

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

3
4 In the Matter of

5 **KEITH LEVITT, M.D.**

6 Holder of License No. 26382
7 For the Practice of Medicine
8 In the State of Arizona.

Case No. MD-01-0259

**CONSENT AGREEMENT FOR A
LETTER REPRIMAND AND
PROBATION**

8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Board of Medical
10 Examiners ("Board") and Keith Levitt, M.D. ("Respondent"), the parties agreed to the
11 following disposition of this matter at the Board's public meeting on February 6-7, 2002.

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 _____
Keith Levitt, MD.

Reviewed and accepted this 26th
day of JANUARY, 2002.

20 
21 _____
Lawrence Rosenfeld, Attorney at Law
22 (Counsel For Dr. Keith Levitt)

Reviewed and approved as to
form this 29 day of January, 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 26382 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-01-0259 upon receiving notice from a
7 health institution after certain members of the operating staff observed what was perceived
8 as Respondent's diminished physical function.

9 4. Specifically, on April 3, 2001, Boswell Memorial Hospital notified the Board
10 regarding Respondent's alleged diminished physical capacity in the operating room.
11 Certain members of the operating staff noted Respondent's apparent inability to perform
12 basic anesthesiology functions and decreased level of consciousness while administering
13 anesthesia to a patient. Subsequently, Boswell Memorial Hospital summarily suspended
14 Respondent.

15 5. Upon receiving notice of Respondent's behavior, Board staff phoned
16 Respondent and informed him to submit a urine sample to the laboratory by 11:15 a.m.
17 Respondent promptly sought and retained counsel, who consulted with Respondent.
18 Thereafter, Respondent reported to the laboratory at 2:25 p.m. The urine sample was
19 negative.

20 6. On April 19, 2001, Board staff met with Respondent and his attorney
21 regarding the allegations of substance abuse. Respondent informed Board staff that he
22 was not under the influence of controlled substances on April 3, 2001, but agreed to attend
23 a treatment center for inpatient evaluation for chemical dependency (Springbrook).
24 Respondent reported to Springbrook on April 25, 2001. Respondent completed treatment
25 and was released on July 20, 2001.

1 7. While at Springbrook, Respondent confessed to having used Hydrocodone,
2 Vicodin, IV Morphine, IV Fentanyl, and IV Sufentanil. Springbrook informed Board staff of
3 Respondent's relapse. On May 15, 2001, the Board granted Respondent's request to
4 inactivate his license with cause and issued an order.

5 8. After receiving documentation from Springbrook, Board staff discovered that
6 Respondent was under the influence of controlled substances on the day he was removed
7 from the Boswell Memorial Hospital. Thus, Respondent provided false information to
8 Board staff during the April 19, 2001 interview.

9 9. Further investigation revealed that Respondent wrote fraudulent
10 Hydrocodone prescriptions using the name of his girlfriend as a patient. Respondent used
11 the Hydrocodone. Respondent also prescribed controlled and non-controlled substances
12 specifically for his girlfriend. However, Respondent failed to maintain any medical records
13 on his girlfriend and there is no evidence indicating that Respondent conducted a physical
14 examination prior to prescribing the medications.

15 10. Respondent's actions violated both federal and state laws applicable to the
16 practice of medicine. Respondent wrote fraudulent prescriptions, and injected and
17 ingested controlled substances for non-therapeutic reasons. Respondent prescribed
18 medication to a patient without conducting a physical and without maintaining patient
19 records. All of these actions fell below the acceptable standard of care.

20 11. Respondent currently resides in the state of Washington. A letter dated
21 December 4, 2001, from the Washington Physicians Health Program stated that
22 Respondent's recovery appears to be stable, he was in full compliance with the programs
23 contract, and he is able to practice medicine with reasonable safety.

24

25

1 **CONCLUSIONS OF LAW**

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

4 2. The conduct and circumstances described above in paragraphs 3 to 10
5 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(a) (“[v]iolating any
6 federal or state laws or rules and regulation applicable to the practice of medicine.”)

7 3. The conduct and circumstances described above in paragraphs 7 to 9
8 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(g) (“[u]sing controlled
9 substances except if prescribed by another physician for use during a prescribed course of
10 treatment.”)

11 4. The conduct and circumstances described above in paragraph 9 constitute
12 unprofessional conduct pursuant to A.R.S. § 32-1401(25)(e) (“[f]ailing or refusing to
13 maintain adequate records on a patient.”)

