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BEFORE THE BOARD OF MEDICAL EXAMINERS

IN THE STATE OF ARIZONA

In the Matter of

GERARDO C. SABAL, J.R., M.D.

Holder of License No. 11048 For the Practice of Medicine In the State of Arizona. Board Case No. MD-00-0373

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(Probation)

This matter was considered by the Arizona Board of Medical Examiners ("Board") at its public meeting on August 16, 2001. Gerardo Sabal, M.D., ("Respondent") appeared before the Board with legal counsel, Thomas Ryan, for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(I). After due consideration of the facts and law applicable to this matter, the Board voted to issue the following findings of fact, conclusions of law and order.

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. 11048 for the practice of medicine in the State of Arizona.
- 3. On January 6, 1996, a 56 year-old male ("Patient") presented to Dr. Sabal complaining of cough and congestion. Patient had been under the care of another physician, but presented to Dr. Sabal for insurance reasons.

- 4. Patient filled out an initial patient form, but left portions of the form blank.
- 5. Respondent's front-office assistant reviewed the form with Patient and entered "N/A" on portions of the form where Patient denied having a history of the particular ailment listed on the form.
- 6. Patient had a history of asthma and had been treated at Desert Samaritan Medical Center for asthma-related symptoms.
- 7. Respondent examined Patient, noted Patient had hypertension and prescribed Procardia. Patient was seen on several subsequent visits for follow-up of hypertension.
- 8. On February 21, 1997, Patient was involved in an automobile accident and was examined by an emergency room physician. Patient was given Procardia sublingually and instructed to follow-up with Respondent, his primary care physician.
- 9. On February 24, 1997, Respondent examined Patient and gave him samples of Levatol, a beta blocker that is contraindicated in patients suffering from asthma or asthmatic bronchitis.
- 10. Approximately two hours after the office visit and taking the Levatol, Patient experienced breathing problems.
- 11. Patient's family called for paramedics, who found Patient in full code and transported him to Desert Samaritan Medical Center.
- 12. Patient died thereafter. A subsequent autopsy performed by the Maricopa County Medical Examiner found that death was accidental due to asthma with an adverse drug reaction. The medication indicated in the Medical Examiner's Report was Levatol.
 - 13. Respondent made no effort to obtain Patient's prior medical records.
 - 14. Respondent did not question Patient about prior treating physicians.

- 15. Respondent incorrectly assumed that Patient had recently come to the United States from the Philippines and had not been seen by any other physician in the United States.
 - 16. Respondent did not maintain an adequate record on Patient.
 - 17. Respondent failed to inquire into Patient's medical history.
 - 18. Respondent prescribed a contraindicated medication.

CONCLUSIONS OF LAW

- 1. The Board of Medical Examiners of the State of Arizona 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.
- The conduct and circumstances above in paragraphs 9, 13, 14, and 16 through 18 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(I) "[c]onduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient;" 32-1401(25)(q) "[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public;" and 32-1401(25)(II) "[c]onduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient."

<u>ORDER</u>

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

IT IS HEREBY ORDERED that:

Respondent is placed on Probation for six months with the following terms and conditions:

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1. Respondent shall within six months of the effective date of this Order, obtain 20 hours of Board staff pre-approved Category I Continuing Medical Education (CME) to include ten hours of medical record keeping and ten hours of pharmacology and provide Board staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for biennial renewal of Respondent's medical license.

RIGHT TO PETITION FOR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with the Board's Executive Director within thirty (30) days after service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a rehearing. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing 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 is required to preserve any rights of appeal to the Superior Court.

DATED this _____ day of ______ day of _______ 2001.

BOARD OF MEDICAL EXAMINERS OF THE STATE OF ARIZONA

CLAUDIA FOUTZ
Executive Director
TOM ADAMS
Deputy Director

ORIGINAL of the foregoing filed this 12th day of 001000, 2001 with:

The Arizona Board of Medical Examiners 9545 East Doubletree Ranch Road

	Scottsdale, Arizona 65256
2	Executed copy of the foregoing
3	mailed by U.S. Certified Mail this 12 day of OCTOBET, 2001, to:
4	Thomas M. Ryan
5	Treon Strick Lucia & Aguirre PA 2700 North Central
6	Suite 1400 Phoenix, Arizona 85004-1133
7	
8	Executed copy of the foregoing mailed this 12 day of OCTOBEY, 2001, to:
9	Gerardo Sabal, M.D.
10	P.O. Box 52109 Phoenix, Arizona 85072-2109
11	Copy of the foregoing hand-delivered this
12	12 day of <u>October</u> , 2001, to:
13	Christine Cassetta Assistant Attorney General
14	Sandra Waitt, Management Analyst
15	Lynda Mottram, Compliance Officer Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
16	Arizona Board of Medical Examiners 9545 East Doubletree Ranch Road
17	Scottsdale, Arizona 85258
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