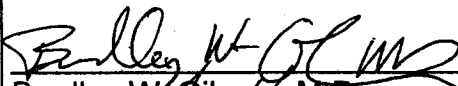


1 the Board and Respondent. Therefore, said admissions by Respondent are not intended
2 or made for any other use, such as in the context of another state or federal government
3 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
4 any other state or federal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

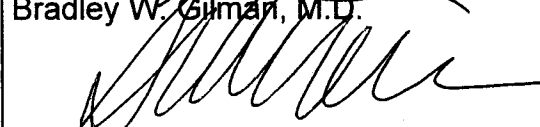
5 5. Respondent acknowledges and agrees that, although the Consent
6 Agreement has not yet been accepted by the Board and issued by the Executive Director,
7 upon signing this agreement, and returning this document (or a copy thereof) to the
8 Board's Executive Director, Respondent may not revoke his 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 _____
Bradley W. Gilman, M.D.

Reviewed and accepted this 3
day of JUNE, 2002.

20 
21 _____
22 Stephen Myers, Attorney at Law
(Counsel For Dr. Bradley W. Gilman)

Reviewed and approved as to
form this 4th day of June, 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 27695 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-01-0655 upon receiving information
7 from a Drug Enforcement Administration (DEA) officer that Respondent prescribed large
8 and questionable amounts of controlled substance medications to several patients and
9 that Respondent was receiving large amounts of controlled substance medications from
10 healthcare providers, including his employee, a physician assistant.

11 4. On May 14, 2001, Board Staff conducted a pharmacy survey that indicated
12 Respondent prescribed questionable amounts of controlled substance medications to
13 several patients, immediate family members and that he received questionable amounts of
14 controlled substances from several physicians and his employee, a physician assistant.
15 Respondent served as the physician assistant's supervising physician.

16 6. Board Staff, in a letter dated September 11, 2001, requested copies of all
17 medical records, billings and correspondence regarding the patients suspected of
18 receiving large and questionable amounts of controlled substance medications.

19 7. Subsequently, James F. Cahill, M.D., a Flagstaff psychiatrist, informed Board
20 Staff that Respondent was undergoing medical treatment for severe and recurrent major
21 depression, a pain disorder with both physiological and psychological factors and
22 consequent reliance upon narcotic analgesics. Respondent would remain in treatment for
23 at least 2-3 weeks.

24
25

1 8. Board Staff and the Board's Chief Medical Consultant interviewed
2 Respondent's physician assistant on September 24, 2001. The physician assistant
3 admitted that Respondent requested prescriptions for controlled substance medications.

4 9. On September 26, 2001, Respondent's attorney notified the Board that
5 Respondent's practice was closed.

6 10. On October 16, 2001, Payson Regional Medical Center informed Board staff
7 that as of October 15, 2001, approximately 434 of Respondent's patient charts were
8 incomplete. Respondent saw the patients from January to May 2001.

9 11. A Board Medical Consultant reviewed the medical records of the seven
10 patients (patients L.F., J.F., M.T., M.B., M.T., M.C., and B.H.) for whom Respondent was
11 suspected of having written excessive prescriptions. The Medical Consultant concluded
12 that the documentation in the records was inadequate; the documentation did not reflect
13 the prescriptions found in the pharmacy survey, and the records indicated excessive
14 prescribing to patients J.F. and B.H.

15 12. On February 25 and 28, 2002, Respondent informed Board Staff that he
16 prescribed controlled substance medications for his wife, but used the medications for self-
17 medication. Respondent also admitted to diverting controlled substance medications from
18 patients J.F. and B.H.

19 13. Respondent's prescribing controlled substance medications for immediate
20 family members, diverting controlled substance medications prescribed to family members
21 and patients, failure to maintain and complete patient records, and his prescribing of
22 questionable and large amounts of controlled substance medications to patients falls
23 below the acceptable standard of care.

24
25

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 in paragraphs 10, 11, an
5 13 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(e) (“[f]ailing or
6 refusing to maintain adequate records on a patient.”)

7 3. The conduct and circumstances described above in paragraphs 4, 12, and
8 13 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(h) (“[p]rescribing or
9 dispensing controlled substances to members of the physician’s immediate family.”).

10 4. The conduct and circumstances described above in paragraphs 4,10, 11, 13
11 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(q) (“[a]ny conduct or
12 practice that is or might be harmful or dangerous to the health of the patient or the
13 public.”).

14 5. The conduct and circumstances described above in paragraphs 12 and 13
15 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(j) (“[prescribing,
16 dispensing, or administering any controlled substances or prescription-only drug for other
17 than accepted therapeutic purposes.”).

18 **ORDER**

19 **IT IS HEREBY ORDERED THAT:**

20 1. Respondent’s license is suspended for a period of 12 months. However, the
21 suspension is stayed and Respondent is placed on probation for 5 years with the following
22 terms and conditions. Upon any violation of a probationary term, after giving notice and
23 the opportunity to be heard, the Board shall suspend Respondent’s license for the period
24 stated above. If an investigation involving an alleged violation of the probation is initiated
25 but not resolved prior to the termination of the probation, the Board shall have continuing

1 jurisdiction and the period of probation shall extend until the matter is final.

