

1 BEFORE THE BOARD OF MEDICAL EXAMINERS
2 IN THE STATE OF ARIZONA
3

4 In the Matter of
5 **JAMES L. FREY, M.D.**
6 Holder of License No. **10728**
7 For the Practice of Medicine
8 In the State of Arizona.
9

INVESTIGATION NO. 11969
**CONSENT AGREEMENT
TO LETTER OF REPRIMAND**

10 JAMES L. FREY, M.D., holder of License No. 10728, and the Arizona Board of
11 Medical Examiners (Board) hereby agree as follows:

12 1. Pursuant to A.R.S. § 32-1451(F), Dr. Frey agrees that the Board shall adopt
13 the following Findings of Fact, Conclusions of Law and Order for Letter of Reprimand, as
14 set forth hereafter. The Letter of Reprimand shall be effective on the date written on the
15 letter. Dr. Frey agrees that the Board has substantial evidence in support of the Findings
16 of Fact and Conclusions of Law. He agrees not to contest the accuracy of the Findings of
17 Fact and Conclusions of Law.

18 2. By entering into this Consent Agreement, Dr. Frey freely and voluntarily
19 relinquishes all rights to an Informal Interview before the Board, a hearing before an
20 administrative law judge and before the Board, and relinquishes all rights of rehearing,
21 review, reconsideration, appeal, judicial review or any other judicial action concerning the
22 matter set forth herein. Dr. Frey affirmatively agrees that the Letter of Reprimand shall be
23 irrevocable.

24 3. Dr. Frey has read and understands the Consent Agreement, Findings of
25 Fact, Conclusions of Law and Order for Letter of Reprimand and voluntarily enters into this

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1 the Consent Agreement. Dr. Frey understands that he may consult legal counsel
2 regarding this matter and agrees that he has done so or affirmatively declines to do so.

3 4. The Consent Agreement, Findings of Fact, Conclusions of Law and Order for
4 Letter of Reprimand constitute a resolution of Investigation No. 11969. The Consent
5 Agreement, Findings of Fact, Conclusions of Law and Order for Letter of Reprimand do
6 not constitute a dismissal or resolution of any other matter currently pending and do not
7 constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
8 regarding any other pending or future investigation, action or proceeding.

9 5. The Consent Agreement, Findings of Fact, Conclusions of Law and Letter of
10 Reprimand shall not become effective until adopted by the Board and signed by the
11 Board's Executive Director. However, upon signing and returning the Consent Agreement,
12 you may not rescind or otherwise nullify your acceptance of the Consent Agreement, in its
13 entirety or in part, unless expressly approved by the Board.

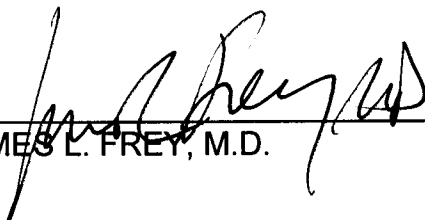
14 6. Dr. Frey understands that if the Board does not adopt the Consent
15 Agreement, Findings of Fact, Conclusions of Law and Order for Letter of Reprimand, the
16 case listed in paragraph 4 above will be decided by the Board pursuant to the Medical
17 Practice Act, A.R.S. § 32-1401 et seq. Dr. Frey agrees that he will not assert as a defense
18 that the Board's consideration of the Consent Agreement, Findings of Fact and
19 Conclusions of Law constitutes bias, prejudice, prejudgment or other similar defenses.

20 7. The Consent Agreement, Findings of Fact, Conclusions of Law and Order for
21 Letter of Reprimand is a public record and shall be reported, as required by law, to the
22 National Practitioner Data Bank and the Federation of State Medical Boards.

23 8. The Consent Agreement, Findings of Fact, Conclusions of Law and Order for
24 Letter of Reprimand constitutes the entire agreement of the parties.

25 9. Any violation of this Consent Agreement or the Letter of Reprimand

1 constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(25)(r) (violating a formal
2 order, probation or stipulation issued or entered into by the board or its executive director
3 under the provisions of this chapter) and may result in disciplinary action pursuant to
4 A.R.S. § 32-1451.

5
6 
7 JAMES L. FREY, M.D.

Reviewed and accepted
this 8 day of March, 1999.

8 **FINDINGS OF FACT**

9 1. The Board of Medical Examiners of the State of Arizona is the duly
10 constituted authority for the regulation and control of the practice of medicine in the State
11 of Arizona.

12 2. Dr. Frey is the holder of License No. 10728 for the practice of medicine in the
13 State of Arizona.

14 3. On January 14, 1998, Dr. Frey was supervising a resident at St. Joseph's
15 Hospital. They were treating a 71 year old patient with bacterial meningitis. It was the
16 patient's wishes not to be resuscitated in the event of an unfavorable prognosis. An MRI
17 obtained the previous day revealed strokes bilaterally in both the posterior and anterior
18 circulation.

19 4. Dr. Frey instructed the resident to contact the hospital's ethics committee
20 about administering medication to the patient in the process of withdrawing ventilator
21 support from this patient. In particular, whether a paralyzing agent such as Norcuron
22 would be advisable. The resident later informed Dr. Frey that he had spoken to the ethics
23 committee physician and was advised that they could proceed. Dr. Frey asked the
24 resident to handle the matter. The resident then administered Morphine and Norcuran to
25 the patient, prior to taking her off a respirator. The patient then died.

1 5. Poor communication and misunderstanding of acceptable medication
2 administration by Dr. Frey and his resident hastened the death of this patient.

3 **CONCLUSIONS OF LAW**

4 1. The Board of Medical Examiners of the State of Arizona possesses
5 jurisdiction over the subject matter hereof and over Dr. Frey.

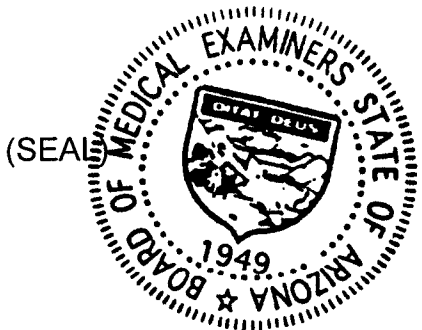
6 2. The conduct and circumstances described in paragraphs 4 and 5 above
7 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(ii) (lack of or
8 inappropriate direction, collaboration or direct supervision of a licensed, certified or
9 registered health care provider employed by, supervised by or assigned to the physician.)

10 **ORDER**

11 Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby
12 ordered that Dr. Frey be issued a Letter of Reprimand.

13 DATED this 5th day of May, APRIL, 1999.

14 BOARD OF MEDICAL EXAMINERS
15 OF THE STATE OF ARIZONA



17
18 By Claudia Foutz
19 CLAUDIA FOUTZ
20 Executive Director
21 MELISSA CORNELIUS
22 Deputy Director

23 ORIGINAL of the foregoing filed this
24 6th day of APRIL, 1999 with:

25 The Arizona Board of Medical Examiners
1651 East Morten, Suite 210
Phoenix, Arizona 85020

1 EXECUTED COPY of the foregoing mailed
by Certified Mail this 6th day of
2 April, 1999 to:

3 James L. Frey, M.D.
10210 N. 92nd Street, Ste. 302
4 Scottsdale, AZ 85258

5 Kari B. Zangerle
6 Teilborg, Sanders & Parks
3030 N. 3rd Street, Suite 1300
7 Phoenix, AZ 85012-3099
Attorney for Dr. Frey

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10 Board Operations
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