

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

3 In the Matter of:

Board Case No. MD-00-0135

4 **RICHIE PATTERSON BAST, M.D.**

**CONSENT AGREEMENT AND
ORDER FOR SUSPENSION
AND PROBATION**

5 Holder of License No. 14854
6 For the Practice of Allopathic Medicine
7 In the State of Arizona,

8 Respondent.

9 **RECITALS**

10 In the interest of a prompt and judicious settlement of this case, consistent with the
11 public interest, statutory requirements and responsibilities of the Arizona State Board of
12 Medical Examiners ("Board"), and pursuant to A.R.S. §§ 32-1401 *et seq.* and 41-
13 1092.07(F)(5), the undersigned party, Richie Patterson Bast, M.D., holder of license
14 number 14854 to practice allopathic medicine in the State of Arizona ("Respondent"), and
15 the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
16 ("Consent Agreement") as the final disposition of this matter.

17 1. Respondent has read and understands this Consent Agreement as set forth
18 herein, and has had the opportunity to discuss this Consent Agreement with an attorney
19 or has waived the opportunity to discuss this Consent Agreement with an attorney.
20 Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding the
21 expense and uncertainty of an administrative hearing.

22 2. Respondent understands that he has a right to a public administrative hearing
23 concerning each and every allegation set forth in the above-captioned matter, at which
24 administrative hearing he could present evidence and cross-examine witnesses. By
25 entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all
26 rights to such an administrative hearing, as well as all rights of rehearing, review,

1 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
2 concerning the matters set forth herein. Respondent affirmatively agrees that the Consent
3 Agreement shall be irrevocable, once accepted.

4 3. Respondent agrees that the Board may adopt this Consent Agreement, or
5 any part thereof, pursuant to A.R.S. § 32-1451 and § 41-1092.07(F)(5). Respondent
6 understands that this Consent Agreement, or any part thereof, may be considered in any
7 future disciplinary action against him.

8 4. Respondent understands that this Consent Agreement does not constitute
9 a dismissal or resolution of other matters currently pending before the Board, if any, and
10 does not constitute any waiver, express or implied, of the Board's statutory authority or
11 jurisdiction regarding any other pending or future investigation, action or proceeding.
12 Respondent also understands that acceptance of this Consent Agreement does not
13 preclude any other agency, subdivision or officer of this state from instituting other civil or
14 criminal proceedings with respect to the conduct that is the subject of this Consent
15 Agreement.

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

22 6. Respondent understands that the foregoing Consent Agreement shall not
23 become effective unless and until adopted by the Board and signed by its Executive
24 Director.

25 7. Respondent understands and agrees that if the Board does not adopt this
26 Consent Agreement, he will not assert as a defense that an administrative hearing

1 following the Board's Interim Order of Summary Suspension, dated June 25, 2001, was
2 not conducted within sixty (60) days as provided by A.R.S. § 32-1451(D), or that the
3 Board's consideration of this Consent Agreement constitutes bias, prejudice, prejudgment
4 or other similar defense.

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

9 9. Respondent understands that any violation of this Consent Agreement
10 constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(25)(r) (violating a formal
11 order, probation, consent agreement or stipulation issued or entered into by the board or
12 its executive director under the provisions of this chapter) and may result in disciplinary
13 action pursuant to A.R.S. § 32-1451.

14 DATED: Aug 9, 2001

Richie Patterson Bast
15 Richie Patterson Bast, M.D.

16 Reviewed and Approved as to Form:

17 By: [Signature]
18 Reed King, Esq.

19 FINDINGS OF FACT

20 The parties stipulate that this Consent Order represents a compromise of a disputed
21 matter between the Board and Respondent, and agree to the entry of this Consent Order
22 for the purpose of terminating that disputed matter.

23 1. The Board is the duly constituted authority for licensing and regulating the
24 practice of allopathic medicine in the State of Arizona.

25 2. Dr. Bast is the holder of License No. 14854 for the practice of allopathic
26 medicine in the State of Arizona.

1 3. On May 16, 2000, Dr. Bast entered into a Consent Agreement with the Board
2 which suspended his license for one year for violating the terms of a previous Stipulated
3 Rehabilitation Agreement with the Board dated January 8, 1996. The one-year suspension
4 was stayed, and Dr. Bast was placed on a two-year probation in the Board's Monitored
5 Aftercare Program.

6 4. Under the terms of the May 16, 2000 Consent Agreement, Dr. Bast was
7 prohibited from taking any medication, except in an emergency, unless prescribed by his
8 Board-approved primary care physician or other health care provider to whom the Board-
9 approved primary care physician makes referral. Such medication included any
10 "prescription-only drug, controlled substance, and over-the-counter preparation, other than
11 plain aspirin and plain acetaminophen." Dr. Bast was expressly prohibited from self-
12 prescribing such medication.

13 5. Also under the terms of the May 16, 2000 Consent Agreement, Dr. Bast was
14 required to submit to random biological fluid testing.

