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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**MARK A. VAN ANTWERP, M.D.**  
Holder of License No. 29378  
For the Practice of Allopathic Medicine  
In the State of Arizona

Case No. MD-02-0621

**CONSENT AGREEMENT  
FOR A DECREE OF CENSURE  
AND PROBATION**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Mark A. Van Antwerp, M.D. ("Respondent") the parties agree to the following disposition of this matter.

1. Respondent acknowledges that he has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order. Respondent acknowledges that he understands he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement for the issuance of the foregoing Order, he 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 and the Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

3. Respondent acknowledges and understands that this Consent Agreement and the Order will not become effective until approved by the Board and signed by its Executive Director.

4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation

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

5 5. Respondent acknowledges and agrees that, although said Consent  
6 Agreement and Order has not yet been accepted by the Board and issued by the  
7 Executive Director, Respondent may not make any modifications to the document.  
8 Upon signing this agreement, and returning this document (or a copy thereof) to the  
9 Board's Executive Director, Respondent may not revoke acceptance of the Consent  
10 Agreement and Order. Any modifications to this Consent Agreement and Order are  
11 ineffective and void unless mutually 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  
14 publicly disseminated as a formal action of the Board, and will be reported to the  
15 National Practitioner's Data Bank and will be reported to the Arizona Medical Board's  
16 website.

17 7. If any part of the Consent Agreement and Order is later declared void or  
18 otherwise unenforceable, the remainder of the Order in its entirety shall remain in force  
19 and effect.

21 Mark A. Van Antwerp M.D.  
22 Mark A. Van Antwerp, M.D.

Dated: 20 Jan 03

23 [Signature]  
24 Stephen W. Myers, Esq.

Dated: \_\_\_\_\_

25 Approved as to Form

**FINDINGS OF FACT**

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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. 29378 for the practice of allopathic medicine in the State of Arizona.

3. On August 22, 2002, Respondent was arrested in San Luis, Arizona for suspected driving while intoxicated. Respondent admitted to border patrol personnel that he had been drinking alcohol.

4. On August 22, 2002, Yuma Regional Medical Center notified Board staff that Respondent had been charged with driving under the influence of alcohol.

5. August 23, 2002, Respondent telephoned Board staff and informed Board staff that he had received a citation for driving under the influence and that he believed he might have a problem with alcohol.

6. After speaking with Respondent on August 23, 2002, the Board's addiction medicine specialist determined that Respondent did have a problem with alcohol and recommended that Respondent immediately enter inpatient treatment. Respondent complied with the recommendation.

7. Respondent was interviewed by Board staff on September 26, 2002. During that interview, Respondent admitted that he had been intoxicated while on call to provide anesthesia service and had administered anesthesia after consuming alcohol.

8. Respondent failed to meet the accepted standard of care in that he failed to use alcohol in a responsible manner.

9. Respondent failed to meet the accepted standard of care in that he was intoxicated while on call and administered anesthesia after consuming alcohol.

CONCLUSIONS OF LAW

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

4 2. The standard of care required Respondent to use alcohol in a responsible  
5 manner.

6 3. The standard of care required Respondent to not be intoxicated while on  
7 call and to not administer anesthesia after consuming alcohol.

8 4. The conduct and circumstances described above constitute  
9 unprofessional conduct pursuant to A.R.S. § 32-1401(24)(f), "[h]abitual intemperance in  
10 the use of alcohol or habitual substance abuse."

11 ORDER

12 IT IS HEREBY ORDERED THAT:

13 1. Respondent is hereby issued a Decree of Censure for failure to voluntarily  
14 report and for being intoxicated while on call and administering anesthesia after  
15 consuming alcohol; and

16 2. Respondent is placed on probation for five years with the following terms  
17 and conditions:

18 a. Respondent shall submit quarterly declarations under penalty of perjury on  
19 forms provided by the Board, stating whether there has been compliance with all the  
20 conditions of probation. The declarations must be submitted on or before the 15th of  
21 March, June, September and December of each year, beginning on or before March 15,  
22 2003.

23 b. Respondent shall pay the costs associated with monitoring his probation as  
24 designated by the Board each and every year of probation. Such costs may be adjusted  
25 on an annual basis. Costs are payable to the Board no later than 60 days after the

1 effective date of this Order and thereafter on an annual basis. Failure to pay these costs  
2 within 30 days of the due date constitutes a violation of probation.

