

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **HARRY D. GOLDWASSER, M.D.**

4 Holder of License No. 20842  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona

Case No. MD-06-0757A

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

7 **CONSENT AGREEMENT**

8 By mutual agreement and understanding, between the Arizona Medical Board  
9 ("Board") and Harry D. Goldwasser, M.D. ("Respondent"), the parties agreed to the  
10 following disposition of this matter.

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

15 2. By entering into this Consent Agreement, Respondent voluntarily  
16 relinquishes any rights to a hearing or judicial review in state or federal court on the  
17 matters alleged, or to challenge this Consent Agreement in its entirety as issued by the  
18 Board, and waives any other cause of action related thereto or arising from said Consent  
19 Agreement.

20 3. This Consent Agreement is not effective until approved by the Board and  
21 signed by its Executive Director.

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

25 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 waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other  
2 pending or future investigation, action or proceeding. The acceptance of this Consent  
3 Agreement does not preclude any other agency, subdivision or officer of this State from  
4 instituting other civil or criminal proceedings with respect to the conduct that is the  
5 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  
11 or 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.  
15 Any modifications to this original document are ineffective and void unless mutually  
16 approved 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  
19 constitutes 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  
25 force and effect.

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

5           **12. Respondent has read and understands the condition(s) of probation.**

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HARRY D. GOLDWASSER, M.D.

DATED: 6/15/07

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 20842 for the practice of  
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-06-0757A after receiving notification  
7 from the Drug Enforcement Administration ("DEA") that Respondent may have diverted  
8 Schedule II controlled substances.

9 4. In an investigational interview on October 3, 2006, Respondent admitted  
10 that between March 2006 and July 2006, he diverted Oxycodone for his own use. On  
11 that same date, Respondent was ordered to undergo a biological fluid test and hair  
12 analysis, which was positive for Cocaine and Oxycodone. Respondent subsequently  
13 admitted to Board Staff his addiction to Cocaine and Oxycodone and desired treatment.

14 5. On October 5, 2006, Respondent entered into an Interim Consent  
15 Agreement for Practice Restriction ("Practice Restriction") prohibiting him from practicing  
16 clinical medicine or any medicine involving direct patient care and from prescribing any  
17 form of treatment including prescription medications.

18 6. On October 13, 2006, Respondent presented for residential treatment and  
19 was discharged on January 7, 2007 with a diagnosis of Cocaine and Oxycodone  
20 dependence with physiological dependence. On January 9, 2007, Respondent entered  
21 into an Interim Consent Agreement to Participate in the Monitored Aftercare Program  
22 ("MAP"). The Interim MAP agreement allows Respondent to receive credit for his  
23 participation in MAP. On January 18, 2007, the Practice Restriction was vacated and  
24 Respondent was allowed to return to practice.  
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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)(f) (“[h]abitual intemperance in the use of  
6 alcohol or habitual substance abuse.”) and A.R.S. § 32-1401 (27)(g) (“[u]sing controlled  
7 substances except if prescribed by another physician for use during a prescribed course  
8 of treatment.”).

9 **ORDER**

10 IT IS HEREBY ORDERED THAT:

11 1. Respondent is issued a Letter of Reprimand for habitual intemperance and  
12 diversion of narcotics.

13 2. Respondent is placed on Probation for **five years** with the following terms  
14 and conditions<sup>1</sup>:

15 a. Respondent shall submit quarterly declarations under penalty of  
16 perjury on forms provided by the Board, stating whether there has been compliance with  
17 all conditions of probation. The declarations shall be submitted on or before the 15th of  
18 March, June, September and December of each year, beginning on or before September,  
19 2007.

20 b.1. **Participation.** Respondent shall promptly enroll in and participate in  
21 the Board’s program for the treatment and rehabilitation of physicians who are impaired  
22 by alcohol or drug abuse (“MAP”). Respondent’s participation in MAP may be unilaterally  
23 terminated with or without cause at the Board’s discretion at any time after the issuance of  
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25 \_\_\_\_\_  
<sup>1</sup> Respondent shall receive credit for MAP participation pursuant to the Interim Consent Agreement of January 9, 2007.

1 this Order.

2           **2. Relapse Prevention Group.** Respondent shall attend MAP's  
3 relapse prevention group therapy sessions one time per week for the duration of this  
4 Order, unless excused by the MAP relapse prevention group facilitator for good cause  
5 such as illness or vacation. Respondent shall instruct the MAP relapse prevention group  
6 facilitators to release to Board Staff, upon request, all records relating to Respondent's  
7 treatment, and to submit monthly reports to Board Staff regarding attendance and  
8 progress. The reports shall be submitted on or before the 10th day of each month.

9           **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend  
10 ninety 12-step meetings or other self-help group meetings appropriate for substance  
11 abuse and approved by Board Staff, for a period of ninety days beginning not later than  
12 either (a) the first day following Respondent's discharge from chemical dependency  
13 treatment or (b) the date of this Order.

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

21           **5. Board-Staff Approved Primary Care Physician.** Respondent shall  
22 promptly obtain a primary care physician and shall submit the name of the physician to  
23 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")  
24 shall be in charge of providing and coordinating Respondent's medical care and  
25 treatment. Except in an *Emergency*, Respondent shall obtain medical care and treatment

1 only from the PCP and from health care providers to whom the PCP refers Respondent.  
2 Respondent shall request that the PCP document all referrals in the medical record.  
3 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and  
4 provide a copy of this Order the PCP. Respondent shall also inform all other health care  
5 providers who provide medical care or treatment that Respondent is participating in MAP.