15 6. On October 26, 2000, Dr. Bast was asked to submit a biological fluid sample
16 for testing. When he submitted that sample, Dr. Bast disclosed that he had taken Orlistat
17 in the previous fourteen days.

18 7. Orlistat is a reversible lipase inhibitor used to manage obesity, including
19 weight loss and weight management.

20 8. On November 15, 2000, Dr. Bast was asked to submit a biological fluid
21 sample for testing. When he submitted that sample, Dr. Bast disclosed that he had taken
22 Orlistat in the previous fourteen days.

23 9. On January 30, 2001, Dr. Bast was asked to submit a biological fluid sample
24 for testing. When he submitted that sample, Dr. Bast disclosed that he had taken Ultram
25 in the previous fourteen days.

26

1 10. Ultram is a synthetic analgesic used to manage moderate to moderately
2 severe pain. Ultram is not recommended for use by patients with a tendency to drug abuse
3 or a history of drug dependency because it has the potential to cause morphine-like
4 psychic and physical dependency.

5 11. In a letter dated February 6, 2001, the Board staff asked Dr. Bast to identify
6 the physician who prescribed Ultram medication to him, and state the reason why that
7 medication was prescribed.

8 12. In a letter dated February 15, 2001, Dr. Bast informed the Board that his
9 primary care physician had prescribed Ultram to relieve his lower back pain.

10 13. On February 27, 2001 the Board staff subpoenaed Dr. Bast's medical records
11 from his primary care physician. The primary care physician provided the medical records,
12 and explained that Dr. Bast informed him on February 11, 2001 that he had taken three
13 Ultram tablets. The medical records confirm that the primary care physician did not
14 prescribe Orlistat or Ultram for Dr. Bast.

15 14. In a letter dated April 24, 2001, Dr. Bast admitted that he obtained two Ultram
16 tablets from his wife, for whom they had been prescribed by another physician for a foot
17 injury approximately one year earlier. Dr. Bast also admitted that he obtained Orlistat
18 samples from a pharmaceutical representative.

19 15. On May 23, 2001, Dr. Bast met with the Monitored Aftercare Program's
20 Diversion Committee. During that meeting, Dr. Bast acknowledged that he self-prescribed
21 Ultram and Orlistat in violation of the terms of the May 16, 2000 Consent Agreement.

22 16. The parties waive any further findings of fact.

23 CONCLUSIONS OF LAW

24 1. The Board possesses jurisdiction over the subject matter and over
25 Respondent pursuant to A.R.S. § 32-1401 *et seq.*

1 2. The conduct and circumstances described above constitute unprofessional
2 conduct pursuant to A.R.S. § 32-1401(25)(g)(using controlled substances except if
3 prescribed by another physician for use during a prescribed course of treatment).

4 3. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(25)(r)(violating a formal order, probation, consent
6 agreement or stipulation issued or entered into by the board or its executive director under
7 the provisions of A.R.S. § 32-1401 et seq.).

8 4. The conduct and circumstances described above constitute unprofessional
9 conduct pursuant to A.R.S. § 32-1401(25)(jj)(knowingly making a false or misleading
10 statement to the board or on a form required by the board or in a written correspondence,
11 including attachments, with the board).

12 **ORDER**

13 1. Based upon the above Findings of Fact and Conclusions of Law, and
14 pursuant to the authority granted to the Board by A.R.S. § 41-1092.07(F)(5) and A.R.S.
15 § 32-1451(F) and (G), IT IS HEREBY ORDERED that the Board's Interim Order of
16 Summary Suspension dated June 25, 2001 is vacated, and that License No. 14854, issued
17 to Richie Patterson Bast, M.D. for the practice of allopathic medicine in the State of
18 Arizona, shall be revoked. However, revocation is stayed and Respondent shall not
19 practice clinical medicine or any medicine involving direct patient care, and is prohibited
20 from prescribing any form of treatment including prescription medications, until he meets
21 with the Board and affirmatively receives the Board's approval to return to practice.

22 2. Before meeting with the Board to seek its approval to return to practice,
23 Respondent shall enter into and successfully complete an in-patient evaluation for alcohol/
24 chemical dependency at the Betty Ford Clinic in Rancho Mirage, California. Respondent
25 shall promptly provide a copy of this order to the treatment facility. In addition, Respondent
26 shall sign a release of records to the Board at the treatment facility and instruct the facility

1 to provide a copy of all evaluation and/or treatment records to the Board. Respondent
2 shall be responsible for the cost of the in-patient evaluation.

3 3. During the period between the effective date of this Order and the affirmative
4 receipt of the Board's approval to return to practice, Respondent shall continue to
5 participate in the Board's substance abuse and treatment program (the "program") under
6 the terms and conditions described below. Before meeting with the Board to seek its
7 approval to return to practice, Respondent shall present evidence that he has successfully
8 met the terms and conditions of the program.

9 4. Before receiving the Board's approval to return to practice, Respondent shall
10 undergo and successfully complete any further evaluation or treatment the Board deems
11 necessary to assist it in determining Respondent's ability to safely and competently return
12 to the active practice of medicine.

