

1 BEFORE THE ARIZONA MEDICAL BOARD

2
3 In the Matter of

4 **WILLIAM LEE PHELPS, M.D.**

5 Holder of License No. 24727
6 For the Practice of Medicine
7 In the State of Arizona.

Case No. MD-02-0155

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

8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Medical Board
10 ("Board") and William Lee Phelps, M.D. ("Respondent"), the parties agreed to the following
11 disposition of this matter at the October, 2002 public meeting.

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.

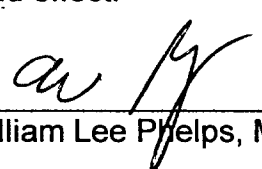
24 4. All admissions made by Respondent are solely for final disposition of this
25 matter and any subsequent related administrative proceedings or civil litigation involving
the Board and Respondent. Therefore, said admissions by Respondent are not intended

1 or made for any other use, such as in the context of another state or federal government
2 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
3 any other state or federal court.

4 5. Respondent acknowledges and agrees that, although the Consent
5 Agreement has not yet been accepted by the Board and issued by the Executive Director,
6 upon signing this agreement, and returning this document (or a copy thereof) to the
7 Board's Executive Director, Respondent may not revoke his acceptance of the Consent
8 Agreement and Order. Respondent may not make any modifications to the document.
9 Any modifications to this original document are ineffective and void unless mutually
10 approved by the parties.

11 6. Respondent further understands that this Consent Agreement and Order,
12 once approved and signed, shall constitute a public record document that may be publicly
13 disseminated as a formal action of the Board.

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

17 
18 _____
19 William Lee Phelps, M.D.

Reviewed and accepted this 24
day of Sept, 2002.

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 24727 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-02-0155 upon receiving information
7 from the Drug Enforcement Administration ("DEA") that Respondent was arrested on
8 March 7, 2002 for illegally obtaining OxyContin for personal use from September 2001 to
9 March 2002.

10 5. During a March 7, 2002 DEA investigational interview, Respondent admitted
11 that he wrote six fraudulent OxyContin prescriptions for personal use.

12 6. Respondent's March 14, 2002 response to the Board stated that in
13 November 2001 a patient offered to obtain pain medication for Respondent if Respondent
14 wrote a prescription. During the next month, Respondent wrote the prescription for the
15 patient. The patient had the prescription filled and returned the OxyContin to Respondent.
16 Later, Respondent also wrote prescriptions for the patient's son because Respondent
17 worried about writing numerous prescriptions to one patient.

18 7. While writing fraudulent prescriptions, Respondent continued to see his pain
19 management physician.

20 8. On March 13, 2001, Respondent entered the Cottonwood de Tucson drug
21 treatment program and completed the program on April 10, 2002. After evaluation, it was
22 recommended that Respondent be placed on detox status and use Clonidine for opiate
23 withdrawal, undergo individual and group therapy with a 12-step approach, and undergo
24 psychiatric counseling.

1 **TERMS:**

2 Respondent shall submit quarterly declarations under penalty of perjury on forms
3 provided by the Board, stating whether there has been compliance with all conditions of
4 probation. The declarations shall be submitted on or before the 15th March, June,
5 September and December of each year.

6 **1. Participation**

7 Respondent shall promptly enroll in and participate in the Board's
8 confidential substance abuse treatment and rehabilitation program (MAP). As part of the
9 participation in MAP, the Respondent shall cooperate with Board Staff and contracting
10 MAP supervisors. Respondent shall remain in MAP for a period of five years from the
11 effective date of the Order. Respondent's participation in MAP may be unilaterally
12 terminated at the discretion of the Board at any time after issuance of this Order, with or
13 without cause for termination.

14 **2. Group Therapy**

15 Respondent shall attend MAP's group therapy sessions one time per
16 week for the duration of this Order, unless excused by the group therapist for good cause
17 such as illness or vacation. Respondent shall instruct the MAP group therapist to release
18 to the Board, upon its request, all records relating to Respondent's treatment, and to
19 submit monthly reports to the Board regarding attendance and progress. The reports must
20 be submitted on or before the 10th day of each month.

