


1 the Board and Respondent. Therefore, said admissions by Respondent are not intended
2 or made for any other use, such as in the context of another state or federal government
3 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
4 any other state or federal court.

5 5. Respondent acknowledges and agrees that, although the Consent
6 Agreement has not yet been accepted by the Board and issued by the Executive Director,
7 upon signing this agreement, and returning this document (or a copy thereof) to the
8 Board's Executive Director, Respondent may not revoke his acceptance of the Consent
9 Agreement and Order. Respondent may not make any modifications to the document.
10 Any modifications to this original document are ineffective and void unless mutually
11 approved by the parties.

12 6. Respondent further understands that this Consent Agreement and Order,
13 once approved and signed, shall constitute a public record document that may be publicly
14 disseminated as a formal action of the Board.

15 7. If any part of the Consent Agreement and Order is later declared void or
16 otherwise unenforceable, the remainder of the Order in its entirety shall remain in force
17 and effect.

18 
19 David Patzer, M.D. 51102

Reviewed and accepted this First
day of May, 2002.

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 26950 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. Respondent entered into a Stipulated Rehabilitation Agreement (SRA) with
7 the Board on September 29, 2000. Respondent began participating in the Board's
8 Monitored Aftercare Program on a confidential basis

9 4. On October 12, 2001, Respondent's random biological fluid sample tested
10 positive for Amphetamine. The positive biological fluid sample was a violation of the
11 September 29, 2000, SRA. The Board initiated case number MD-01-0743 after receiving
12 notice of this positive biological fluid sample.

13 5. On October 19, 2001, Respondent enrolled in Springbrook Northwest for
14 evaluation and/or treatment. On October 24, 2001, Respondent signed an Interim
15 Consent Agreement for Practice Restriction and Evaluation. Respondent completed
16 treatment on January 16, 2002.

17 6. While at Springbrook Northwest, Respondent admitted that he ingested
18 Dexedrine the day before the October 12, 2001 positive test for Amphetamine.

19 7. Respondent's ingestion of Dexedrine, confirmed by the positive biological
20 fluid sample constitutes a violation of his SRA, an act of unprofessional conduct.

21 **CONCLUSIONS OF LAW**

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

24 2. The conduct and circumstances described above in paragraph 5 and 7
25 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(r) ("[v]iolating a formal

1 order, probation, consent agreement or stipulation issued or entered into by the board or
2 its executive director und the provisions of this chapter.”)

3 3. The conduct and circumstances described above in paragraph 5 and 7
4 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(g)(“[u]sing controlled
5 substances except if prescribed by another physician for use during a prescribed course of
6 treatment.”)

7 **ORDER**

8 IT IS HEREBY ORDERED THAT:

9 1. Respondent is suspended for a period of thirty days. However, the
10 suspension is stayed and Respondent is placed on probation for 5 years with the following
11 terms and conditions. Upon any violation of a probationary term, after notice and the
12 opportunity to be heard, the Board shall suspend Respondent’s license for the period
13 stated above. If an investigation involving an alleged violation of the probation is initiated
14 but not yet resolved prior to termination of the probation, the Board shall have continuing
15 jurisdiction and the period of probation shall extend until the matter is final.

16 (a) Respondent shall limit his work hours to 40 hours per week. On the
17 10th of each month, Respondent shall submit to Board staff official copies of his work
18 schedule and a record of hours actually worked, signed by his supervisor.

19 (b) Respondent shall not dispense or possess samples of controlled
20 substances.

21 (c) Respondent shall not apply for or hold a dispensing certificate.

22 (d) Respondent shall participate in the Board’s Monitored Aftercare
23 Program (MAP) pursuant to the following:

1 **I. Definitions**

2 1. **"Medication"** means "prescription-only drug, controlled substance, and over-
3 the counter preparation, other than plain aspirin and plain acetaminophen."

4 2. **"Emergency"** means "a serious accident or sudden illness that, if not treated
5 immediately, may result in a long-term medical problem or loss of life."

6 **II. Terms**

7 1. **Participation.** Respondent shall promptly enroll in and participate in the
8 Board's substance abuse treatment and rehabilitation program (hereafter, "MAP"). As part
9 of said participation in MAP, Respondent shall cooperate with the Board's staff and
10 contracting MAP supervisors.