13 5. After affirmatively receiving the Board's approval to return to practice,
14 Respondent shall be placed on probation for five (5) years, and shall continue to participate
15 in the Board's substance abuse and treatment program (the "program") under the terms
16 and conditions described below.

17 6. Respondent shall practice medicine only in a group setting.

18 7. This Order supercedes the Consent Agreement dated October 16, 2000.

19 8. If Respondent violates a term or condition of this probation, the probation
20 shall be terminated and his license shall be revoked. If an investigation involving an
21 alleged violation of the probation is initiated but not resolved prior to the termination of the
22 probationary period, the Board shall continue to have jurisdiction and the probationary
23 period shall extend until the matter is resolved. Allegations that Respondent has violated
24 a term or condition of the probation shall be referred to the Diversion Committee of the
25 program, which shall make a recommendation to the Board as to whether a violation has
26 occurred. Upon receiving a recommendation from the Diversion Committee that a violation

1 has occurred, and after giving Respondent notice and opportunity to be heard by the
2 Board, the Board shall have the sole, complete and absolute discretion to determine that
3 a violation has occurred.

4 **MONITORED AFTERCARE PROGRAM**

5 **I. DEFINITIONS**

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

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

10 **II. TERMS**

11 **1. Participation in the Monitored Aftercare Program**

12 Respondent shall continue to participate in the Board's confidential substance
13 abuse treatment and rehabilitation program (the "program"). As part of his participation in
14 the program, Respondent shall cooperate with Board staff and contracting program
15 supervisors.

16 **2. Group Therapy**

17 Respondent shall attend the program's group therapy sessions two (2) times per
18 month for the duration of this Order, unless excused by the group therapist for good cause
19 such as illness or vacation. Respondent shall instruct the program group therapist to
20 release to the Board, upon its request, all records relating to his treatment, and to submit
21 monthly reports to the Board regarding attendance and progress. The reports shall be
22 submitted on or before the 10th day of each month.

23 **3. 12 Step or Self-Help Group Meetings**

24 Respondent shall participate in a 12-step recovery program or other self-help
25 program appropriate for substance abuse as recommended by the group therapist and
26 approved by the Board. Respondent shall attend a minimum of three (3) 12-step or other

1 self-help program meetings per week.

2 **4. Board-Approved Primary Care Physician**

3 A. Respondent shall promptly obtain a primary care physician and shall
4 submit the name of the physician to Board staff in writing for approval.

5 B. The Board-approved primary care physician shall be in charge of
6 providing and coordinating Respondent's medical care and treatment. Except in an
7 *Emergency*, Respondent shall obtain his medical care and treatment only from the Board-
8 approved primary care physician and from health care providers to whom the Board-
9 approved primary care physician refers Respondent from time to time. Respondent shall
10 request that the Board-approved primary care physician document all referrals in the
11 medical record.

12 C. Respondent shall promptly inform the Board-approved primary care
13 physician of his rehabilitation efforts and provide a copy of this Consent Agreement to that
14 physician. Respondent shall also inform all other health care providers who provide
15 medical care or treatment that he is participating in the Board's rehabilitation program.

16 **5. Medication**

17 A. Except in an *Emergency*, Respondent shall take no *Medication* unless
18 the *Medication* is prescribed by his Board-approved primary care physician or other health
19 care provider to whom the Board-approved primary care physician makes referral.
20 Respondent shall not self-prescribe any *Medication*.

21 B. If a controlled substance is prescribed, dispensed, or is administered
22 to Respondent by any person other than the Board-approved primary care physician,
23 Respondent shall notify the Board-approved primary care physician in writing within 48
24 hours. The notification shall contain all information required for the medication log entry
25 specified below. Respondent shall request that the notification be made a part of the
26 medical record. This paragraph does not authorize Respondent to take any *Medication*

1 other than in accordance with paragraph A.

2 **6. Medication Log**

3 A. Respondent shall maintain a current legible log of all *Medication* taken
4 by or administered to Respondent, and shall make the log available to the Board and its
5 staff upon request. For *Medication* (other than controlled substances) taken on an on-
6 going basis, Respondent may comply with this paragraph by logging the first and last
7 administration of the *Medication* and all changes in dosage or frequency. The log, at a
8 minimum, shall include the following:

- 9 i. Name and dosage of *Medication* taken or administered;
10 ii. Date taken or administered;
11 iii. Name of prescribing or administering physician;
12 iv. Reason *Medication* was prescribed or administered.

13 This paragraph does not authorize Respondent to take any *Medication* other than
14 in accordance with paragraph 5.

15 **7. No Alcohol or Poppy Seeds**

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

18 **8. Biological Fluid Collection**

19 A. During all times that Respondent is physically present in the state of
20 Arizona and such other times as Board staff, the group therapist, or the program director
21 to submit to witnessed biological fluid collection. If Respondent is directed to contact an
22 automated telephone message system to determine when to provide a specimen, he shall
23 do so within the hours specified by Board staff. For the purposes of this paragraph, in the
24 case of an in-person request, "promptly comply" means "immediately". In the case of telephonic
25 request, "promptly comply" means "immediately". In the case of telephonic
26 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

1 to appear is given. The Board in its sole discretion shall determine good cause.