21 **3. 12 Step or Self-Help Group Meetings**

22 A. Respondent shall attend ninety (90) 12-step meetings or other self-
23 help group meetings appropriate for substance abuse and approved by the Board, for a
24 period of ninety (90) days beginning not later than either (a) the first day following his
25

1 discharge from chemical dependency treatment or (b) the effective date of this Order.

2 B. Following completion of the ninety (90) meetings in ninety (90) days,
3 Respondent shall participate in a 12-step recovery program or other self-help program
4 appropriate for substance abuse as recommended by the group therapist and approved by
5 the Board. Respondent shall attend a minimum of three (3) 12-step or other self-help
6 program meetings per week.

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

8 Respondent shall promptly obtain a primary care physician (PCP) and
9 shall submit the name of the PCP to Board Staff in writing for approval. The Board-
10 approved PCP shall be in charge of providing and coordinating Respondent's medical care
11 and treatment. Except in an *Emergency*, Respondent shall obtain Respondent's medical
12 care and treatment only from the PCP and from health care providers to whom the PCP
13 refers Respondent from time to time. Respondent shall request that the PCP document all
14 referrals in the medical record. Respondent shall promptly inform the Board-approved
15 PCP of Respondent's rehabilitation efforts and provide a copy of this Order to the PCP.
16 Respondent shall also inform all other health care providers who provide medical care or
17 treatment that Respondent is participating in MAP.

18 **5. Medication**

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

22 B. If a controlled substance is prescribed, dispensed, or is administered
23 to Respondent by any person other than the PCP, Respondent shall notify the PCP in
24 writing within 48 hours. The notification shall contain all information required for the
25 medication log entry specified below. Respondent shall request that the notification be

1 made a part of the medical record. This paragraph does not authorize Respondent to take
2 any *Medication* other than in accordance with paragraph A.

3 **6. Medication Log**

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

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

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

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

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

19 **8. Biological Fluid Collection**

20 A. During all times that Respondent is physically present in the state of
21 Arizona and such other times as Board Staff may direct, Respondent shall promptly
22 comply with requests from Board Staff, the group therapist, or the Program director to
23 submit to witnessed biological fluid collection. If Respondent is directed to contact an
24 automated telephone message system to determine when to provide a specimen,
25 Respondent shall do so within the hours specified by Board Staff. For the purposes of this

1 paragraph, in the case of an in-person request, "promptly comply" means "immediately".
2 In the case of a telephonic request, "promptly comply" means that, except for good cause
3 shown, Respondent shall appear and submit to specimen collection not later than two
4 hours after telephonic notice to appear is given. The Board in its sole discretion shall
5 determine good cause.

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

13 C. Respondent shall cooperate with collection site personnel regarding
14 biological fluid collection. Repeated complaints from collection site personnel regarding
15 Respondent's lack of cooperation regarding collection may be grounds for termination from
16 MAP.

17 **9. Payment for Services**

18 Respondent shall pay for all costs, including personnel and contractor costs,
19 associated with participating in MAP at time service is rendered or within 30 days of each
20 invoice sent to him.

21 **10. Examination**

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

1 **11. Treatment**

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

4 **12. Obey All Laws**

5 Respondent shall obey all federal, state and local laws, and all rules governing the
6 practice of medicine in the State of Arizona.

7 **13. Interviews**

8 Respondent shall appear in person before the Board and its Staff and committees for
9 interviews upon request, upon reasonable notice.

10 **14. Address and Phone Changes, Notice**

11 Respondent shall immediately notify the Board in writing of any change in office or
12 home addresses and telephone numbers. Respondent shall provide Board Staff at least
13 three business days advance written notice of any plans to be away from office or home
14 for more than five (5) consecutive days. The notice shall state the reason for the intended
15 absence from home or office, and shall provide a telephone number to contact
16 Respondent.