11 2. Respondent's participation in the program may be unilaterally terminated at
12 the discretion of the Board at any time after issuance of this Order, with or without cause
13 for termination.

14 3. If the Board (or its Executive Director) conclude that it is appropriate, this
15 matter may be referred for further proceedings or investigation to the extent authorized by
16 Board statutory authority or other applicable law to consider all relevant issues of
17 Respondent's professional conduct and ability to safely and ethically engage in the
18 practice of medicine.

19 4. Respondent's participation in the Monitored Aftercare Program will terminate
20 at the end of five (5) years unless the Board issues an Order authorizing earlier
21 termination or extending the time period.

22 5. **Group Therapy.** Respondent shall attend the program's group therapy
23 sessions one time per week for the duration of this Order, unless excused by the group
24 therapist for good cause such as illness or vacation. Respondent shall instruct the
25 program group therapist to release to the Board, upon its request, all records relating to

1 Respondent's treatment, and to submit monthly reports to the Board regarding attendance
2 and progress. The reports shall be submitted on or before the 10th day of each month.

3 **6. 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.

6 **7.** The Board-approved primary care Physician shall be in charge of providing
7 and coordinating Respondent's medical care and treatment. Except in an *Emergency*,
8 Respondent shall obtain Respondent's medical care and treatment only from the Board-
9 approved primary care Physician and from health care providers to whom the Board-
10 approved primary care Physician refers Respondent from time to time. Respondent shall
11 request that the Board-approved primary care Physician document all referrals in the
12 medical record.

13 **8.** Respondent shall promptly inform the Board-approved primary care
14 Physician of Respondent's rehabilitation efforts and provide a copy of this Order to that
15 Physician. Respondent shall also inform all other health care providers who provide
16 medical care or treatment that Respondent is participating in the Board's rehabilitation
17 program.

18 **9. Medication.** Except in an *Emergency*, Respondent shall take no *Medication*
19 unless the *Medication* is prescribed by Respondent's Board-approved primary care
20 Physician or other health care provider to whom the Board-approved primary care
21 Physician makes a referral. Respondent shall not self-prescribe any *Medication*.

22 **10.** If a controlled substance is prescribed, dispensed, or is administered to
23 Respondent by any person other than the Board-approved primary care Physician,
24 Respondent shall notify the Board-approved primary care Physician in writing within 48
25 hours. The notification shall contain all information required for the medication log entry

1 specified in paragraph 13. Respondent shall request that the notification be made a part
2 of the medical record. This paragraph does not authorize Respondent to take any
3 *Medication* other than in accordance with paragraph 11.

4 **11. Medication Log.** Respondent shall maintain a current legible log of all
5 *Medication* taken by or administered to Respondent, and shall make the log available to
6 the Board and its staff upon request. For *Medication* (other than controlled substances)
7 taken on an on-going basis, Respondent may comply with this paragraph by logging the
8 first and last administration of the *Medication* and all changes in dosage or frequency. The
9 log, at a minimum, shall include the following:

- 10 a. Name and dosage of *Medication* taken or administered;
- 11 b. Date taken or administered;
- 12 c. Name of prescribing or administering Physician;
- 13 d. Reason *Medication* was prescribed or administered.

14 This paragraph does not authorize Respondent to take any *Medication* other than in
15 accordance with paragraph 11.

16 **12. No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or
17 any food or other substance containing poppy seeds and alcohol.

18 **13. Biological Fluid Collection.** During all times that Respondent is physically
19 present in the State of Arizona and such other times as Board staff may direct,
20 Respondent shall promptly comply with requests from Board staff, the group therapist, or
21 the program director to submit to witnessed biological fluid collection. If Respondent is
22 directed to contact an automated telephone message system to determine when to
23 provide a specimen, Respondent shall do so within the hours specified by Board staff. For
24 the purposes of this paragraph, in the case of an in-person request, "promptly comply"
25 means "immediately". In the case of a telephonic request, "promptly comply" means that,

1 except for good cause shown, Respondent shall appear and submit to specimen collection
2 not later than two hours after telephonic notice to appear is given. The Board in its sole
3 discretion shall determine good cause.

