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7
8 **BEFORE THE ARIZONA MEDICAL BOARD**

9 In the Matter of:

CASE NO. 02F-14411-MDX

10 **ALLEN L. BROWNE, M.D.**

**CONSENT AGREEMENT AND
ORDER FOR SURRENDER OF
LICENSE**

11 Holder of License No. 14411
For the Practice of Medicine
In the State of Arizona.

12 Respondent.
13

14 **CONSENT AGREEMENT**

15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and responsibilities of the Arizona Medical Board
18 ("Board"), and under A.R.S. §§ 32-1401 *et seq.*, and 41-1092.07(F)(5), Allen L. Browne,
19 M.D., holder of license number 14411 to practice allopathic medicine in the State of Arizona
20 ("Respondent"), and the Board enter into the following Recitals, Findings of Fact,
21 Conclusions of Law and Order ("Consent Agreement") as the final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement as set forth
23 herein, and has had the opportunity to discuss this Consent Agreement with an attorney or
24 has waived the opportunity to discuss this Consent Agreement with an attorney. Respondent
25 voluntarily enters into this Consent Agreement for the purpose of avoiding the expense and
26 uncertainty of an administrative hearing.

1 uncertainty of an administrative hearing.

2 2. Respondent understands that he has a right to a public administrative hearing
3 concerning each allegation set forth in the above-captioned matter, at which administrative
4 hearing he could present evidence and cross-examine witnesses. By entering into this
5 Consent Agreement, Respondent freely and voluntarily relinquishes all rights to such an
6 administrative hearing, as well as all rights of rehearing, review, reconsideration, appeal,
7 judicial review or any other administrative and/or judicial action, concerning the matters set
8 forth herein.

9 3. Respondent agrees that the Board may adopt this Consent Agreement or any
10 part of this agreement, under A.R.S. § 32-1451(F). Respondent understands that this
11 Consent Agreement or any part of the agreement may be considered in any future
12 disciplinary action against him.

13 4. Respondent understands this Consent Agreement deals with Board
14 Investigation Case No. MD-01-0862 involving allegations of unprofessional conduct against
15 Respondent. The investigation into these allegations against Respondent shall be concluded
16 upon the Board's adoption of this Consent Agreement.

17 5. Respondent understands that this Consent Agreement does not constitute a
18 dismissal or resolution of other matters currently pending before the Board, if any, and does
19 not constitute any waiver, express or implied, of the Board's statutory authority or
20 jurisdiction regarding any other pending or future investigation, action or proceeding.
21 Respondent also understands that acceptance of this Consent Agreement does not preclude
22 any other agency, subdivision or officer of this state from instituting any other civil or
23 criminal proceedings with respect to the conduct that is the subject of this Consent
24 Agreement.

25 6. All admissions made by Respondent in this Consent Agreement are made
26 solely for the final disposition of this matter, and any related administrative proceedings or

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

5 7. Respondent acknowledges and agrees that, upon signing this Consent
6 Agreement and returning this document to the Board's Executive Director, Respondent may
7 not revoke his acceptance of the Consent Agreement or make any modifications to the
8 document, regardless of whether the Consent Agreement has been issued by the Executive
9 Director. Any modification to this original document is ineffective and void unless mutually
10 approved by the parties in writing.

11 8. Respondent understands that this Consent Agreement shall not become
12 effective unless and until adopted by the Board and signed by its Executive Director or
13 designee.

14 9. Respondent understands and agrees that if the Board does not adopt this
15 Consent Agreement, he will not assert as a defense that the Board's consideration of this
16 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defense.

17 10. Respondent understands that this Consent Agreement is a public record that
18 may be publicly disseminated as a formal action of the Board, and shall be reported as
19 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
20 Protection Data Bank.

21 11. Respondent understands that any violation of this Consent Agreement
22 constitutes unprofessional conduct under A.R.S. § 32-1401(24)(r)([v]iolating a formal order,
23 probation, consent agreement or stipulation issued or entered into by the board or its
24 executive director under the provisions of this chapter) and shall result in disciplinary action
25 under A.R.S. § 32-1451 *et seq.*

26 DATED: 11/30/2002

Allen Browne M.D.
ALLEN L. BROWNE, M.D.