2 **Terms and Conditions of Probation:**

3 **1. Quarterly Declarations**

4 Respondent shall submit quarterly declarations under penalty of perjury that
5 there has been compliance with all conditions of probation. The declarations shall be
6 submitted on or before 15th March, June, September and December of each year.

7 **2.** Respondent shall not prescribe, administer, dispense, or possess Schedule
8 II and III controlled substances. After two years from the effective date of this Order,
9 Respondent may apply to the Board for its affirmative written permission to prescribe,
10 administer, dispense, and possess Schedule II and III controlled substances.

11 **3. Participation in Substance Abuse Treatment and Rehabilitation Program**

12 (a) Respondent shall, within **fourteen** days from the date of this Order,
13 enter a Board Staff approved treatment center for chemical dependency and successfully
14 complete the treatment center's program. Respondent is responsible for all expenses
15 relating to the evaluation and/or treatment. Respondent shall sign a consent to release all
16 confidential evaluation and/or treatment records to the Board.

17 (b) At the completion of treatment, Respondent shall promptly enroll in
18 and participate in the Board's confidential substance abuse treatment and rehabilitation
19 program (MAP). As part of the participation in MAP, the Respondent shall cooperate with
20 Board Staff and contracting MAP supervisors. Respondent shall remain in MAP for a
21 period of five years from the effective date of the Order. Respondent's participation in
22 MAP may be unilaterally terminated at the discretion of the Board at any time after
23 issuance of this Order, with or without cause for termination.

24 (c) **DEFINITIONS:**

25 **"Medication"** means "prescription-only drug, controlled substance, and over-the-

1 counter preparation, other than plain aspirin and plain acetaminophen."

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

4 **A. Group Therapy**

5 Respondent shall attend the MAP's group therapy sessions one time per week for
6 the duration of this Order, unless excused by the group therapist for good cause such as
7 illness or vacation. Respondent shall instruct the MAP group therapist to release to the
8 Board, upon its request, all records relating to Respondent's treatment, and to submit
9 monthly reports to the Board regarding attendance and progress. The reports must be
10 submitted on or before the 10th day of each month.

11 **B. 12 Step or Self-Help Group Meetings**

12 (1) Respondent shall attend ninety (90) 12-step meetings or other self-help
13 group meetings appropriate for substance abuse and approved by the Board, for a period
14 of ninety (90) days beginning not later than either (a) the first day following his discharge
15 from chemical dependency treatment or (b) the effective date of this Order.

16 (2) Following completion of the ninety (90) meetings in ninety (90) days,
17 Respondent shall participate in a 12-step recovery program or other self-help program
18 appropriate for substance abuse as recommended by the group therapist and approved by
19 the Board. Respondent shall attend a minimum of three (3) 12-step or other self-help
20 program meetings per week.
21

22 **C. Board-Approved Primary Care Physician**

23 Respondent shall promptly obtain a primary care physician (PCP) and shall submit
24 the name of the PCP to Board Staff in writing for approval. The Board-approved PCP shall
25 be in charge of providing and coordinating Respondent's medical care and treatment.

1 Except in an *Emergency*, Respondent shall obtain Respondent's medical care and
2 treatment only from the PCP and from health care providers to whom the PCP refers
3 Respondent from time to time. Respondent shall request that the PCP document all
4 referrals in the medical record. Respondent shall promptly inform the Board-approved
5 PCP of Respondent's rehabilitation efforts and provide a copy of this Order to the PCP.
6 Respondent shall also inform all other health care providers who provide medical care or
7 treatment that Respondent is participating in MAP.

8 **D. Medication**

9 (1) Except in an *Emergency*, Respondent shall take no *Medication* unless the
10 *Medication* is prescribed by the PCP or other health care provider to whom the PCP
11 physician makes referral. Respondent shall not self-prescribe any *Medication*.

12 (2) If a controlled substance is prescribed, dispensed, or is administered to
13 Respondent by any person other than the PCP, Respondent shall notify the PCP in writing
14 within 48 hours. The notification shall contain all information required for the medication
15 log entry specified below. Respondent shall request that the notification be made a part of
16 the medical record. This paragraph does not authorize Respondent to take any
17 *Medication* other than in accordance with paragraph 1.

18 **E. Medication Log**

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

- 25 a. Name and dosage of *Medication* taken or administered;

- b. Date taken or administered;
- c. Name of prescribing or administering physician;
- d. Reason *Medication* was prescribed or administered.

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

F. No Alcohol or Poppy Seeds

Respondent shall not consume alcohol or any food/substance containing poppy seeds or alcohol.