2 B. Respondent shall provide Board staff in writing with one telephone
3 number which shall be used to contact Respondent on a 24 hours per day/seven days per
4 week basis to submit to biological fluid collection. For the purposes of this section,
5 telephonic notice shall be deemed given at the time a message to appear is left at the
6 contact telephone number provided by Respondent. Respondent authorizes any person
7 or organization conducting tests on the collected samples to provide testing results to the
8 Board and the program director.

9 C. Respondent shall cooperate with collection site personnel regarding
10 biological fluid collection. Repeated complaints from collection site personnel regarding
11 Respondent's lack of cooperation regarding collection may be grounds for termination from
12 the program.

13 9. Payment for Services

14 Respondent shall pay for all costs, including personnel and contractor costs,
15 associated with participating in the Monitored Aftercare Program (MAP) at time service is
16 rendered, if required, or within thirty (30) days of each invoice sent to him.

17 10. Examination

18 Respondent shall submit to mental, physical, and medical competency
19 examinations at such times and under such conditions as directed by the Board to assist
20 the Board in monitoring his ability to safely engage in the practice of medicine and
21 compliance with the terms of this order.

22 11. Treatment

23 Respondent shall submit to all medical, substance abuse, and mental health
24 care and treatment ordered by the Board, or recommended by the program director.

25 12. Obey All Laws

26 Respondent shall obey all federal, state and local laws, and all rules

1 governing the practice of medicine in the State of Arizona.

2 13. Interviews

3 Respondent shall appear in person before the Board and its staff and
4 committees for interview upon request, upon reasonable notice.

5 14. Address and Phone Changes. Notice

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

12 15. Relapse. Violation

13 See paragraph 8. of the Order above.

14 16. Notice Requirements

15 A. Respondent shall immediately provide a copy of this Order to all
16 hospitals and free standing surgery centers at which Respondent has any privileges. With
17 thirty (3) days of the effective date of this Order, Respondent shall provide the Board with
18 a signed statement that Respondent has complied with this notification requirement.

19 B. Respondent is further required to notify, in writing, all hospitals and
20 free standing surgery centers at which Respondent has any privileges of a chemical
21 dependency relapse, use of drugs or alcohol in violation of this Order, and/or entry into a
22 treatment program. Respondent shall provide the Board, within seven (7) days of any of
23 these events, written confirmation that Respondent has complied with this notification
24 requirement.

25 17. Public Record

26 This Consent Agreement is a public record.

1 **18. Out-of-State**

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

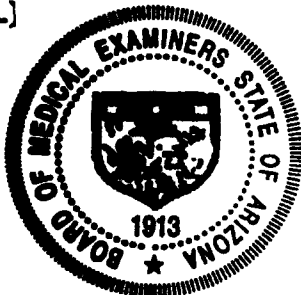
8 **19. Quarterly Declarations**

9 Respondent shall submit quarterly declarations under penalty of perjury on forms
10 provided by the Board, stating whether there has been compliance with all the terms of this
11 order. The declarations shall be submitted on or before the 15th day of March, June,
12 September and December of each year.

13 DATED and effective this 17th day of August, 2001.

14 BOARD OF MEDICAL EXAMINERS
15 OF THE STATE OF ARIZONA

16 [SEAL]



By: Claudia Foutz
CLAUDIA FOUTZ
Executive Director

1 ORIGINAL OF THE FOREGOING FILED
this 21 day of August, 2001, with:

2 Board of Medical Examiners
3 9545 E. Doubletree Ranch Road
4 Scottsdale, AZ 85258


5 EXECUTED COPY OF THE FOREGOING
6 MAILED BY U.S. CERTIFIED MAIL
this 21 day of August, 2001, to:

7 Richie Patterson Bast, M.D.
8 3113 Moccasin
Lake Havasu, Arizona 84606
Respondent

9 EXECUTED COPY OF THE FOREGOING
10 MAILED this 21 day of August, 2001, to:

11 Reed King, Esq.
12 P.O. Box 34401
Phoenix, Arizona 85067-4401
Attorneys for Respondent

13 Stephen A. Wolf, Esq.
14 Assistant Attorney General
1275 W. Washington, CIV/LES
15 Phoenix, AZ 85007
Attorney for the State of Arizona

16 
17 _____
Board Operations

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1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 IN THE STATE OF ARIZONA