1 **FINDINGS OF FACT**

2 By stipulation of the parties, this Consent Agreement is entered into for final
3 disposition of the matters herein. Respondent admits to the following Findings of Fact:

4 1. On October 18, 2001, Drug Enforcement Administration Agent Goldsmith
5 contacted the Board and provided information that Respondent was prescribing controlled
6 substances and medications via the internet. Furthermore, that these controlled substances
7 and medications were being filled by pharmacies in Arizona, California and Nevada. The
8 Board opened an investigation into the matter.

9 2. The Board conducted a pharmacy survey of Respondent's internet prescribing
10 and discovered he had issued or authorized 2,568 prescriptions (199,788 dosage units) to
11 about 1,826 internet consumers between May 2001 and November 2001.

12 3. The Board's investigation disclosed that Respondent prescribed Alprazolam,
13 Carisprodol, Codeine, Diazepam, Hydrocodone, Lorazepam, Triazolam, Zolpidem Tartrate,
14 and other controlled substances and medications to internet consumers.

15 4. On January 8, 2002, the Board conducted an investigational interview with
16 Respondent, under oath, about his internet prescribing. At the interview, Respondent
17 acknowledged that the Board had previously informed him of the purpose and subject matter
18 of the interview. Respondent intelligently, knowingly, and voluntarily waived his right to
19 have an attorney present during the interview.

20 5. Respondent admitted that he closed his medical practice (obstetrics and
21 gynecology) on March 1, 2000.

22 6. Respondent admitted that he worked for an internet company called
23 Qualitycare.md, which was located in an auto parts store in Mesa, Arizona.

24 7. Respondent admitted that another allopathic physician informed him that
25 Qualitycare.md was looking for a medical consultant. During the interview, the Board
26 investigators asked Respondent to name the physician who introduced him to

1 Qualitycare.md. Respondent refused to answer.

2 8. The investigators informed Respondent that the unnamed physician who
3 introduced Respondent to Qualitycare.md may have committed unprofessional conduct if
4 he was involved with Qualitycare.md and the Board had to investigate this. The
5 investigators read A.R.S. § 32-1401(24)(dd) to Respondent, which states that it is
6 unprofessional conduct for a physician to withhold information from a Board investigator
7 when legally requested. For a second time, the investigators asked Respondent to name the
8 physician who introduced him to Qualitycare.md. Again, Respondent refused to answer.

9 9. Respondent admitted Qualitycare.md hired him as a medical consultant.
10 Respondent's medical consultant duties were to review the internet consumers' medical
11 questionnaires provided to them by Qualitycare.md; telephonically consult with the
12 consumers about their medical problems; and determine whether prescriptions should be
13 issued to the consumers.

14 10. Respondent admitted that the internet consumers commonly fell into three
15 categories those suffering from: a) chronic pain problems; b) work related or auto accident
16 injuries; and c) anxiety and panic disorders.

17 11. Respondent stated that his training as an obstetrician- gynecologist qualified
18 him to treat chronic pain problems and anxiety or panic disorders.

19 12. The 56th Edition of the Physicians' Desk Reference states Alprazolam,
20 Carisprodol, Lorazepam, and Triazolam - medications that Respondent prescribed - are
21 antianxiety or hypnotic medications. The Desk Reference cautions that these medications
22 combined with alcohol, central nervous system depressants or psychotropic drugs can be
23 addictive. Moreover, continual physician monitoring is required when these drugs are
24 dispensed to individuals with a history of addiction or alcoholism because they have a
25 greater propensity to become addicted.

26 13. Respondent admitted he failed to verify, by not performing physical

1 examinations on any consumers or reviewing their medical records, the truthfulness and
2 accuracy of any consumers self-reported medical histories, injuries or symptoms - yet he
3 continued to prescribe controlled substances and medications to them. Respondent's
4 treatment of these internet consumers deviated from the acceptable standard of care and
5 endangered the health and safety of these consumers.

6 14. Respondent admitted there was a possibility that some internet consumers were
7 lying to him to obtain prescription medication. Respondent further admitted that he had no
8 safeguard mechanism to prevent this type of deception from occurring.

9 15. Respondent admitted that Qualitycare.md retained all the medical
10 questionnaires from the internet consumers and that these records are not available to him
11 because Qualitycare.md is out of business. Respondent further admitted that he never
12 retained a physical copy of any of the prescription orders or telephonic consult notes.
13 Consequently, he is unable to provide any medical information about any consumer.
14 Respondent admitted he maintained inadequate medical records on the consumers because
15 he had no medical records.

