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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

ALAN C. SACKS, M.D.

Holder of License No. 9475
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-06-0147A

**CONSENT AGREEMENT FOR
DECREE OF CENSURE AND
PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Alan C. Sacks, 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

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 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)
13 to 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.

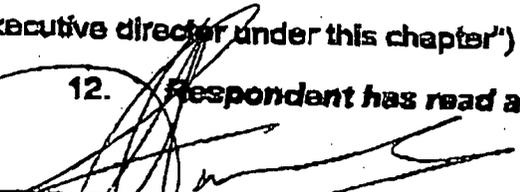
17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that
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 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. § 5 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 12. Respondent has read and understands the condition(s) of probation.
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 8 ALAN C. SACKS, M.D.

DATED: 10/12/06

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FINDINGS OF FACT

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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 9475 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-06-0147A after receiving a complaint
7 that Respondent dated and inappropriately touched a forty-one year-old female patient
8 ("JE").

9 4. On August 30, 2005 Respondent performed breast augmentation surgery
10 and liposuction on JE. Respondent provided follow up treatment to JE from September
11 12, 2005 to November 14, 2005. On November 14, 2005 at the end of the office visit, while
12 JE was naked and seated on the examination table, Respondent asked JE on a date and
13 then kissed her on the lips. Respondent began dating JE within a day of her final office
14 visit and maintained a sexual relationship with her from November 2005 to January 2006.

15 5. During a February 16, 2006 interview with Board Staff Respondent admitted
16 to dating JE: within a day of her final visit. Respondent also admitted to dating two other
17 patients; one from 2004 through 2005 and one beginning in November 2005. Respondent
18 dated one of the patients within three months of her final visit with him and dated the other
19 patient within weeks of her last follow up appointment.

20 **CONCLUSIONS OF LAW**

21 1. The Board possesses jurisdiction over the subject matter hereof and over
22 Respondent.

23 2. The conduct and circumstances described above constitute unprofessional
24 conduct pursuant to A.R.S. § 32-1401(27) (z) ("[e]ngaging in sexual conduct with a current
25 patient or former patient within six months after the last medical consultation unless the

1 patient was the licensee's spouse at the time of the contact or, immediately proceeding the
 2 physician-patient relationship, was in a dating or engagement relationship with the
 3 licensee, for purposes of this subdivision, "Sexual Conduct" includes: (i) Engaging in or
 4 soliciting sexual relationships, whether consensual or nonconsensual. (ii) Making sexual
 5 advances, requesting sexual favors or engaging in other verbal conduct or physical
 6 contact of a sexual nature. (iii) Intentionally viewing a completely or partially disrobed
 7 patient in the course of treatment if the viewing is not related to patient diagnosis or
 8 treatment under current practice standards.").

9 ORDER

10 IT IS HEREBY ORDERED THAT:

11 1. Respondent is issued a Decree of Censure for inappropriate sexual conduct
 12 with a patient.

13 2. Respondent is placed on probation for five years with the following terms and
 14 conditions:

15 A. Third Party Presence (Chaperone)

16 Respondent shall have a third party, whose view is unencumbered, present during
 17 all of Respondent's interactions with female patients, including, but not limited to,
 18 examinations and treatments, in all settings including, but not limited to, office, hospital
 19 and clinic. The third party must be a female licensed allied healthcare provider (i.e.,
 20 physician assistant, registered nurse, licensed practical nurse) employed by the
 21 Respondent, hospital or clinic and may not be a representative or relative who
 22 accompanied the patient. Respondent shall instruct the third party to document her
 23 presence by signing, dating and legibly printing her name on each patient's chart at the
 24 time of the examination. Respondent shall instruct the third party to immediately report
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1 any inappropriate behavior to Respondent and the Board. Board Staff may perform
2 random periodic reviews to ensure compliance with this Order.

3 B. Obtain Treating Psychotherapist

4 Respondent shall immediately obtain a treating psychotherapist approved by Board
5 Staff to address boundary violations, professional ethics and the power differential
6 between patient and physician and shall remain in treatment with the psychotherapist for a
7 minimum of **twelve months**. Respondent shall comply with the psychotherapist's
8 recommendations for continuing care and treatment. Respondent shall instruct the
9 psychotherapist to submit quarterly written reports to the Board regarding diagnosis,
10 prognosis, and recommendations for continuing care and treatment. The reports must be
11 submitted on or before the 15th day of March, June, September and December of each
12 year. Respondent shall provide the psychotherapist with a copy of this Order.
13 Respondent shall pay the expenses of all the psychotherapy and is responsible for paying
14 for the preparation of the quarterly reports. After **twelve months**, Respondent may submit
15 a written request that the Board terminate the requirement that Respondent remain in
16 treatment with a psychotherapist. The Board's decision to terminate will be based, in part,
17 upon the treating psychotherapist's recommendation for continued care and treatment.

18 C. Continuing Medical Education

19 Respondent shall within one year of the effective date of this Order obtain ten hours
20 of Board Staff pre-approved Category I Continuing Medical Education (CME) in a Board
21 approved sexual boundaries course and provide Board Staff with satisfactory proof of
22 attendance. The CME hours shall be in addition to the hours required for the biennial
23 renewal of medical license.

24 D. Obey All Laws

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1 Respondent shall obey all state, federal and local laws, all rules governing the
2 practice of medicine in Arizona, and remain in full compliance with any court order criminal
3 probation, payments and other orders.

4 E. Tolling

5 In the event Respondent should leave Arizona to reside or practice outside the
6 State or for any reason should Respondent stop practicing medicine in Arizona,
7 Respondent shall notify the Executive Director in writing within ten days of departure and
8 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
9 time exceeding thirty days during which Respondent is not engaging in the practice of
10 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
11 non-practice within Arizona, will not apply to the reduction of the probationary period.

12 3. This Order is the final disposition of case number MD-06-0147A.

13 DATED AND EFFECTIVE this October day of 12, 2006.

16 (SEAL)



ARIZONA MEDICAL BOARD

17 By [Signature]
18 TIMOTHY C. MILLER, J.D.
19 Executive Director

20 ORIGINAL of the foregoing filed this
12th day of Oct, 2006 with:

21 Arizona Medical Board
22 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

23 EXECUTED COPY of the foregoing mailed
24 this 12th day of Oct, 2006 to:

25 Edward M. Ladley
Olson, Jantsch & Bakker
7243 N. 16th Street

1 Phoenix, AZ 85020-5203

2 EXECUTED COPY of the foregoing mailed
3 this 12th day of Oct, 2006 to:

4 Alan C. Sacks, M.D.
5 Address of Record

6 *Kathleen Miller*

7 Investigational Review

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