12 Carolina and subsequent discipline imposed by the North Carolina Medical Board
13 would be investigated by the Office of Professional Medical Conduct.

14 15. By letter dated October 19, 2006, the Board's license investigative
15 coordinator, Anita Shepherd, informed Applicant that the Board would be
16 investigating the North Carolina Consent Order. Ms. Shepherd requested that
17 Applicant provide further information for the investigation.

18 16. By letter dated October 24, 2006, Applicant responded to Ms. Shepherd's
19 October 19, 2006 letter.

20 17. On or about October 25, 2006, the Medical Board of California issued a
21 Public Letter of Reprimand to Applicant's Physician's and Surgeon's California
22 Certificate # G-87759 based upon his "repeated and continual diagnosing of
23 specimens of North Carolina patients without a North Carolina license to practice
24 medicine."
25

1 18. By letter dated November 3, 2006, Ms. Shepherd requested
2 documentation concerning the North Carolina Consent Order from the North
3 Carolina Medical Board.

4 19. By letter dated November 6, 2006, the North Carolina Medical Board's
5 investigator, Don Pittman, responded to Ms. Shepherd's November 3, 2006 letter.
6 Mr. Pittman transmitted the requested documentation to her. Mr. Pittman advised
7 that Applicant had met with the North Carolina Medical Board during its July 2006
8 meeting. As a result of that meeting, the North Carolina Medical Board "voted to
9 issue [Applicant] a NC medical license via a consent order with a reprimand for his
10 flagrant disregard of North Carolina law."

11 20. By letter dated November 21, 2006, Ms. Shepherd requested that
12 Applicant have his company verify that he had not reviewed any Arizona patient
13 records.

14 21. By letter dated November 28, 2006, Applicant responded to Ms.
15 Shepherd's November 21, 2006 letter. He stated that an investigation revealed that
16 he did review five cases from Arizona on November 17, 2006. Applicant stated that
17 upon discovering that he had reviewed the Arizona cases, he had them reassigned
18 and re-evaluated by an Arizona licensed pathologist employed by his company.
19 Applicant further stated that "it was an isolated event and not reflective of a pattern
20 of unprofessional conduct."

21 22. By letter dated December 12, 2006, the Georgia Composite State Board
22 of Medical Examiners informed Applicant that the Board had reviewed the North
23 Carolina events, which were self reported by Applicant, and voted to close its
24 investigation and to take no disciplinary action. That letter did state that "the Board
25 does wish to express to [Applicant] its concern regarding unlicensed practice."

1 23. By letter dated December 18, 2006, the Colorado State Board of Medical
2 Examiners informed Applicant that no disciplinary action would be imposed upon his
3 Colorado medical license.

4 24. By letter dated January 22, 2007, the Illinois Department of Financial and
5 Professional Regulation informed Applicant that his conduct in North Carolina did not
6 violate the Illinois Medical Practice Act of 1987 and, therefore, no disciplinary action
7 would be imposed upon his Illinois medical license.

8 25. On or about January 23, 2007, the Tennessee Board of Medical
9 Examiners issued a Consent Order reprimanding Applicant's Tennessee medical
10 license due to his unlicensed medical practice and subsequent reprimand in North
11 Carolina.

12 26. By letter dated January 25, 2007, the State Medical Board of Ohio
13 informed Applicant that the matter of his North Carolina activities was closed and
14 that no disciplinary action would be imposed upon his Ohio medical license.

15 27. By letter dated January 29, 2007, the Iowa Board of Medical Examiners
16 issued Applicant a non-disciplinary Letter of Warning for his conduct in North
17 Carolina. In the Letter of Warning, the Iowa Board of Medical Examiners stated the
18 following concerns:

19 The Board has very serious concerns that you were disciplined for
20 practicing medicine in North Carolina without a medical license in
21 violation of the laws and rules governing the practice of medicine. The
22 Board advises that you carefully review your pathology practice and take
23 whatever steps are necessary to ensure that you are properly licensed in
24 all locations where you provide services. While the Board has chosen not
25 to initiate formal disciplinary action in this matter at this time, please note
that failure to fully comply with laws and rules governing the practice of
medicine may be grounds for formal disciplinary action against your Iowa
medical license in the future.