3 c.1. Participation. Respondent shall promptly enroll in and participate in the  
4 Monitored Aftercare Program ("MAP") for the treatment and rehabilitation of physicians  
5 who are impaired by alcohol or drug abuse. Respondent shall remain in MAP for five  
6 years from the effective date of this Order. Respondent's participation in MAP may be  
7 unilaterally terminated with or without cause at the Board's discretion at any time after the  
8 issuance of this Order.

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

15 3. 12 Step or Self-Help Group Meetings. Respondent shall attend ninety  
16 12-step meetings or other self-help group meetings appropriate for substance abuse and  
17 approved by the Board, for a period of ninety days beginning not later than either (a) the  
18 first day following his discharge from chemical dependency treatment or (b) the date of  
19 this Order.

20 4. Following completion of the ninety meetings in ninety days, Respondent  
21 shall participate in a 12-step recovery program or other self-help program appropriate for  
22 substance abuse as recommended by the MAP group therapist and approved by the  
23 Board. Respondent shall attend a minimum of three 12-step or other self-help program  
24 meetings per week.

25 ...

1           5.    Board-Approved Primary Care Physician. Respondent shall promptly  
 2 obtain a primary care physician and shall submit the name of the physician to Board Staff  
 3 in writing for approval. The Board-approved primary care physician ("PCP") shall be in  
 4 charge of providing and coordinating Respondent's medical care and treatment. Except  
 5 in an *Emergency*, Respondent shall obtain his medical care and treatment only from the  
 6 PCP and from health care providers to whom the PCP refers Respondent from time to  
 7 time. Respondent shall request that the PCP document all referrals in the medical  
 8 record. Respondent shall promptly inform the PCP of his rehabilitation efforts and  
 9 provide a copy of this Order to that physician. Respondent shall also inform all other  
 10 health care providers who provide medical care or treatment that he is participating in the  
 11 Board's rehabilitation program.

12           6.    Medication. Except in an *Emergency*, Respondent shall take no  
 13 *Medication* unless the *Medication* is prescribed by his PCP or other health care provider  
 14 to whom the PCP makes a referral. Respondent shall not self-prescribe any *Medication*.

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

21           8.    Medication Log. Respondent shall maintain a current legible log of all  
 22 *Medication* taken by or administered to him, and shall make the log available to the Board  
 23 and its Staff upon request. For *Medication* (other than controlled substances) taken on  
 24 an on-going basis, Respondent may comply with this paragraph by logging the first and  
 25 ...

1 last administration of the *Medication* and all changes in dosage or frequency. The log, at  
2 a minimum, shall include the following:

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

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

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

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

22 11. Respondent shall provide Board Staff in writing with one telephone number  
23 that shall be used to contact him on a 24 hour per day/seven day per week basis to  
24 submit to biological fluid collection. For the purposes of this section, telephonic notice  
25 shall be deemed given at the time a message to appear is left at the contact telephone

1 number provided by Respondent. Respondent authorizes any person or organization  
2 conducting tests on the collected samples to provide testing results to the Board and the  
3 MAP director.

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

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

11 14. Examination. Respondent shall submit to mental, physical, and medical  
12 competency examinations at such times and under such conditions as directed by the  
13 Board to assist the Board in monitoring his ability to safely perform as a physician and his  
14 compliance with the terms of this Order.

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

18 16. Obey All Laws. Respondent shall obey all federal, state and local laws,  
19 and all rules governing the practice of medicine in the State of Arizona.

20 17. Interviews. Respondent shall appear in person before the Board and its  
21 Staff and committees for interviews upon request, upon reasonable notice.

22 18. Address and Phone Changes, Notice. Respondent shall immediately  
23 notify the Board in writing of any change in office or home addresses and telephone  
24 numbers. Respondent shall provide Board Staff at least three business days advance  
25 written notice of any plans to be away from office or home for more than five consecutive



1 days. The notice shall state the reason for the intended absence from home or office,  
2 and shall provide a telephone number that may be used to contact Respondent.

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

17 20. Notice Requirements.

