BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **RICHARD A. HOVERSTEN, M.D.** Holder of License No. **29872** For the Practice of Medicine In the State of Arizona.	**CASE NO. MD-02-0674** **INTERIM FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR SUMMARY SUSPENSION OF LICENSE**

INTRODUCTION

The above-captioned matter came on for discussion at a meeting of the Arizona Medical Board ("Board") on January 24, 2003. The Board considered summary suspension and following the review of information obtained, pursuant to A.R.S. § 32-1451 and having considered the information in the matter and being fully advised, the Board enters the following Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension of License, pending formal hearings or other Board action.

INTERIM 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. Richard A. Hoversten, M.D. ("Respondent") is the holder of License No. 29872 for the practice of medicine in the State of Arizona.

3. When Respondent initially applied for licensure in 2001 he met the basic qualifications for licensure, but his past history indicated he had a history of substance abuse and alcoholism and the Board determined that he did not have the physical and mental capability to safely engage in the practice of medicine. A.R.S. § 32-1422(A)(3).

Accordingly, in November 2001 the Board issued a probationary license requiring Respondent to participate in the Board's Monitored Aftercare Program ("MAP").

4. On January 31, 2002 Respondent's urine specimen tested positive for Tramadol, which was not listed as a medication taken in the past 14 days when Respondent completed the test request form and chain of custody. The Board sent Respondent a certified letter requiring that he contact the MAP Medical Director ("Medical Director"). The Medical Director informed Respondent that he was not to take Tramadol.

5. On February 15, 2002 Respondent wrote to the Board that his primary care physician had prescribed the Tramadol. On March 31, 2002 the Board received a letter from Respondent's primary care physician stating that he had informed Respondent to stop taking the Tramadol because of the possibility of addiction. On March 27, 2002 Respondent missed his appointment to give a urine specimen. Respondent told Board Staff that he had forgotten to make the phone call that would have told him he was to give a specimen.

6. On June 22, 2002 Respondent's urine specimen tested positive for Tramadol. Again, the Tramadol was not listed as a medication taken in the past 14 days when Respondent completed the test request form and chain of custody. On June 28, 2002 the Medical Director met with Respondent and discussed his non-compliance with the terms of his probationary license. The Medical Director recommended that Respondent undergo certain evaluations, meet with the MAP Diversion Committee ("Committee") at its September 2002 meeting, attend 90 self-help or other assistance meetings in 90 days, and write out a new Step One.

7. On September 12, 2002 Respondent met with the Medical Director regarding the June 28 recommendations. The Medical Director determined that Respondent had made progress and should attend the next Committee meeting.

8. On September 19, 2002 Respondent's urine screen tested positive for hydrocodone. On September 26, 2002 Respondent appeared at a MAP Diversion Committee meeting to discuss his compliance with the terms of his probationary license. The Committee raised concerns over Respondent's use of hydrocodone. Respondent denied taking the hydrocodone.

9. The Medical Director discussed Respondent's positive urine drug screen with Southwest Laboratories and was informed that the positive test for hydrocodone was probably the result of excessive use of codeine, which had been prescribed to Respondent following shoulder surgery. The Medical Director requested that Respondent undergo an inpatient evaluation at Sierra Tucson. Respondent did so and remained for 30 days. Respondent was thereafter admitted to the Betty Ford Center for long-term inpatient chemical dependency treatment.

10. On October 23, 2002 Respondent phoned Board Staff and stated that he had relapsed and admitted himself to Sierra Tucson. Respondent asked what would happen to his license. Respondent was informed that the terms of his probationary license required he surrender his license and if he did not do so, the Board would summarily suspend his license.

11. On November 18, 2002 Respondent was sent a Consent Agreement for Surrender of License ("Agreement"). The Agreement was sent to Respondent at the Betty Ford Center.

12. Respondent refused to sign the Consent Agreement. On January 14, 2003 Board Staff was informed that Respondent was remaining at Betty Ford.

13. Respondent's Consent Agreement for Probationary License provided that in the event Respondent relapsed, Respondent's license would be summarily suspended, or, Respondent could voluntarily request to Surrender his license.

14. Respondent's conduct as outlined above constitutes relapse in violation of the Consent Agreement for Probationary License.

15. Based upon the foregoing, the Board finds that it has been presented with sufficient substantial and reliable information concerning Respondent's professional conduct to conclude that, pending formal administrative hearing, the public health, safety and welfare imperatively requires emergency action by the Board against Respondent's license to practice medicine in the State of Arizona.

INTERIM CONCLUSIONS OF LAW

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

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(24)(r) ("[v]iolating a formal order, probation, consent agreement . . . entered into by the board . . . .")

3. Pursuant to A.R.S. § 32-1451(D), and based on the foregoing Interim Findings of Fact and Conclusions of Law, the public health, safety or welfare imperatively requires emergency action.

ORDER

Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth above,

IT IS HEREBY ORDERED THAT:

1. Respondent's license to practice allopathic medicine in the State of Arizona, License No. 29872, is summarily suspended as of January 24, 2003, pending a formal hearing before a hearing officer from the Office of Administrative Hearings.

2. The Interim Findings of Fact and Conclusions of Law constitute written notice to Respondent of the charges of unprofessional conduct made by the Board against him.

Respondent is entitled to a formal hearing to defend these charges as expeditiously as possible from the effective date of this order.

3. The Board's Executive Director is instructed to refer this matter to the Office of Administrative Hearings for scheduling of an administrative hearing to be commenced as soon as possible from the date of the issuance of this order, unless stipulated and agreed otherwise by Respondent.

DATED this 29th day of January, 2003.

ARIZONA MEDICAL BOARD

(SEAL)

By: Barry A. Cassidy
BARRY A. CASSIDY, Ph.D., PA-C
Executive Director

ORIGINAL of the foregoing filed this 29th day of January, 2003, with:

The Arizona Medical Board
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Executed copy of the foregoing mailed by Certified Mail this 29th day of January, 2003, to:

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Executed copy of the foregoing mailed by U.S. Mail this 29th day of January, 2003, to:

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Executed copy of the foregoing delivered via interoffice mail this 29th day of January, 2003, to:

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