1 28. By letter dated February 13, 2007, Ms. Shepherd informed Applicant that
2 the Board had opened an investigation due to his answers on his application. She
3 identified the following allegations: "Action taken by another state licensing board"
4 and "Practicing medicine without holding an active medical license."

5 29. By letter dated February 15, 2007, Applicant submitted to Ms. Shepherd
6 the original and amended reports on the five Arizona patients. He stated that Dr.
7 Makapugay, who holds an Arizona medical license, independently reviewed all five
8 cases.

9 30. By letter dated February 20, 2007, the Iowa Board of Medical Examiners
10 informed Applicant that it had received information that the State of Tennessee had
11 reprimanded his Tennessee medical license due to the North Carolina reprimand.
12 The Iowa Board of Medical Examiners stated that it would not pursue disciplinary
13 action against Applicant's Iowa medical license.

14 31. On or about March 21, 2007, the Michigan Board of Medicine issued a
15 Consent Order and Stipulation against Applicant's Michigan medical license due to
16 the reprimand of his North Carolina medical license. Applicant was found to have
17 violated of section 1622(b)(x) of the Michigan Public Health Code. Applicant was
18 ordered to pay a fine of \$100.00.

19 32. On or about April 12, 2007, Ms. Shepherd authored an Applicant
20 Investigative Report concerning Applicant.

21 33. By letter dated April 17, 2007, the Kansas Board of Healing Arts advised
22 Applicant that it would not take disciplinary action against his Kansas medical
23 license as a result of the action taken against his medical licenses in North Carolina
24 and California.

25

1 34. By letter dated June 13, 2007, the Board's executive director, Timothy C.
2 Miller, JD, informed Applicant that his application for licensure was denied for the
3 following reason:

4 You do not have a professional record that indicates that you have not
5 committed any act or engaged in any conduct that would constitute
6 grounds for disciplinary action against you under Arizona law. A.R.S. §
7 32-1422(A) (4). Specifically, the Board's investigation revealed that you
8 practiced medicine in North Carolina without a license and as a result
9 you were formally reprimanded by the North Carolina Medical Board.
10 A.R.S. § 32-1401(27) (o). Additionally, the investigation revealed that you
11 also practiced medicine in Arizona without a license. A.R.S. §§ 32-
12 1401(27) (a) and 32-1455. This conduct has not been corrected,
13 monitored and resolved and there are no mitigating circumstances that
14 prevent the resolution of this conduct. A.R.S. § 32-1422(C).

15 35. By letter dated July 10, 2007, Applicant filed his appeal of the denial of his
16 application for licensure.

17 36. By letter dated July 23, 2007, the Board's coordinator, Mary Bober,
18 informed Applicant that the Board would consider his appeal at its meeting on
19 August 8-9, 2007.

20 37. By letter dated August 13, 2007, the Florida Department of Health advised
21 Applicant that he had been issued medical license number ME 99761 to practice
22 medicine in Florida.

23 38. By letter dated August 15, 2007, Ms. Bober informed Applicant that the
24 Board had denied his application for licensure. She explained the appeal process to
25 Applicant.

 39. On August 17, 2007, Applicant signed a proposed Administrative Agreed
Order with the Texas Medical Board. That order proposes to issue a Public
Reprimand against Applicant's Texas Medical Board due to the North Carolina

1 Consent Agreement. The Administrative Agreed Order admitted into evidence has
2 not been signed by the president of the Texas Medical Board.

3 40. By letter dated September 11, 2007, Applicant, through counsel,
4 requested an administrative hearing to appeal the Board's denial of his application
5 for licensure.

6 41. The Board referred Applicant's appeal to the Office of Administrative
7 Hearings, an independent agency, for formal hearing.

8 42. Applicant intentionally and knowingly practiced medicine in North Carolina
9 without a North Carolina medical license. He also encouraged at least one client in
10 North Carolina to continue to conduct business with his company notwithstanding
11 that he and his colleagues were not properly licensed to practice medicine in that
12 state.

