

1 BEFORE THE BOARD OF MEDICAL EXAMINERS
2 IN THE STATE OF ARIZONA

3
4 In the Matter of

DALTON MCCLELLAND, M.D.

5 Holder of License No. 7586
6 For the Practice of Medicine
7 In the State of Arizona.

Case No. MD-96-0603

**CONSENT AGREEMENT FOR
PROBATION**

8 By mutual agreement and understanding, between the Arizona Board of
9 Medical Examiners ("Board") and Dalton McClelland, M.D. ("Respondent"), the parties
10 agreed to the following disposition of this matter at the Board's public meeting on August
11 17, 2001.

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

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

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

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

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 Dalton F. McClelland, M.D.
20 Dalton McClelland, M.D.

Dated: 9/24/01

21 Reviewed and approved as to form by:

22 
23 Craig Blakey, Attorney at Law
24 (Counsel for Dalton McClelland, M.D.)
25

Dated: 9-21-01

FINDINGS OF FACT

1
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 7586 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-96-0603 upon receiving notification that
7 Respondent was over prescribing Schedule II and III narcotics to patients for reasons
8 other than therapeutic purposes.

9 4. From August 2, 1996 to August 8, 1996, Board staff conducted a pharmacy
10 survey of twenty-two pharmacies within the Tucson area. The pharmacy survey revealed
11 that from January 1, 1996 until July 31, 1996, Respondent prescribed 192 Schedule II and
12 III narcotics. The pharmacy survey also revealed that Respondent prescribed eleven
13 quarts of Hycodan syrup to patient S.K. during the same time period. Board staff also
14 reviewed the records of eight other patients.

15 5. David Drachler, M.D., Board Medical Consultant, reviewed the eight patient
16 records and concluded that some of the records contained poor documentation; over
17 prescribed controlled substances; contained illegible handwriting, did not contain drug
18 agreements; and failed to contain problem lists or lists of drugs used in treating the
19 patients.

20 6. On March 15, 1997, the Board reviewed this matter. The Board voted to
21 continue the investigation and ordered Board staff to review twenty additional patient
22 charts.

23 7. After reviewing 20 to 25 charts, William Dunn, M.D., Board Medical
24 Consultant, found seven charts to be questionable and concluded that in some of the
25 charts there was poor documentation, over prescribing or prescribing controlled

1 substances for reasons other than accepted therapeutic purposes, no organization of
2 patient charts, no list of patient problems and no referrals to proper consultants.

3 8. On September 20, 1999, Roderic Huber, M.D. ("Dr. Huber"), Board Medical
4 Consultant, reviewed patient S.K. chart and noted that Respondent fell below the standard
5 of care. Dr. Huber concluded Respondent over prescribed Hycodan cough syrup.

6 9. On February 27, 2001, Dr. Huber reviewed 21 additional patient charts, three
7 of which indicated that Respondent's notes were of poor quality, making it difficult to
8 determine the appropriateness of his prescribing. Dr. Huber noted that three of the charts
9 suggested over prescribing of controlled substances.

10 CONCLUSIONS OF LAW

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

13 2. The conduct and circumstances described above in paragraphs 3 to 9
14 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(e)("[f]ailing or refusing
15 to maintain adequate records on a patient").

16 3. The conduct and circumstances described above in paragraphs 3 to 9
17 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(j)("[p]rescribing,
18 dispensing or administering any controlled substance or prescription-only drug for other
19 than accepted therapeutic purposes").

20 ORDER

21 IT IS HEREBY ORDERED THAT:

22 1. Respondent is placed on probation for one year with the following terms:

23 (A) Respondent shall within one year of the effective date of this Order, obtain
24 20 hours of Board Staff pre-approved Continuing Medical Education (CME) in office
25 management/charting and provide Board staff with satisfactory proof of attendance. The

1 CME hours shall be in addition to the hours required for biennial renewal of medical
2 license.

3 (B) Respondent shall within one year of the effective date of this Order, obtain
4 40 hours of Board Staff pre-approved CME in pain management and provide Board staff
5 with satisfactory proof of attendance. The CME hours shall be in addition to the hours
6 required for biennial renewal of medical license.

7 3. The Board retains jurisdiction and may initiate a new action based upon any
8 violation of this Order.

9 4. This Order is the final disposition of case number MD-96-0603.

10 DATED and effective this 12th day of October, 2001.

11 BOARD OF MEDICAL EXAMINERS
12 OF THE STATE OF ARIZONA

13 (SEAL)

14 By Claudia Foutz
15 CLAUDIA FOUTZ
16 Executive Director
17 TOM ADAMS
18 Deputy Director

18 ORIGINAL of the foregoing filed this
19 12 day of October, 2001 with:

20 The Arizona Board of Medical Examiners
21 9545 East Doubletree Ranch Road
22 Scottsdale, AZ 85258

22 EXECUTED COPY of the foregoing mailed
23 this 12 day of October, 2001 to:

24 Dalton F. McClelland, M.D.
25 839 W. Congress St.
Tucson, AZ 85745

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EXECUTED COPY of the foregoing mailed by
Certified Mail this 12 day of October 2001 to:

Craig Blakey, Esq.
Olson, Jantsch, Bakker, Blakey, PA
7243 N. 16th St.
Phoenix, AZ 85020-5203

EXECUTED COPY of the foregoing
hand-delivered to each of the following
this 12 day of October, 2001, to :

Christine Cassetta, Assistant Attorney General
Sandra Waitt, Management Analyst
Lynda Mottram, Compliance Officer
Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