4 **14.** Respondent shall provide Board staff in writing with one telephone number
5 that shall be used to contact Respondent 24 hours per day/seven days per week to submit
6 to biological fluid collection. For the purposes of this section, telephonic notice shall be
7 deemed given at the time a message to appear is left at the contact telephone number
8 provided by Respondent. Respondent authorizes any person or organization conducting
9 tests on the collected samples to provide testing results to the Board and the program
10 Director.

11 **15.** Respondent shall cooperate with collection site personnel regarding
12 biological fluid collection. Repeated complaints from collection site personnel regarding
13 Respondent's lack of cooperation regarding collection may be grounds for termination from
14 the program.

15 **16. Payment for Services.** Respondent shall pay for all costs, including
16 personnel and contractor costs, associated with participating in the Monitored
17 Aftercare Program (MAP) at time service is rendered, or within 30 days of each
18 invoice sent to Respondent.

19 **17. Examination.** Respondent shall submit to mental, physical, and medical
20 competency examinations at such times and under such conditions as directed by the
21 Board to assist the Board in monitoring Respondent's ability to safely engage in the
22 practice of medicine and compliance with the terms of this Order.

23 **18. Treatment.** Respondent shall submit to all medical, substance abuse, and
24 mental health care and treatment ordered by the Board, or recommended by the program
25 director.

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

3 **20. Interviews.** Respondent shall appear in person before the Board and its
4 staff and committees for interviews upon request, upon reasonable notice.

5 **21. Address and Phone Changes, Notice.** Respondent shall immediately
6 notify the Board in writing of any change in office or home addresses and telephone
7 numbers. Respondent shall provide Board staff at least three business days advance
8 written notice of any plans to be away from office or home for more than five (5)
9 consecutive days. The notice shall state the reason for the intended absence from home
10 or office, and shall provide a telephone number that may be used to contact Respondent.

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

1 **23. Notice Requirements.**

2 (a) Physician shall immediately provide a copy of this Order to all employers
3 and hospitals and free standing surgery centers at which Physician currently has
4 privileges. Within 30 days of the date of the Order, Physician shall provide the
5 Board with a signed statement that Physician has complied with this notification
6 requirement. Upon any change in employer or upon the granting of privileges at
7 additional hospitals or free standing surgery centers, Physician shall provide the
8 employer, hospital or free standing surgery center with a copy of this Order. Within
9 30 days of a change in employer or upon the granting of privileges at additional
10 hospitals or free standing surgery centers, Physician shall provide the Board with a
11 signed statement that Physician has complied with this notification requirement.

12 (b) Physician is further required to notify, in writing, all employers, hospitals
13 and free standing surgery centers at which Physician currently has, or in the future
14 gains employment or privileges, of a chemical dependency relapse, use of drugs or
15 alcohol in violation of this Order and/or entry into a treatment program. Physician
16 shall provide the Board with written confirmation that he has complied with this
17 notification requirement within seven days of any of these events.

18 (c) Physician shall immediately submit to the Board, under penalty of perjury,
19 on a form provided by the Board, the name(s) and address(es) of all employers and
20 all hospitals and free-standing surgery centers at which Physician currently holds
21 privileges to practice. Physician is further required to, under penalty of perjury, on a
22 form provided by the Board, immediately notify the Board of any changes in his
23 employment and of any hospitals and freestanding surgery centers at which
24 Physician gains privileges after the effective date of this Order.

1 **24. Public Record.** This Order is a public record document and, therefore, may
2 be disclosed to the extent required by law.

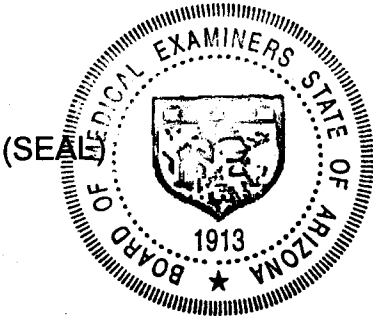
3 **25. Out-of State.** In the event Respondent resides or practices medicine in a
4 state other than Arizona, Respondent shall participate in the physician rehabilitation
5 program sponsored by that state's medical licensing authority or medical society.
6 Respondent shall cause the other state's program to provide written reports to the Board
7 regarding Respondent's attendance, participation, and monitoring. The reports shall be
8 due on or before the 15th day of March and September of each year, until the Board
9 terminates this requirement in writing.