17 **15. Relapse, Violation**

18 In the event of chemical dependency relapse by Respondent or use of drugs or
19 alcohol by Respondent in violation of this Order, Respondent shall promptly enter into an
20 Interim Consent Agreement that requires, among other things, that Respondent not
21 practice medicine until such time as Respondent successfully completes an inpatient or
22 residential treatment program for chemical dependency designated by Board or Staff and
23 obtains the affirmative approval of the Board to return to the practice of medicine. Prior to
24 approving Respondent's request to return to the practice of medicine, Respondent may be
25 required to submit witnessed biological fluid collection, undergo any combination of

1 physical examination, psychiatric or psychological evaluation and/or to successfully pass
2 the special purpose licensing examination or the Board may conduct interviews for the
3 purpose of assisting it in determining the ability of Respondent to safely return to the
4 practice of medicine. In no respect shall the terms of this paragraph restrict the Board's
5 authority to initiate and take disciplinary action for violation of this Order.

6 **16. Notice Requirements**

7 A. Respondent shall immediately provide a copy of this Order to all
8 employers and hospitals and free standing surgery centers at which Respondent currently
9 has privileges. Within 30 days of the date of the Order, Respondent shall provide the
10 Board with a signed statement that Respondent has complied with this notification
11 requirement. Upon any change in employer or upon the granting of privileges at additional
12 hospitals or free standing surgery centers, Respondent shall provide the employer,
13 hospital or free standing surgery center with a copy of this Order. Within 30 days of a
14 change in employer or upon the granting of privileges at additional hospitals or free
15 standing surgery centers, Respondent shall provide the Board with a signed statement
16 that Respondent has complied with this notification requirement.

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

23 C. Respondent shall immediately submit to the Board, under penalty of perjury,
24 on a form provided by the Board, the name(s) and address(es) of all employers and all
25 hospitals and free-standing surgery centers at which Respondent currently holds privileges

1 to practice. Respondent is further required to, under penalty of perjury, on a form provided
2 by the Board, immediately notify the Board of any changes in his employment and of any
3 hospitals and freestanding surgery centers at which Respondent gains privileges after the
4 effective date of this Order.

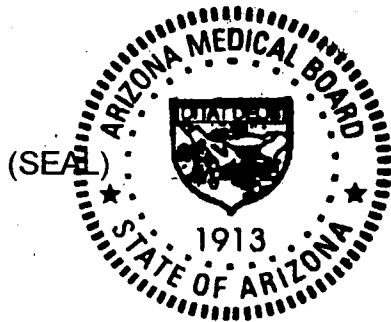
5 **17. Public Record**

6 This order is a public record.

7 **18. Out-of State**

8 In the event Respondent resides or practices medicine in a state other than Arizona,
9 Respondent shall participate in the physician rehabilitation program sponsored by that
10 state's medical licensing authority or medical society. Respondent shall cause the other
11 state's program to provide written reports to the Board regarding his attendance,
12 participation, and monitoring. The reports are due on or before the 15th day of March and
13 September of each year, until the Board terminates this requirement in writing.
14

15 DATED and effective this 3rd day of October, 2002.



ARIZONA MEDICAL BOARD

22 By Barry A. Cassidy
Barry A. Cassidy, Ph.D., P.A.-C
Executive Director

23 ORIGINAL of the foregoing filed this
24 3rd day of October, 2002 with:

25 The Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed by Certified
2 Mail this ~~3rd~~ day of ~~October~~, 2002 to:

3 William Lee Phelps, M.D.
4 231 W. Duval Road
5 Green Valley, AZ 85614-4256

W Phelps
9/14/02

6 EXECUTED COPY of the foregoing
7 hand-delivered to each of the following
8 this ~~3rd~~ day of ~~October~~, 2002, to :

9 Christine Cassetta, Assistant Attorney General
10 Management Analyst
11 Compliance Officer
12 Investigations (Investigation File)
13 Arizona Board of Medical Examiners
14 9545 E. Doubletree Ranch Road
15 Scottsdale, AZ 85258

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