3 In the Matter of

Board Case No. MD-00-0135

4 **RICHIE PATTERSON BAST, M.D.**

**AMENDED CONSENT AGREEMENT
AND ORDER FOR STAYED
REVOCATION AND PROBATION**

5 Holder of License No. **14854**
6 For the Practice of Medicine
7 In the State of Arizona.

8 **RECITALS**

9 This matter was considered by the Arizona Board of Medical Examiners ("Board")
10 at its public meeting on May 1, 2002. The Board was presented with the request of
11 Richie Patterson Bast, M.D., holder of license number 14854 to practice allopathic
12 medicine in the State of Arizona ("Respondent") to amend a August 17, 2001, Consent
13 Agreement ("August Consent Agreement") entered as the final disposition of this case
14 number MD-00-0135. The August Consent Agreement prohibited Respondent from
15 practicing until he received the Board's affirmative approval to return to practice.
16 Respondent was prohibited from seeking the Board's approval to return to practice until
17 he entered into and completed an in-patient evaluation for alcohol/chemical dependency
18 at the Betty Ford Clinic in Rancho Mirage California. Respondent has completed the in-
19 patient evaluation. Board Staff reviewed the recommendations and results of the in-
20 patient evaluation and has recommended that Respondent be permitted to return to
21 practice, subject to the amendments to his probation contained in this Consent
22 Agreement.
23

24 1. Respondent has read and understands this Consent Agreement as set forth
25 herein, and has had the opportunity to discuss this Consent Agreement with an attorney

1 or has waived the opportunity to discuss this Consent Agreement with an attorney.
2 Respondent voluntarily entered into this Consent Agreement for the purpose of avoiding
3 the expense and uncertainty of an administrative hearing.

4 2. Respondent understands that he has a right to a public administrative
5 hearing concerning each and every allegation set forth in the above-captioned matter, at
6 which administrative hearing he could present evidence and cross-examine witnesses.
7 By entering into this Consent Agreement, Respondent freely and voluntarily relinquishes
8 all rights to such an administrative hearing, as well as all rights of rehearing, review,
9 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
10 concerning the matters set forth herein. Respondent affirmatively agrees that the
11 Consent Agreement shall be irrevocable, once accepted.
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13 3. Respondent agrees that the Board may adopt this Consent Agreement, or
14 any part thereof, pursuant to A.R.S. § 32-1451 and § 41-1092.07 (F)(5). Respondent
15 understands that this Consent Agreement, or any part thereof, may be considered in any
16 future disciplinary action against him.

17 4. Respondent understands that this Consent Agreement does not constitute
18 a dismissal or resolution of other matters currently pending before the Board, if any, and
19 does 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
22 preclude any other agency, subdivision or officer of this state from instituting other civil or
23 criminal proceedings with respect to the conduct that is the subject of this Consent
24 Agreement.
25

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

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8 6. Respondent understands that the foregoing Consent Agreement shall not
9 become effective unless and until adopted by the Board and signed by its Executive
10 Director.

11 7. Respondent understands and agrees that if the Board does not adopt this
12 Consent Agreement, he will not assert as a defense that an administrative hearing
13 following the Board's Interim Order of Summary Suspension, dated June 25, 2001, was
14 not conducted within sixty (60) days as provided by A.R.S. § 32-1451(D), or that the
15 Board's consideration of this Consent Agreement constitutes bias, prejudice,
16 prejudgment or other similar defense.

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

21
22 9. Respondent understands that any violation of this consent Agreement
23 constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(25)(r) (violating a formal
24 order, probation, consent agreement or stipulation issued or entered into by the board or
25

1 its executive director under the provisions of this chapter) and may result in disciplinary
2 action pursuant to A.R.S. § 32-1451.

3
4 DATED:

3/31/02

Richie Patterson Bast
Richie Patterson Bast, M.D.

5
6 Reviewed and Approved as to Form:

7
8 By:

Reed King, Esq.

FINDINGS OF FACT

9
10 1. The Board is the duly constituted authority for the licensing and regulating
11 the practice of allopathic medicine in the State of Arizona.

12 2. Respondent is the holder of License No. 14854 for the practice of medicine
13 in the State of Arizona.

14 3. On May 16, 2000, Respondent entered into a Consent Agreement with the
15 Board which suspended his license for one year for violating the terms of a previous
16 Stipulated Rehabilitation Agreement with the Board dated January 8, 1996. The one-
17 year suspension was stayed, and Respondent was placed on a two-year probation in the
18 Board's Monitored Aftercare Program ("Program").

19 4. Under the terms of the May 16, 2000 Consent Agreement, Respondent was
20 prohibited from taking any medication, except in an emergency, unless prescribed by his
21 Board-approved primary care physician or other health care provider to whom the Board-
22 approved primary care physician makes referral. Such medication included any
23 "prescription-only drug controlled substance, and over-the-counter preparation, other
24 than plain aspirin and plain acetaminophen." Respondent was expressly prohibited from
25 self-prescribing such medication.

1 5. Also under the terms of the May 16, 2000 Consent Agreement, Respondent
2 was required to submit to random biological fluid testing.

3 6. On October 26, 2000, Respondent was asked to submit a biological fluid
4 sample for testing. When he submitted that sample, Respondent disclosed that he had
5 taken Orlistat in the previous fourteen days.