10 **26. Quarterly Declarations** Respondent shall submit quarterly declarations
11 under penalty of perjury on forms provided by the Board, stating whether there has been
12 compliance with all conditions of probation. The declarations shall be submitted on or
13 before the 15th of March, June, September and December of each year, beginning on or
14 before June 15, 2002.

15 **27.** Respondent shall immediately obtain a treating psychiatrist approved by
16 Board staff and shall remain in treatment with the psychiatrist until further order of the
17 Board. Respondent shall instruct the psychiatrist to release to the Board, upon its request,
18 all records relating to treatment of Respondent, and to submit quarterly written reports to
19 the Board regarding diagnosis, prognosis, and recommendations for continuing care and
20 treatment of respondent. The reports shall be submitted on or before the 15th day of
21 March, June, September and December of each year.

1 This Order is the final disposition of case number MD-01-0743.

2 DATED AND EFFECTIVE this 5th day of June, 2002.



BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

9 By Claudia Foutz
CLAUDIA FOUTZ, Executive Director

10 ORIGINAL of the foregoing filed this
11 6th day of June, 2002 with:

12 The Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

13 EXECUTED COPY of the foregoing mailed by
14 Certified Mail this 6th day of June, 2002 to:

15 David Patzer, M.D.
5051 N Sabino Canyon Rd #1110
Tucson AZ 85750-6456

16 EXECUTED COPY of the foregoing
17 hand-delivered this 6th day of
18 June, 2002, to:

19 Christine Cassetta, Assistant Attorney General
20 Sandra Waitt, Management Analyst
21 Lynda Mottram, Compliance Officer
Investigations (Investigation File)
22 c/o Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

23
24
25 Chris Cassetta

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **DAVID K. PATZER, M.D.**

4 Holder of License No. 26950
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

Case No. MD-02-0708

**CONSENT AGREEMENT FOR
SURRENDER OF LICENSE**

7
8 CONSENT AGREEMENT

9 By mutual agreement and understanding, between the Arizona Medical Board
10 ("Board") and David K. Patzer, M.D. ("Respondent") the parties agree to the following
11 disposition of this matter.

12 1. Respondent acknowledges that he has read and understands this
13 Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and
14 Order. Respondent acknowledges that he understands he has the right to consult with
15 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 for
17 the issuance of the foregoing Order, he voluntarily relinquishes any rights to a hearing
18 or judicial review in state or federal court on the matters alleged or to challenge this
19 Consent Agreement and the Order in its entirety as issued by the Board, and waives
20 any other cause of action related thereto or arising from said Order.

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

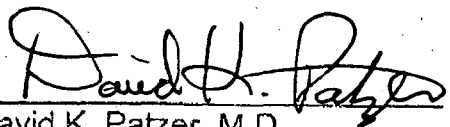
24 4. All admissions made by Respondent are solely for final disposition of this
25 matter and any subsequent related administrative proceedings or civil litigation

1 involving the Board and Respondent. Therefore, said admissions by Respondent are
2 not intended or made for any other use, such as in the context of another state or
3 federal government regulatory agency proceeding, civil or criminal court proceeding, in
4 the State of Arizona or any other state or federal court.

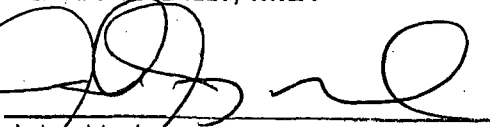
5 5. Respondent acknowledges and agrees that, although said Consent
6 Agreement and Order has not yet been accepted by the Board and issued by the
7 Executive Director, Respondent may not make any modifications to the document.
8 Upon signing this agreement, and returning this document (or a copy thereof) to the
9 Board's Executive Director, Respondent may not revoke acceptance of the Consent
10 Agreement and Order. Any modifications to this Consent Agreement and Order are
11 ineffective and void unless mutually approved by the parties.

12 6. Respondent further understands that this Consent Agreement and Order,
13 once approved and signed, shall constitute a public record document that may be
14 publicly disseminated as a formal action of the Board and will be reported to the
15 National Practitioner's Data Bank and will be reported to the Arizona Medical Board's
16 website.

17 7. If any part of the Consent Agreement and Order is later declared void or
18 otherwise unenforceable, the remainder of the Order in its entirety shall remain in force
19 and effect.

20 
21 David K. Patzer, M.D. M.D.