16 16. Respondent admitted that his consults generally lasted 10 minutes per internet
17 consumer, and that he consulted about 17 consumers per day from Monday through Friday.
18 Respondent admitted that he worked for Qualitycare.md from mid-May 2001 to early
19 September 2001.

20 17. Respondent admitted Qualitycare.md charged \$100.00 per consult to each
21 internet consumer who was issued a prescription and purchased the prescribed medication
22 from approved Qualitycare.md pharmacies. Respondent received \$20.00 from
23 Qualitycare.md for each consult. Respondent further admitted that he could only prescribe
24 medication from a prescription list approved by Qualitycare.md.

25 18. The Board's investigation disclosed Respondent prescribed to 1,826
26 consumers and he was paid \$20.00 per consumer. Consequently, Qualitycare.md, at a

1 minimum, paid Respondent \$36,520.00 for his services.

2 19. Respondent admitted the Board had placed his medical license on probation.
3 The Board's public website, www.azmboard.org, discloses that Respondent's medical
4 license is on lifetime probation.

5 20. The parties waive all further findings of fact.

6 CONCLUSIONS OF LAW

7 1. The Board possesses jurisdiction over the subject matter hereof and over Allen
8 L. Browne, M.D., holder of License No. 14411, for the practice of allopathic medicine in
9 the State of Arizona.

10 2. The conduct and circumstances described above constitute unprofessional
11 conduct under A.R.S. § 32-1401(24)(e) "Failing or refuse to maintain adequate records on
12 a patient."

13 3. The conduct and circumstances described above constitute unprofessional
14 conduct under A.R.S. § 32-1401(24)(q) "Any conduct or practice which is or might be
15 harmful or dangerous to the health of the patient or the public."

16 4. The conduct and circumstances described above constitute unprofessional
17 conduct under A.R.S. § 32-1401(24)(dd) "Failing to furnish information in a timely manner
18 to the board or its investigators or representatives if legally requested by the board."

19 5. The conduct and circumstances described above constitute unprofessional
20 conduct under A.R.S. § 32-1401(24)(ss) "Prescribing, dispensing or furnishing a
21 prescription medication or a prescription-only device as defined in section 32-1901 to a
22 person unless the licensee first conducts a physical examination of that person or has
23 previously established a doctor-patient relationship. This subdivision does not apply to: (i)
24 A physician who provides temporary patient supervision on behalf of the patient's regular
25 treating licensed healthcare professional. (ii) Emergency medical situations defined in
26 section 41-1831. (iii) Prescriptions written to prepare a patient for a medical examination."

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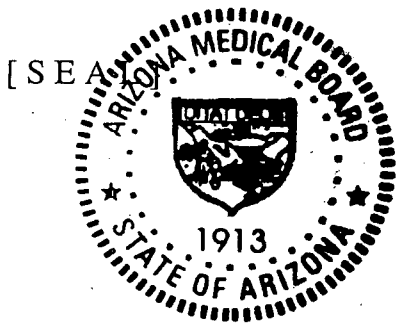
ORDER

Based upon the above Findings of Fact and Conclusions of Law and under the authority granted to the Board by A.R.S. §§ 41-1092.07(F)(5) and 32-1451(T), it is hereby ordered that:

1. License No. 14411, which was issued to Respondent for the practice of allopathic medicine in the State of Arizona, shall be deemed **SURRENDERED**, upon adoption of this Consent Agreement by the Board; and Respondent shall immediately return License No. 14411 to the Board.

DATED AND EFFECTIVE this 12th day of February, 2007. ^{3rd Bar}

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA



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

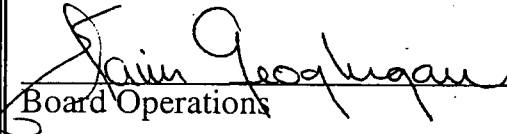
1 COPY of the foregoing mailed by
U.S. Certified Mail this 13th day of

2 FEBRUARY, 2002 to:
2003rd

3 Allen L. Browne, M.D.
4 Post Office Box 21797
Mesa, Arizona 85277-1796
5 Respondent

6 COPY of the foregoing mailed ^{2003rd}
this 13th day of FEBRUARY, 2002, to:

7 Roberto Pulver
8 Assistant Attorney General
1275 W. Washington, CIV/LES
9 Phoenix, Arizona 85007
Attorney for the State

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11 Board Operations

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