6 7. Orlistat is a reversible lipase inhibitor used to manage obesity, including
7 weight loss and weight management.

8 8. On November 15, 2000, Respondent was asked to submit a biological fluid
9 sample for testing. When he submitted that sample, Respondent disclosed that he had
10 taken Orlistat in the previous fourteen days.

11 9. On January 30, 2001, Respondent was asked to submit a biological fluid
12 sample for testing. When he submitted that sample, Respondent disclosed that he had
13 taken Ultram in the previous fourteen days.

14 10. Ultram is a synthetic analgesic used to manage moderate to moderately
15 severe pain. Ultram is not recommended for use by patients with a tendency to drug
16 abuse or a history of drug dependency because it has the potential to cause morphine-
17 like psychic and physical dependency.

18 11. In a letter dated February 6, 2001, the Board staff asked Respondent to
19 identify the physician who prescribed Ultram medication to him, and state the reason why
20 that medication was prescribed.

21 12. In a letter dated February 15, 2001, Respondent informed the Board that
22 his primary care physician had prescribed Ultram to relieve his lower back pain.

23 13. On February 27, 2001 the Board staff subpoenaed Respondent's medical
24 records from his primary care physician. The primary care physician provided the
25 medical records, and explained that Respondent informed him on February 11, 2001 that

1 he had taken three Ultram tablets. The medical records confirm that the primary care
2 physician did not prescribe Orlistat or Ultram for Respondent.

3 14. In a letter dated April 24, 2001, Respondent admitted that he obtained two
4 Ultram tablets from his wife, for whom they had been prescribed by another physician for
5 a foot injury approximately one year earlier. Respondent also admitted that he obtained
6 Orlistat samples from a pharmaceutical representative.

7 15. On May 23, 2001, Respondent met with the Program's Diversion
8 Committee. During that meeting, Respondent acknowledged that he self-prescribed
9 Ultram and Orlistat in violation of the terms of the May 16, 2000 Consent Agreement.

10 16. The parties waive any further findings of fact.

11 **CONCLUSIONS OF LAW**

12 1. The Board possesses jurisdiction over the subject matter and over
13 Respondent pursuant to A.R.S. § 32-1401 et seq.

14 2. The conduct and circumstances described above constitute unprofessional
15 conduct pursuant to A.R.S. § 32-1401(25)(g) (using controlled substances except if
16 prescribed by another physician for use during a prescribed course of treatment).

17 3. The conduct and circumstances described above constitute unprofessional
18 conduct pursuant to A.R.S. § 32-1401(25)(r) (violating a formal order, probation, consent
19 agreement or stipulation issued or entered into by the board or its executive director
20 under the provisions of A.R.S. § 32-1401 et seq.).

21 4. The conduct and circumstances described above constitute unprofessional
22 conduct pursuant to A.R.S. § 32-1401(25)(jj) (knowingly making a false or misleading
23 statement to the board or on a form required by the board or in a written correspondence,
24 including attachments, with the board).

ORDER

1
2 1. Based upon the above Findings of Fact and Conclusions of Law, and
3 pursuant to the authority granted to the Board by A.R.S. § 41-1092.07(F)(5) and
4 A.R.S. 32-1451(F) and (G), IT IS HEREBY ORDERED that the Board's Interim Order of
5 Summary Suspension dated June 25, 2001 is vacated and that License No. 14854,
6 issued to Richie Patterson Bast, M.D. for the practice of allopathic medicine in the State
7 of Arizona, shall be revoked. However, revocation is stayed. Respondent shall not
8 practice anesthesiology.

9 2. Respondent is placed on placed on probation for five (5) years with the
10 following terms and conditions:

11 3. a. Respondent shall continue to participate in the Program under the
12 terms and conditions described below.

13 b. Respondent shall practice medicine only in a group setting.
14 Respondent shall instruct the supervisor of the group practice to submit quarterly written
15 reports to the Board regarding Respondent's performance and compliance with the group
16 setting practice requirement. The reports shall be submitted on or before the 15th day of
17 March, June September and December of each year. For purposes of this Order, "Group
18 Setting" means that Respondent shall not engage in solo practice.

19 c. Respondent shall not practice/work for more than 40 hours per week.
20 Respondent shall provide to the Board, by the 15th of each month, official copies of his
21 work schedule and a record of the hours actually worked. The copies of the work
22 schedule and record of hours worked must be signed by Respondent's supervisor.

23 d. Respondent shall submit quarterly declarations under penalty of
24 perjury on forms provided by the Board, stating whether there has been compliance with
25 all conditions of probation. The declarations shall be submitted on or before the 15th of

1 March, June, September and December of each year, beginning on or before December
2 15, 2002.

3
4 4. This Order supercedes the Consent Agreement dated August 17, 2001.