Dated: January 28, 2003

22 
23 John H. Jongeward, Jr., Esq.
24 Approved as to Form

Dated: 1-28-2003

FINDINGS OF FACT

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

4 2. Respondent is the holder of License No. 26950 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. On September 29, 2000, Respondent and the Board entered into a
7 Stipulated Rehabilitation Agreement ("SRA"). The SRA required Respondent to refrain
8 from taking any medications unless prescribed by his primary care physician.

9 4. On October 12, 2001, Respondent violated the SRA when his random
10 biological fluid sample tested positive for Amphetamine, a medication not prescribed by
11 Respondent's primary care physician. As a result, on June 5, 2002, Respondent and
12 the Board entered into a Consent Agreement for a Stayed Suspension and Probation
13 ("Consent Agreement"). The Consent Agreement provided that if Respondent had a
14 chemical dependency relapse or used drugs or alcohol in violation of the Consent
15 Agreement, he would promptly enter into an Interim Agreement that required he not
16 practice medicine until such time as he successfully completed an inpatient or
17 residential treatment program and obtained the affirmative approval of the Board to
18 return to the practice of medicine.

19 5. On November 1, 2002, Respondent wrote a fraudulent prescription for
20 Ritalin using the assumed name of Dr. Barios. Karl Johnson, later identified as
21 Respondent, picked up the prescription.

22 6. On November 5, 2002, Respondent telephoned Board staff to report that
23 he had relapsed, had written a prescription for Ritalin and had ingested the medication.
24 Board staff informed Respondent that his relapse was a violation of the June 5, 2002
25 Consent Agreement.

1 7. On November 13, 2002, Respondent telephoned Board staff stating he
2 was "looking into" a treatment program.

3 8. On November 19, 2002, Respondent and the Board entered into an
4 Interim Consent Agreement for Practice Restriction and Inpatient or Residential
5 Treatment.

6 9. On November 21, 2002, Board staff notified Respondent that he was to
7 enter an inpatient or residential treatment program by December 15, 2002.

8 10. Respondent did not check himself into an inpatient or residential treatment
9 program by December 15, 2002.

10 11. Respondent has criminal charges pending against him, relating to the
11 fraudulent prescription. He was arrested on November 6, 2002, by the Yuma Police
12 Department and charged with felony forgery. He was indicted by a grand jury on
13 November 26, 2002, and charged with two counts of felony forgery and possession of
14 dangerous drugs.

15 12. Board staff requested from Respondent that he provide to Board staff by
16 December 3, 2002, a narrative response and supporting documents relating to the
17 criminal charges pending against him. Respondent has not responded to Board staff's
18 request.

19 13. The Board may accept the surrender of an active license from a person
20 who admits to having committed an act of unprofessional conduct.

21 14. Respondent admits to having committed the following acts of
22 unprofessional conduct: violating a formal order, probation, consent agreement or
23 stipulation issued or entered into by the Board or its executive director; using controlled
24 substances except if prescribed by another physician for use during a prescribed course
25 of treatment; habitual intemperance in the use of alcohol or habitual substance abuse;

1 prescribing, dispensing or administering any controlled substance or prescription-only
2 drug for other than accepted therapeutic purposes; knowingly making any false or
3 fraudulent statement, written or oral, in connection with the practice of medicine or if
4 applying for privileges or renewing an application for privileges at a health care
5 institution; violating any federal or state laws or rules and regulations applicable to the
6 practice of medicine; and failing to furnish information in a timely manner to the Board or
7 the Board's investigators or representatives if legally requested by the Board.

8 CONCLUSIONS OF LAW

9 1. The Board possesses jurisdiction over the subject matter hereof and over
10 Respondent.

11 2. The conduct and circumstances described above constitute
12 unprofessional conduct pursuant to A.R.S. § 32-1401(24)(r), violating a formal order,
13 probation, consent agreement or stipulation issued or entered into by the Board or its
14 executive director; A.R.S. § 32-1401(24)(g), using controlled substances except if
15 prescribed by another physician for use during a prescribed course of treatment; A.R.S.
16 § 32-1401(24)(f), habitual intemperance in the use of alcohol or habitual substance
17 abuse; A.R.S. § 32-1401(24)(j), prescribing, dispensing or administering any controlled
18 substance or prescription-only drug for other than accepted therapeutic purposes;
19 A.R.S. § 32-1401(24)(t), knowingly making any false or fraudulent statement, written or
20 oral, in connection with the practice of medicine or if applying for privileges or renewing
21 an application for privileges at a health care institution; A.R.S. § 32-1401(24)(a),
22 violating any federal or state laws or rules and regulations applicable to the practice of
23 medicine; and A.R.S. § 32-1404(24)(dd), failing to furnish information in a timely
24 manner to the Board or the Board's investigators or representatives if legally requested
25 by the Board.

