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.	Board Case No. MD-06-1042A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** (Letter of Reprimand)

The Arizona Medical Board ("Board") considered this matter at its public meeting on October 10, 2007. Alan C. Sacks, M.D., ("Respondent") appeared before the Board without legal counsel for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue the following Findings of Fact, Conclusions of Law and Order after due consideration of the facts and law applicable to this matter.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 9475 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-06-1042A after receiving a complaint regarding Respondent's care and treatment of a twenty year-old female patient ("NG") alleging Respondent improperly performed breast augmentation surgery.

4. Respondent's medical record of his first visit with NG reflects that she requested breast augmentation to a full DD/small DD; that she had no pain in her breasts and they were non-tender with no lumps; that she had no family history of breast disease or cancer; that she was not taking any blood thinning medications or vitamins or herbs; and that she was taking anything that would have affected the results of surgery. A form in Respondent's record for NG that was filled out by him on the day of surgery has "check marks" under "normal" for heart and

lungs and the entry under "history of present illness" is the complaint that NG's breasts are too small.

5. The "Confidential Health History" completed by NG reflects NG's mother had cancer, but Respondent did not make any entries on the form to elaborate on this history. Respondent did not ask NG about this entry because he did not think it was important for him to know where the cancer was, as long as it was not in the breast, and NG had indicated there was no family history of breast cancer. However, there is an association between colon cancer and breast cancer. The form also reflects NG had a blood transfusion at the age of ten, but Respondent similarly did not elaborate on this entry.

6. Respondent admitted his charting of NG's preoperative visits was not totally in the standard "SOAP" format. Respondent claimed to now be meticulous in following this format and in being more descriptive.

7. Despite numerous attempts to contact NG, Board Staff was unable to interview her to elaborate on what her impression of what her breast size would be after surgery.

8. A physician is required to maintain adequate medical records. An adequate medical record means a legible record containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because they do not contain sufficient information that accurately supports the diagnosis and justifies the treatment.

9. It is aggravating that Respondent has previously been disciplined by the Board for inadequate records.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e) ("[f]ailing or refusing to maintain adequate records on a patient").

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED:

Respondent is issued a Letter of Reprimand for failing or refusing to maintain adequate records on a patient.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 14th day of December, 2007.

THE ARIZONA MEDICAL BOARD

By _____
AMANDA J. DIEHL, MPA, CPM
Deputy Executive Director

ORIGINAL of the foregoing filed this 14th day of December, 2007 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing mailed by U.S. Mail this 14th day of December, 2007, to:

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

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