5 5. If Respondent violates a term or condition of this probation, the probation
6 shall be terminated and his license shall be revoked. If an investigation involving an
7 alleged violation of the probation is initiated but not resolved prior to the termination of the
8 probationary period, the Board shall continue to have jurisdiction and the probationary
9 period shall extend until the matter is resolved. Allegations that Respondent has violated
10 a term or condition of the probation shall be referred to the Diversion Committee of the
11 program, which inform Board Staff whether it believes a violation has occurred. Upon
12 receiving notice from Board Staff of a possible violation has occurred, and after giving
13 Respondent notice and opportunity to be heard by the Board, the Board shall have the
14 sole, complete and absolute discretion to determine that a violation has occurred.

15 **MONITORED AFTERCARE PROGRAM**

16 **I. DEFINITIONS**

17 **1. Participation in the Monitored Aftercare Program**

18 Respondent shall continue to participate in the Board's confidential substance
19 abuse and treatment rehabilitation program (previously referred to as "Program"). As part
20 of his participation in the Program, Respondent shall cooperate with Board Staff and
21 contracting Program supervisors.

22 **2. Group Therapy**

23 Respondent shall attend the Program's group therapy sessions one time per week
24 for the duration of this Order, unless excused by the group therapist for good cause such
25 as illness or vacation. Respondent shall instruct the Program group therapist to release

1 to the Board, upon its request, all records relating to his treatment, and to submit monthly
2 reports to the board regarding attendance and progress. The reports shall be submitted
3 on or before the 10th day of each month.

4 **3. 12 Step or Self-Help Group Meetings**

5 Respondent shall attend ninety (90) 12-Step meetings or other self-help group
6 meetings appropriate for substance abuse and approved by the Board, for a period of 90
7 days beginning not later than either (a) the first day following Respondent's discharge
8 from chemical dependency treatment or (b) the date of this Order.

9 **4. Board-Approved Primary Care Physician.** Respondent shall promptly
10 obtain a primary care Physician and shall submit the name of the Physician to Board staff
11 in writing for approval.

12 A. The Board-approved primary care Physician shall be in charge of providing
13 and coordinating Respondent's medical care and treatment. Except in an *Emergency*,
14 Respondent shall obtain Respondent's medical care and treatment only from the Board-
15 approved primary care Physician and from health care providers to whom the Board-
16 approved primary care Physician refers Respondent from time to time. Respondent shall
17 request that the Board-approved primary care Physician document all referrals in the
18 medical record.

19 C. Respondent shall promptly inform the Board-approved primary care
20 Physician of Respondent's rehabilitation efforts and provide a copy of this Consent
21 Agreement to that Physician. Respondent shall also inform all other health care
22 providers who provide medical care or treatment that Respondent is participating in the
23 Board's rehabilitation program.

24 **5. Medication.** Except in an *Emergency*, Respondent shall take no
25 *Medication* unless the *Medication* is prescribed by Respondent's Board-approved primary

1 care Physician or other health care provider to whom the Board-approved primary care
2 Physician makes a referral. Respondent shall not self-prescribe any *Medication*.

3 A. If a controlled substance is prescribed, dispensed, or is administered to
4 Respondent by any person other than the Board-approved primary care Physician,
5 Respondent shall notify the Board-approved primary care Physician in writing within 48
6 hours. The notification shall contain all information required for the medication log entry
7 specified in paragraph 6. Respondent shall request that the notification be made a part
8 of the medical record. This paragraph does not authorize Respondent to take any
9 *Medication* other than in accordance with paragraph 5.

10 6. **Medication Log.** Respondent shall maintain a current legible log of all
11 *Medication* taken by or administered to Respondent, and shall make the log available to
12 the Board and its staff upon request. For *Medication* (other than controlled substances)
13 taken on an on-going basis, Respondent may comply with this paragraph by logging the
14 first and last administration of the *Medication* and all changes in dosage or frequency.
The log, at a minimum, shall include the following:

- 15 a. Name and dosage of *Medication* taken or administered;
- 16 b. Date taken or administered;
- 17 c. Name of prescribing or administering Physician;
- 18 d. Reason *Medication* was prescribed or administered.

19 This paragraph does not authorize Respondent to take any *Medication* other than in
20 accordance with paragraph 5.

21 7. **No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or
22 any food or other substance containing poppy seeds.

23 8. **Biological Fluid Collection.** During all times that Respondent is physically
24 present in the State of Arizona and such other times as Board staff may direct,
25 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

1 directed to contact an automated telephone message system to determine when to
2 provide a specimen, Respondent shall do so within the hours specified by Board staff.
3 For the purposes of this paragraph, in the case of an in-person request, "promptly
4 comply" means "immediately". In the case of a telephonic request, "promptly comply"
5 means that, except for good cause shown, Respondent shall appear and submit to
6 specimen collection not later than two hours after telephonic notice to appear is given.
7 The Board in its sole discretion shall determine good cause.

8 **A.** Respondent shall provide Board staff in writing with one telephone number
9 that shall be used to contact Respondent on a 24 hour per day/seven day per week basis
10 to submit to biological fluid collection. For the purposes of this section, telephonic notice
11 shall be deemed given at the time a message to appear is left at the contact telephone
12 number provided by Respondent. Respondent authorizes any person or organization
13 conducting tests on the collected samples to provide testing results to the Board and the
14 Program Director.