ORDER

IT IS HEREBY ORDERED THAT Respondent's license is surrendered.

DATED AND EFFECTIVE this 12 day of February, 2003.

ARIZONA MEDICAL BOARD

[Seal]



By Barry Cassidy
BARRY CASSIDY Ph.D., PA-C
Executive Director

ORIGINAL of the foregoing filed
this 13th day of FEBRUARY, 2003, with:

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

EXECUTED COPY of the foregoing mailed by
Certified Mail this 13th day of FEBRUARY, 2003 to:


John H. Jongeward, Jr., Esq.
176 S. Main Street
Yuma, AZ 85364-1424

EXECUTED COPY of the foregoing mailed this
13th day of FEBRUARY, 2003, to:

David H. Patzer, M.D.
5051 N. Sabino Canyon Road, #1110
Tucson, AZ 85750-6456

1 EXECUTED COPY of the foregoing hand-delivered
2 this 13th day of JANUARY, 2003 to:

3 Christine Cassetta, Assistant Attorney General
4 Sandra Waitt, Management Analyst
5 Arizona Medical Board
6 9545 E. Doubletree Ranch Road
7 Scottsdale, AZ 85258

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9 Planning and Operations

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1 **BEFORE THE ARIZONA MEDICAL BOARD**

2
3 In the Matter of

4 **DAVID K. PATZER, M.D.**

5 Holder of License No. 26950
6 For the Practice of Allopathic Medicine
7 In the State of Arizona.

Case No. MD-08-1151A

**CONSENT AGREEMENT FOR
PROBATIONARY LICENSE**

8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Medical Board
10 ("Board") and David K. Patzer, M.D. ("Respondent"), the parties agree to the following
11 disposition of this matter.

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

16 2. By entering into this Consent Agreement, Respondent voluntarily
17 relinquishes any rights to a hearing or judicial review in state or federal court on the
18 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. This Consent Agreement is not effective until approved by the Board and
22 signed by its Executive Director.

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

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

8 6. All admissions made by Respondent are solely for final disposition of this
9 matter and any subsequent related administrative proceedings or civil litigation involving
10 the Board and Respondent. Therefore, said admissions by Respondent are not intended
11 or made for any other use, such as in the context of another state or federal government
12 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
13 any other state or federal court.

14 7. Upon signing this agreement, and returning this document (or a copy thereof) to
15 the Board's Executive Director, Respondent may not revoke the acceptance of the
16 Consent Agreement. Respondent may not make any modifications to the document. Any
17 modifications to this original document are ineffective and void unless mutually approved
18 by the parties.

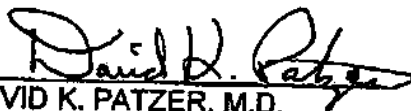
19 8. If the Board does not adopt this Consent Agreement, Respondent will not
20 assert as a defense that the Board's consideration of this Consent Agreement constitutes
21 bias, prejudice, prejudgment or other similar defense.

22 9. This Consent Agreement, once approved and signed, is a public record that will
23 be publicly disseminated as a formal action of the Board and will be reported to the
24 National Practitioner Data Bank and to the Arizona Medical Board's website.
25

1 10. If any part of the Consent Agreement is later declared void or otherwise
 2 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in
 3 force and effect.

4 11. Any violation of this Consent Agreement constitutes unprofessional conduct
 5 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
 6 probation, consent agreement or stipulation issued or entered into by the board or its
 7 executive director under this chapter") and 32-1451.

8 12. *Respondent has read and understands the condition of probation.*

11  M.D.
 12 DAVID K. PATZER, M.D.

January 13, 2009
 Date

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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. The Board initiated case number MD-08-1151A after receiving Respondent's
5 application for licensure on April 16, 2008. Respondent previously signed a Consent
6 Agreement for Surrender of his license and the Board accepted it on February 13, 2003.