13 43. Applicant and his company profited financially by practicing medicine in
14 North Carolina without a license.

15 44. After receiving his North Carolina medical license and reprimand for the
16 unlicensed practice of medicine in that state, Applicant was on notice that he could
17 not practice in a state without proper licensure. That point has been reinforced by
18 the above described states that issued Applicant reprimands and a letter of warning
19 against his medical licenses in those states.

20 45. Applicant's prior conduct of practicing in a state without a proper medical
21 license reoccurred with Arizona patients when he reviewed the five Arizona cases.

22 46. Applicant's conduct with the five Arizona patients was not an "actual single
23 or infrequent consultation" as claimed by Applicant. He and his company were
24 conducting business in Arizona.
25

1 5. Applicant's unlicensed practice of medicine in Arizona constitutes a
2 violation of A.R.S. § 32-1455.

3 6. The evidence of record supports the conclusion that Applicant failed
4 to meet the basic requirement of A.R.S. § 32-1422(A) (4). Applicant's professional
5 record does indicate that he has engaged in the unlicensed practice of medicine in
6 North Carolina and Arizona, which acts are adequate grounds for disciplinary action
7 against Applicant in Arizona.

8 7. Applicant's review of the five Arizona patient cases did not exempt him
9 from Arizona medical licensing requirements pursuant to A.R.S. § 32-1421(B).
10 Applicant was practicing medicine in Arizona during his licensing process as he did
11 during the North Carolina medical licensing process.

12 8. Despite being reprimanded for the unlicensed practice of medicine in
13 North Carolina, Applicant is later discovered to have practiced in Arizona without a
14 medical license. In both cases, Applicant's unlicensed medical practice occurred
15 while awaiting the issuance of a local medical license. The monitoring system used
16 by Applicant after his reprimand in North Carolina did not prevent Applicant from
17 reviewing Arizona patient cases. Subsequently, Applicant's company has installed
18 new technology in an attempt to prevent its pathologists from reviewing patient
19 cases in states where they are not licensed. The installation of this new technology
20 demonstrates that Applicant's pattern of unlicensed medical practice has been
21 "corrected, monitored and resolved" as provided by A.R.S. § 32-1422(C).

22 ///

23

24

25

1 ORDER

2 IT IS HEREBY ORDERED THAT:

3 1.Applicant is issued a Letter of Reprimand for the unlicensed practice of medicine.

4 2.Applicant is placed on probation for FIVE year(s) with the following terms and
5 conditions:

6 A. Obey All Laws

7 Applicant shall obey all state, federal and local laws, all rules governing the
8 practice of medicine in Arizona, and remain in full compliance with any court
9 order criminal probation, payments and other orders.

10 B. Automatic Revocation of License for Violation

11 If, following a Board adjudication, the Board determines, or if the Board
12 receives evidence that any state's medical board enters an order containing
13 a finding that Applicant has committed the unlicensed practice of medicine
14 after today's date, Applicant's license will be automatically revoked without
15 any hearing and without any judicial review.

16 C. Applicant is issued a fine of \$5,000 as a penalty for his conduct,
17 specifically, the unlicensed practice of medicine.

18 5. Notwithstanding the Findings of Fact and Conclusions of Law, *supra*, and
19 pursuant to A.R.S. §32-1422(C), Applicant shall be issued a license to practice allopathic
20 medicine in Arizona upon his payment of the \$5,000 fine.

21 5. This Order is the final disposition of case number MD-07-L015A

22 ///

DATED AND EFFECTIVE this 7TH day of FEB, 2008.



By *L. S. Wynn*
Lisa S. Wynn
Executive Director

Executive Director
ORIGINAL of the foregoing filed
this 7th day of February 2008 with:

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

EXECUTED COPY of the foregoing mailed
this 7th day of February 2008 to:

Paul Giancola
Snell & Wilmer, LLP
400 E. Van Buren
Phoenix, AZ 85004-2202

EXECUTED COPY of the foregoing mailed
this 7th day of February 2008 to:

Patrick J. Dean, M.D.
Address of Record

Chris Bandy
Investigational Review