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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
HENRY J. SCHULTE, M.D.
License No. 12400
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-08-1144A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND AND
PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Henry J. Schulte, M.D. ("Respondent"), the parties agree 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 or 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. §§ 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 conditions of probation.***

7 
 8 HENRY J. SCHULTE, M.D.

DATED: 5/4/09

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2 **FINDINGS OF FACT**

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

5 2. Respondent is the holder of license number 12400 for the practice of
6 allopathic medicine in the State of Arizona.

7 3. The Board initiated case number MD-08-1144A after receiving a report on
8 September 19, 2008 from Respondent that he altered patient RS's medical record.
9 Respondent treated RS for 19 years and in late 2007, RS separated from his wife and
10 subsequently began divorce proceedings. Respondent stated that he was advised of
11 threats made by RS that he would sue him for malpractice based on a belief that
12 Respondent may be responsible for RS's decision to rescind a prenuptial agreement with
13 his wife. Respondent had concerns regarding the documentation in RS's medical record,
14 thinking RS would unjustly blame him and retaliate; therefore, he altered RS's medical
15 record.

16 4. Thereafter, Respondent received a subpoena from RS's attorney for the
17 medical record. Respondent stated that he felt remorse for altering the record and
18 changed it back in September 2007 by using white-out to remove the added comments.
19 Respondent then photocopied the originals, discarded them and kept the photocopies.

20 5. A physician is required to maintain adequate legible medical records
21 containing, at a minimum, sufficient information to identify the patient, support the
22 diagnosis, justify the treatment, accurately document the results, indicate advice and
23 cautionary warnings provided to the patient and provide sufficient information for another
24 practitioner to assume continuity of the patient's care at any point in the course of
25 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because he
altered a patient's medical record and discarded the originals.

1 **CONCLUSIONS OF LAW**

2 1. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

4 2. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(e) (“[f]ailing or refusing to maintain adequate
6 records on a patient.”) due to alteration of a medical record.

7 **ORDER**

8 IT IS HEREBY ORDERED THAT:

9 1. Respondent is issued a Letter of Reprimand.

10 2. Respondent is placed on probation for **one year** with the following terms and
11 conditions:

12 a. Continuing Medical Education

13 Respondent shall within **one year** of the effective date of this Order obtain **10**
14 **- 15 hours** of Board Staff pre-approved Category I Continuing Medical Education (CME) in
15 **ethics** and provide Board Staff with satisfactory proof of attendance. The CME hours shall
16 be in addition to the hours required for the biennial renewal of medical license. The
17 probation shall terminate upon successful completion of the CME.

18 b. Obey All Laws

19 Respondent shall obey all state, federal and local laws, all rules governing
20 the practice of medicine in Arizona, and remain in full compliance with any court ordered
21 criminal probation, payments and other orders.

22 c. Tolling

23 In the event Respondent should leave Arizona to reside or practice outside
24 the State or for any reason should Respondent stop practicing medicine in Arizona,
25 Respondent shall notify the Executive Director in writing within ten days of departure and

1 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
2 time exceeding thirty days during which Respondent is not engaging in the practice of
3 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
4 non-practice within Arizona, will not apply to the reduction of the probationary period.

5 3. This Order is the final disposition of case number MD-08-1144A.

6 DATED AND EFFECTIVE this 4th day of June, 2009.



ARIZONA MEDICAL BOARD

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

11 ORIGINAL of the foregoing filed
12 this 4th day of June, 2009 with:

13 Arizona Medical Board
14 9545 E. Doubletree Ranch Road
15 Scottsdale, AZ 85258

16 EXECUTED COPY of the foregoing mailed
17 this 4th day of June, 2009 to:

18 Stephen Myers
19 Myers & Jenkins
20 One East Camelback Road
21 Phoenix, Arizona 85012

22 EXECUTED COPY of the foregoing mailed
23 this 4th day of June, 2009 to:

24 Henry J. Schulte, M.D.
25 Address of Record

Keranda Colley
Investigational Review