7 3. On September 29, 2000, Respondent entered into a confidential Stipulated
8 Rehabilitation Agreement following treatment for substance abuse. On October 12, 2001,
9 Respondent tested positive for Amphetamine that was not prescribed to him by his primary
10 care physician. As a result, Respondent entered into an Interim Consent Agreement for
11 Practice Restriction and Evaluation. Subsequently, Respondent successfully completed
12 treatment on January 16, 2002 and signed a Consent Agreement for a Stayed Suspension
13 and Probation on June 5, 2002. On November 1, 2002, Respondent relapsed by writing a
14 fraudulent prescription and ingesting Ritalin. On November 19, 2002, Respondent entered
15 into an Interim Consent Agreement for Practice Restriction and Residential Treatment;
16 however, he did not enter treatment and instead surrendered his license.

17 4. Along with his application for licensure, Respondent disclosed that he
18 underwent treatment from December 2002 through April 2003 and had been privately
19 monitored from June 2004 through August 2004. Respondent also disclosed that he is
20 currently practicing psychiatry under supervision in Tennessee. The Tennessee Medical
21 Foundation informed the Board that on September 13, 2004, Respondent signed a five
22 year monitoring agreement and that he is in full compliance. On October 27, 2008,
23 Respondent underwent a health assessment. The evaluator stated that Respondent
24 appeared to be in good recovery, that he was adequately being monitored in Tennessee
25 and that he was safe to return to practice.

1 release to Board Staff, upon request, all records relating to Respondent's treatment, and
2 to submit monthly reports to Board Staff regarding attendance and progress. The reports
3 shall be submitted on or before the 10th day of each month.

4 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend
5 ninety 12-step meetings or other self-help group meetings appropriate for substance
6 abuse and approved by Board Staff, for a period of ninety days beginning not later than
7 either (a) the first day following Respondent's discharge from chemical dependency
8 treatment or (b) the date of this Order.

9 **4.** Following completion of the ninety meetings in ninety days,
10 Respondent shall participate in a 12-step recovery program or other self-help program
11 appropriate for substance abuse as recommended by the MAP Director and approved by
12 Board Staff. Respondent shall attend a minimum of three 12-step or other self-help
13 program meetings per week for a total of twelve per month. Two of the twelve meetings
14 must be Caduceus meetings. Respondent must maintain a log of all self-help meetings.
15 Board Staff will provide the log to Respondent.

16 **5. Board-Staff Approved Primary Care Physician.** Respondent shall
17 promptly obtain a primary care physician and shall submit the name of the physician to
18 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")
19 shall be in charge of providing and coordinating Respondent's medical care and treatment.
20 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from
21 the PCP and from health care providers to whom the PCP refers Respondent.
22 Respondent shall request that the PCP document all referrals in the medical record.
23 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and
24 provide a copy of this Order the PCP. Respondent shall also inform all other health care
25 providers who provide medical care or treatment that Respondent is participating in MAP.

1 a. "Emergency" means a serious accident or sudden illness that, if not
 2 treated immediately, may result in a long-term medical problem or loss of life.

3 6. Medication. Except in an *Emergency*, Respondent shall take no
 4 *Medication* unless the PCP or other health care provider to whom the PCP refers
 5 Respondent prescribes the *Medication*. Respondent shall not self-prescribe any
 6 *Medication*.

7 a. "Medication" means a prescription-only drug, controlled substance,
 8 and over-the counter preparation, other than plain aspirin, plain ibuprofen,
 9 and plain acetaminophen.

10 7. If a controlled substance is prescribed, dispensed, or is administered
 11 to Respondent by any person other than PCP, Respondent shall notify the PCP in writing
 12 within 48 hours and notify the MAP Director immediately. The notification shall contain all
 13 information required for the medication log entry specified in paragraph 8. Respondent
 14 shall request that the notification be made a part of the medical record. This paragraph
 15 does not authorize Respondent to take any *Medication* other than in accordance with
 16 paragraph 6.