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

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

13 a. "*Medication*" means a prescription-only drug, controlled substance,  
14 and over-the counter preparation, other than plain aspirin, plain ibuprofen,  
15 and plain acetaminophen.

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

23 **8. Medication Log.** Respondent shall maintain a current legible log of  
24 all *Medication* taken by or administered to Respondent, and shall make the log available  
25 to the Board Staff upon request. For *Medication* (other than controlled substances) taken

1 on an on-going basis, Respondent may comply with this paragraph by logging the first  
2 and last administration of the *Medication* and all changes in dosage or frequency. The  
3 log, at a minimum, shall include the following:

- 4 a. Name and dosage of *Medication* taken or administered;
- 5 b. Date taken or administered;
- 6 c. Name of prescribing or administering physician;
- 7 d. Reason *Medication* was prescribed or administered.

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

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

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

23 **11.** Respondent shall provide Board Staff in writing with one telephone  
24 number that shall be used to contact Respondent on a 24 hour per day/seven day per  
25 week basis to submit to biological fluid collection. For the purposes of this section,



1 telephonic notice shall be deemed given at the time a message to appear is left at the  
2 contact telephone number provided by Respondent. Respondent authorizes any person  
3 or organization conducting tests on the collected samples to provide testing results to the  
4 Board and the MAP Director.

5           12. Respondent shall cooperate with collection site personnel regarding  
6 biological fluid collection. Repeated complaints from collection site personnel regarding  
7 Respondent's lack of cooperation regarding collection may be grounds for termination  
8 from MAP.

9           13. **Out of State Travel and/or Unavailability at Home or Office**  
10 **Telephone Number.** Respondent shall provide Board Staff at least three business  
11 days advance written notice of any plans to be away from office or home when such  
12 absence would prohibit Respondent from responding to an order to provide a biological  
13 fluid specimen or from responding to communications from the Board. The notice shall  
14 state the reason for the intended absence from home or office, and shall provide a  
15 telephone number that may be used to contact Respondent.

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

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

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

25           17. **Obey All Laws.** Respondent shall obey all federal, state and local

1 laws, and all rules governing the practice of medicine in the State of Arizona.

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

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

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

22           **21. Notice Requirements.**

23           **(A)** Respondent shall immediately provide a copy of this Order to all  
24 employers and all hospitals and free standing surgery centers where Respondent  
25 currently has privileges. Within 30 days of the date of this Order, Respondent shall

1 provide the Board with a signed statement of compliance with this notification  
2 requirement. Upon any change in employer or upon the granting of privileges at  
3 additional hospitals and free standing surgery centers, Respondent shall provide the  
4 employer, hospital or free standing surgery center with a copy of this Order. Within 30  
5 days of a change in employer or upon the granting of privileges at additional hospitals and  
6 free standing surgery centers, Respondent shall provide the Board with a signed  
7 statement of compliance with this notification requirement.

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

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

15 23. **Out-of-State.** In the event Respondent resides or practices as a  
16 physician in a state other than Arizona, Respondent shall participate in the rehabilitation  
17 program sponsored by that state's medical licensing authority or medical society.  
18 Respondent shall cause the monitoring state's program to provide written reports to the  
19 Board regarding Respondent's attendance, participation, and monitoring. The reports  
20 shall be due quarterly on or before the 15th day of March, June, September, and  
21 December of each year, until the Board terminates this requirement in writing. The  
22 monitoring state's program and Respondent shall immediately notify the Board if  
23 Respondent: a) is non-compliant with any aspect of the monitoring requirements; b)  
24 relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug  
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1 test(s), missed and/or late urine drug tests, or otherwise rejected urine drug tests; and e)  
2 is required to undergo any additional treatment.

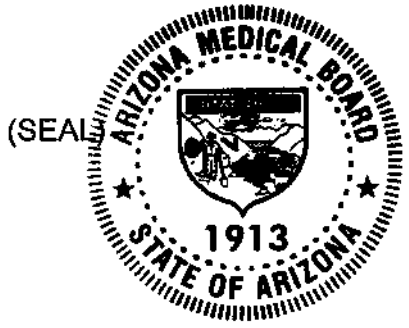
3 24. This Order supersedes all previous consent agreements and  
4 stipulations between the Board and/or the Executive Director and Respondent.

5 25. The Board retains jurisdiction and may initiate new action based upon  
6 any violation of this Order.

7 26. Respondent shall immediately obtain a treating psychotherapist  
8 approved by Board Staff and shall remain in treatment with the psychotherapist until  
9 further order of the Executive Director. Respondent shall instruct the psychotherapist to  
10 release to Board Staff, upon request, all records relating to Respondent's treatment, and  
11 to submit quarterly written reports to Board Staff regarding diagnosis, prognosis,  
12 medications, and recommendations for continuing care and treatment of Respondent. The  
13 reports shall be submitted on or before the 15th day of March, June, September and  
14 December of each year, beginning on or before September, 2007.

15 3. This Order is the final disposition of case number MD-06-0757A.

16 DATED AND EFFECTIVE this 10th day of August, 2007.



ARIZONA MEDICAL BOARD

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

22 ORIGINAL of the foregoing filed  
23 this 10th day of August 2007 with:

24 Arizona Medical Board  
25 9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed  
2 this 10<sup>th</sup> day of August, 2007 to:

3 Kraig J. Marton  
4 Jaburg & Wilk, P.C.  
5 3200 N Central Ave Ste 2000  
6 Phoenix, AZ 85012-2440

7 EXECUTED COPY of the foregoing mailed  
8 this 10<sup>th</sup> day of August, 2007 to:

9 Harry D. Goldwasser, M.D.  
10 Address of Record

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Investigational Review