G. Biological Fluid Collection

(1) During all times that Respondent is physically present in the state of Arizona and such other times as Board Staff may direct, Respondent shall promptly comply with requests from Board Staff, the group therapist, or the Program director to submit to witnessed biological fluid collection. If Respondent is directed to contact an automated telephone message system to determine when to provide a specimen, Respondent shall do so within the hours specified by Board Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly comply" means "immediately". In the case of a telephonic request, "promptly comply" means that, except for good cause shown, Respondent shall appear and submit to specimen collection not later than two hours after telephonic notice to appear is given. The Board in its sole discretion shall determine good cause.

(2) Respondent shall provide Board Staff in writing with one telephone number, which shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid collection. For the purposes of this section, telephonic notice shall be deemed given at the time a message to appear is left at the contact telephone number provided by Respondent. Respondent authorizes any person or

1 organization conducting tests on the collected samples to provide testing results to the
2 Board and the MAP director.

3 (3) Respondent shall cooperate with collection site personnel regarding
4 biological fluid collection. Repeated complaints from collection site personnel regarding
5 Respondent's lack of cooperation regarding collection may be grounds for termination from
6 MAP.

7 **H. Payment for Services**

8 Respondent shall pay for all costs, including personnel and contractor costs,
9 associated with participating in MAP at time service is rendered or within 30 days of each
10 invoice sent to him.

11 **I. Examination**

12 Respondent shall submit to mental, physical, and medical competency
13 examinations at such times and under such conditions as directed by the Board to assist
14 the Board in monitoring Respondent's ability to safely engage in the practice of medicine
15 and compliance with the terms of this Order.

16 **J. Treatment**

17 Respondent shall submit to all medical, substance abuse, and mental health care
18 and treatment ordered by the Board, or recommended by the MAP director.

19 **K. Obey All Laws**

20 Respondent shall obey all federal, state and local laws, and all rules governing the
21 practice of medicine in the State of Arizona.

22 **L. Interviews**

23 Respondent shall appear in person before the Board and its Staff and committees
24 for interviews upon request, upon reasonable notice.
25

1 **M. Address and Phone Changes, Notice**

2 Respondent shall immediately notify the Board in writing of any change in office or
3 home addresses and telephone numbers. Respondent shall provide Board Staff at least
4 three business days advance written notice of any plans to be away from office or home
5 for more than five (5) consecutive days. The notice shall state the reason for the intended
6 absence from home or office, and shall provide a telephone number to contact
7 Respondent.

8 **N. Relapse, Violation**

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

22 **O. Notice Requirements**

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

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

8 (2) Respondent is further required to notify, in writing, all employers, hospitals
9 and free standing surgery centers at which Respondent currently has, or in the future
10 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. Respondent shall
12 provide the Board with written confirmation that he has complied with this notification
13 requirement within seven days of any of these events.

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

22 **P. Public Record**

23 This order is a public record.

24 **Q. Out-of State**

25 In the event Respondent resides or practices medicine in a state other than

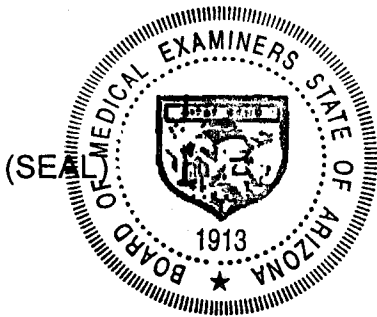
1 Arizona, Respondent shall participate in the physician rehabilitation program sponsored by
2 that state's medical licensing authority or medical society. Respondent shall cause the
3 other state's program to provide written reports to the Board regarding his attendance,
4 participation, and monitoring. The reports are due on or before the 15th day of March and
5 September of each year, until the Board terminates this requirement in writing.

6 **R. Obtain Treating Psychiatrist/Therapist**

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

14 4. This Order is final disposition of case number MD-01-0655.

15 DATED and effective this 10th day of July, 2002.



22 BOARD OF MEDICAL EXAMINERS
23 OF THE STATE OF ARIZONA

24 By Barry Cassidy
25 BARRY CASSIDY, Ph.D., P.A.-C,
Executive Director

26 ORIGINAL of the foregoing filed this
27 10th day of July, 2002 with:

28 The Arizona Board of Medical Examiners
29 9545 E. Doubletree Ranch Road
30 Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed by Certified
2 Mail this 10th day of June, 2002 to:

3 Stephen W. Myers, Esq.
4 3003 North Central Avenue, Ste. 1900
5 Phoenix, AZ 85012

6 EXECUTED COPY of the foregoing mailed
7 this 10th day of June, 2002, to:

8 Bradley W. Gilman, M.D.
9 P.O. Box 191001
10 Boise, ID 83719-1001

11 EXECUTED COPY of the foregoing
12 hand-delivered to each of the following
13 this 10th day of June, 2002, to :

14 Christine Cassetta, Assistant Attorney General
15 Management Analyst
16 Compliance Officer
17 Investigations (Investigation File)
18 Arizona Board of Medical Examiners
19 9545 E. Doubletree Ranch Road
20 Scottsdale, AZ 85258

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