17 8. Medication Log. Respondent shall maintain a current legible log of
 18 all *Medication* taken by or administered to Respondent, and shall make the log available to
 19 the Board Staff upon request. For *Medication* (other than controlled substances) taken on
 20 an on-going basis, Respondent may comply with this paragraph by logging the first and
 21 last administration of the *Medication* and all changes in dosage or frequency. The log, at
 22 a minimum, shall include the following:

- 23 a. Name and dosage of *Medication* taken or administered;
- 24 b. Date taken or administered;
- 25 c. Name of prescribing or administering physician;

1 d. Reason *Medication* was prescribed or administered.

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

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

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

17 11. Respondent shall provide Board Staff in writing with one telephone
18 number that shall be used to contact Respondent on a 24 hour per day/seven day per
19 week basis to submit to biological fluid collection. For the purposes of this section,
20 telephonic notice shall be deemed given at the time a message to appear is left at the
21 contact telephone number provided by Respondent. Respondent authorizes any person
22 or organization conducting tests on the collected samples to provide testing results to the
23 Board and the MAP Director.

24 12. Respondent shall cooperate with collection site personnel regarding
25 biological fluid collection. Repeated complaints from collection site personnel regarding

1 Respondent's lack of cooperation regarding collection may be grounds for termination
2 from MAP.

3 **13. Out of State Travel and/or Unavailability at Home or Office**

4 **Telephone Number.** Respondent shall provide Board Staff at least three business
5 days advance written notice of any plans to be away from office or home when such
6 absence would prohibit Respondent from responding to an order to provide a biological
7 fluid specimen or from responding to communications from the Board. The notice shall
8 state the reason for the intended absence from home or office, and shall provide a
9 telephone number that may be used to contact Respondent.

10 **14. Payment for Services.** Respondent shall pay for all costs,
11 including personnel and contractor costs, associated with participating in MAP at
12 time service is rendered, or within 30 days of each invoice sent to Respondent.

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

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

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

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

23 **19. Address and Phone Changes, Notice.** Respondent shall
24 immediately notify the Board in writing of any change in office or home addresses and
25 telephone numbers.

1 **20. Relapse, Violation.** In the event of chemical dependency relapse by
2 Respondent or Respondent's use of drugs or alcohol in violation of the Order,
3 Respondent's license shall be **REVOKED**. Respondent agrees to waive formal hearing
4 on the revocation. In the alternative, Respondent may **SURRENDER HIS LICENSE** if he
5 agrees in writing to being impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).

6 **21. Notice Requirements.**

7 **(A)** Respondent shall immediately provide a copy of this Order to all
8 employers and all hospitals and free standing surgery centers where Respondent currently
9 has privileges. Within 30 days of the date of this Order, Respondent shall provide the
10 Board with a signed statement of compliance with this notification requirement. Upon any
11 change in employer or upon the granting of privileges at additional hospitals and free
12 standing surgery centers, Respondent shall provide the employer, hospital or free standing
13 surgery center with a copy of this Order. Within 30 days of a change in employer or upon
14 the granting of privileges at additional hospitals and free standing surgery centers,
15 Respondent shall provide the Board with a signed statement of compliance with this
16 notification requirement.

17 **(B)** Respondent is further required to notify, in writing, all employers,
18 hospitals and free standing surgery centers where Respondent currently has or in the
19 future gains employment or privileges, of a chemical dependency relapse, use of drugs or
20 alcohol in violation of this Order and/or entry into a treatment program. Within seven days
21 of any of these events Respondent shall provide the Board written confirmation of
22 compliance with this notification requirement.

23 **22. Public Record.** This Order is a public record.

24 **23.** This Order supersedes all previous consent agreements and stipulations
25 between the Board and/or the Executive Director and Respondent.

1 24. The Board retains jurisdiction and may initiate new action based upon any
2 violation of this Order.

3 4. This Order is the final disposition of case number MD-08-1151A.



4 EFFECTIVE this 5TH day of FEBRUARY, 2009.

5 ARIZONA MEDICAL BOARD

6 By

7 Lisa S. Wynn
8 Executive Director

9 ORIGINAL of the foregoing filed
this 5th day of February, 2009 with:

10 Arizona Medical Board
11 9545 E. Doubletree Ranch Road
12 Scottsdale, AZ 85258

13 EXECUTED COPY of the foregoing mailed
this 5th day of February, 2009 to:

14 David K. Patzer, M.D.
15 Address of Record

16 Kayda Colley
17 Investigational Review