18 (A) Respondent shall immediately provide a copy of this Order to all  
19 employers and all hospitals and free standing surgery centers at which he currently has  
20 privileges. Within 30 days of the date of this Order, Respondent shall provide the Board  
21 with a signed statement that he has complied with this notification requirement. Upon  
22 any change in employer or upon the granting of privileges at additional hospitals and free  
23 standing surgery centers, Respondent shall provide the employer, hospital or free  
24 standing surgery center with a copy of this Order. Within 30 days of a change in  
25 employer or upon the granting of privileges at additional hospitals and free standing

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1 surgery centers, Respondent shall provide the Board with a signed statement that he has  
2 complied with this notification requirement.

3 (B) Respondent is further required to notify, in writing, all employers,  
4 hospitals and free standing surgery centers at which Respondent currently has or in the  
5 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
6 alcohol in violation of this Order and/or entry into a treatment program. Within seven  
7 days of any of these events Respondent shall provide the Board written confirmation that  
8 he has complied with this notification requirement.

9 (C) Respondent shall immediately submit to the Board under penalty of  
10 perjury, on a form provided by the Board, the name(s) and address(es) of all employers  
11 and all hospitals and free standing surgery centers at which he currently holds privileges  
12 to practice. Respondent is further required to, under penalty of perjury, on a form  
13 provided by the Board, immediately notify the Board of any changes in employment and  
14 of any hospitals and free standing surgery centers at which he gains privileges after the  
15 effective date of this Order.

16 21. Public Record. This Order is a public record.

17 22. Out-of State. In the event Respondent resides or practices as a physician  
18 in a state other than Arizona, he shall participate in the rehabilitation program sponsored  
19 by that state's medical licensing authority or medical society. Respondent shall cause  
20 the other state's program to provide written reports to the Board regarding his  
21 attendance, participation, and monitoring. The reports shall be due on or before the 15th  
22 day of March and September of each year, until the Board terminates this requirement in  
23 writing.

24 23. This Order supersedes all previous consent agreements and stipulations  
25 between the Board and Respondent.

1 24. The Board retains jurisdiction and may initiate new action based upon any  
2 violation of this Order.

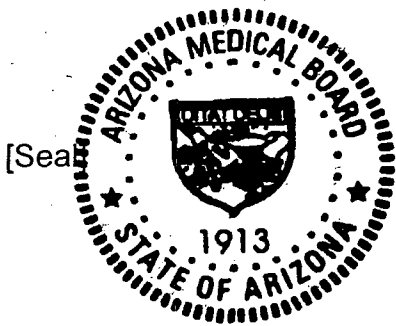
3 II. DEFINITIONS

4 "Medication" means "prescription-only drug, controlled substance, and over-the  
5 counter preparation, other than plain aspirin and plain acetaminophen."

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

8 This Order is the final disposition of case number MD-02-0621

9 DATED AND EFFECTIVE this 12<sup>th</sup> day of February, 2003.



ARIZONA MEDICAL BOARD

13 By: Barry Cassidy  
14 BARRY CASSIDY, Ph.D., PA-C  
15 Executive Director

16  
17 ORIGINAL of the foregoing filed  
18 this 13<sup>th</sup> day of FEBRUARY, 2003, with:

19 Arizona Medical Board  
20 9545 E. Doubletree Ranch Road  
21 Scottsdale AZ 85258

22 EXECUTED COPY of the foregoing mailed  
23 this 13<sup>th</sup> day of FEBRUARY, 2003, to:

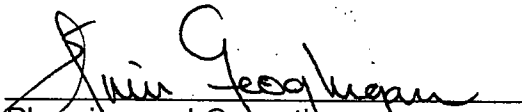
24 Mark A. Van Antwerp, M.D.  
25 281 W. 24th Street, Suite 146  
Yuma, AZ 85364-8587

1 EXECUTED COPY of the foregoing mailed by  
2 Certified Mail this ~~15<sup>th</sup>~~ day of ~~FEBRUARY~~, 2003, to:

3 Stephen W. Myers, Esq.  
4 Myers & Jenkins PC  
5 3003 N Central Ave Suite 1900  
6 Phoenix, AZ 85012-2910

6 EXECUTED COPY of the foregoing hand-delivered  
7 this ~~15<sup>th</sup>~~ day of ~~FEBRUARY~~, 2003, to:

8 Christine Cassetta, Assistant Attorney General  
9 Sandra Waitt, Management Analyst  
10 Compliance  
11 Arizona Medical Board  
12 9545 E. Doubletree Ranch Road  
13 Scottsdale, AZ 85258

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16 Planning and Operations  
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