15 **B.** Respondent shall cooperate with collection site personnel regarding
16 biological fluid collection. Repeated complaints from collection site personnel regarding
17 Respondent's lack of cooperation regarding collection may be grounds for termination
18 from the Program.

19 **9. Payment for Services.** Respondent shall pay for all costs, including
20 personnel and contractor costs, associated with participating in the Program at
21 time service is rendered, if required, or within 30 days of each invoice sent to
22 Respondent.

23 **10. Examination.** Respondent shall submit to mental, physical, and medical
24 competency examinations at such times and under such conditions as directed by the
25 Board to assist the Board in monitoring Respondent's ability to safely engage in the
practice of medicine and compliance with the terms of this Order.

1 **11. Treatment.** Respondent shall submit to all medical, substance abuse, and
2 mental health care and treatment ordered by the Board, or recommended by the Program
3 director.

4 **12. Obey All Laws.** Respondent shall obey all federal, state and local laws,
5 and all rules governing the practice of medicine in the State of Arizona.

6 **13. Interviews.** Respondent shall appear in person before the Board and its
7 staff and committees for interviews upon request, upon reasonable notice.

8 **14. Address and Phone Changes, Notice.** Respondent shall immediately
9 notify the Board in writing of any change in office or home addresses and telephone
10 numbers. Respondent shall provide Board staff at least three business days advance
11 written notice of any plans to be away from office or home for more than five (5)
12 consecutive days. The notice shall state the reason for the intended absence from home
13 or office, and shall provide a telephone number that may be used to contact Respondent.

14 **15. Relapse, Violation.** See Paragraph 8 of the ORDER above.

15 **16. Notice Requirements.**

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

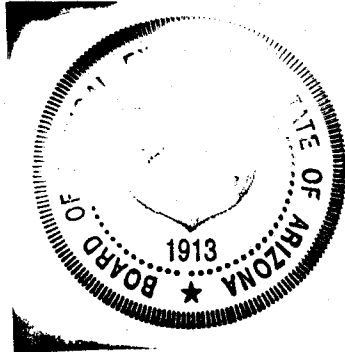
1 (b) Respondent is further required to notify, in writing, all employers,
2 hospitals and free standing surgery centers at which Respondent currently has, or
3 in the future gains employment or privileges, of a chemical dependency relapse,
4 use of drugs or alcohol in violation of this Order and/or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

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

16 17. **Public Record.** This Order is a public record document and, therefore, may
17 be disclosed to the extent required by law.

18 18. **Out-of State.** In the event Respondent resides or practices medicine in a
19 state other than Arizona, Respondent shall participate in the physician rehabilitation
20 program sponsored by that state's medical licensing authority or medical society.
21 Respondent shall cause the other state's program to provide written reports to the Board
22 regarding Respondent's attendance, participation, and monitoring. The reports shall be
23 due on or before the 15th day of March and September of each year, until the Board
24 terminates this requirement in writing.
25

1 DATED this 5th day of June, 2002.



BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

7 By Claudia Foutz
8 CLAUDIA FOUTZ
9 Executive Director

10 ORIGINAL of the foregoing filed this
11 6th day of June, 2002 with:

12 The Arizona Board of Medical Examiners
13 9545 East Doubletree Ranch Road
14 Scottsdale, Arizona 85258

15 Executed copy of the foregoing
16 mailed by U.S. Certified Mail this
17 6th day of June, 2002, to:

18 Reed King, Esquire
19 P. O. Box 34401
20 Phoenix, Arizona 85067-4401

21 Executed copy of the foregoing
22 mailed by U.S. Mail this
23 6th day of June, 2002, to:

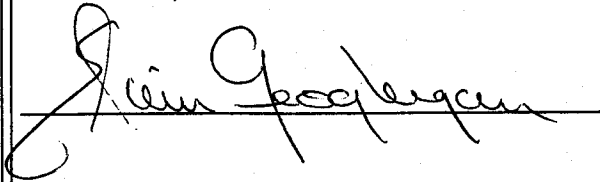
24 Richie Patterson Bast, M.D.
25 3113 Moccasin
Lake Havasu, Arizona 84606

Stephen A. Wolf, Esquire
Assistant Attorney General
1275 W. Washington, CIV/LES
Phoenix, Arizona 85007
Attorney for the State of Arizona

Copy of the foregoing hand-delivered this
6th day of June, 2002, to:

Christine Cassetta
Assistant Attorney General
Sandra Waitt, Management Analyst

1 Lynda Mottram, Compliance Officer
2 Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
3 Arizona Board of Medical Examiners
4 9545 East Doubletree Ranch Road
5 Scottsdale, Arizona 85258
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A handwritten signature in black ink, appearing to read "Lisa Maxie-Mullins", is written over a horizontal line. The signature is cursive and extends slightly to the left of the line.