14 5. The conduct and circumstances described above in paragraph 9 constitute
15 unprofessional conduct pursuant to A.R.S. § 32-1401(25)(ss) (“[p]rescribing, dispensing or
16 furnishing a prescription medication or a prescription-only device to a person unless the
17 licensee first conducts a physical examination of that person or has previously established
18 a doctor-patient relationship.”)

19 6. The conduct and circumstances described above in paragraphs 6 and 8
20 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(jj) (“[k]nowingly
21 making a false or misleading statement to the board to or on a form required by the Board
22 or in a written correspondence, including attachments, with the board.”)

23 **ORDER**

24 IT IS HEREBY ORDERED THAT:

25 1. Respondent’s license is converted from an inactive license to an active

1 license contingent upon Respondent paying his renewal fees. A.R.S. § 32-1431(D)

2 2. Respondent is issued a Letter of Reprimand for providing false information to
3 the Board as specified paragraphs 6 and 8 of the above Findings of Facts.

4 3. Respondent's license is suspended for a period of **12 months**. However, the
5 suspension is stayed and Respondent is placed on probation for **5 years** with the following
6 terms and conditions. Upon any violation of a probationary term, after giving notice and
7 the opportunity to be heard, the Board shall suspend Respondent's license for the 12-
8 month period stated above. If an investigation involving an alleged violation of the
9 probation is initiated but not resolved prior to the termination of the probation, the Board
10 shall have continuing jurisdiction and the period of probation shall extend until the matter is
11 final. This Order is the final disposition of case number MD-01-0259.

12 (a) Respondent shall not prescribe, administer, or dispense
13 controlled substances until he affirmatively receives the Board's approval to do so. Within
14 one year from the effective date of this Order, Respondent may apply to the Board to
15 terminate or amend this probationary term.

16 (b) Respondent shall continue to practice medicine in the State of
17 Washington and shall apply to the Board and affirmatively receive the Board's written
18 approval to return to the practice of anesthesiology in the State of Arizona.

19 (c) Respondent shall participate in the Board's Monitored Aftercare
20 Program (MAP) with the following terms and definitions:
21

22 **DEFINITIONS:**

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

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

TERMS:

1. Participation in the Monitored Aftercare Program

Respondent shall promptly enroll in and participate in the Board's confidential substance abuse treatment and rehabilitation program (the "program"). As part of the participation in the program, the Respondent shall cooperate with Board staff and contracting program supervisors. Respondent shall remain in the program for a period of five years from the effective date of the Order.

2. Group Therapy

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

3. 12- Step or Self-Help Group Meetings

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

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

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

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

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

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

15 **5. Medication**

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

20 B. If a controlled substance is prescribed, dispensed, or is administered to
21 Respondent by any person other than the Board-approved primary care physician,
22 Respondent shall notify the Board-approved primary care physician in writing within 48
23 hours. The notification shall contain all information required for the medication log entry
24 specified below. Respondent shall request that the notification be made a part of the
25 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 by
4 or administered to Respondent, and shall make the log available to the Board and its staff
5 upon request. For *Medication* (other than controlled substances) taken on an on-going
6 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 poppy
17 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 may direct, Respondent shall promptly
21 comply with requests from Board staff, the group therapist, or the program director to
22 submit to witnessed biological fluid collection. If Respondent is directed to contact an
23 automated telephone message system to determine when to provide a specimen, he shall
24 do so within the hours specified by Board staff. For the purposes of this paragraph, in the
25 case of an in-person request, "promptly comply" means "immediately". In the case of a

1 telephonic request, "promptly comply" means that, except for good cause shown,
2 Respondent shall appear and submit to specimen collection not later than two hours after
3 telephonic notice to appear is given. The Board in its sole discretion shall determine good
4 cause.

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

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

16 **9. Payment for Services**

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

20 **10. Examination**

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

1 **11. Treatment**

2 Respondent shall submit to all medical, substance abuse, and mental health care
3 and treatment ordered by the Board, or recommended by the program 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
9 for 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 that may be used to
16 contact Respondent.

17 **15. Relapse, Violation**

18 In the event that Respondent violates any term of this order, Respondent's license
19 will automatically be summarily suspended. Alternatively, Respondent may request to
20 Surrender of License. If Respondent's license is revoked, Respondent shall be prohibited
21 from reapplying for a license for five (5) years.

22 **16. Notice Requirements**

23 A. Respondent shall immediately provide a copy of this Order to all hospitals
24 and free standing surgery centers at which Respondent has any privileges. Within 30
25 days of the effective date of this Order, Respondent shall provide the Board with a signed

1 statement that Respondent has complied with this notification requirement.

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

8 **17. Public Record**

9 This order is a public record.

10 **18. Out-of State**

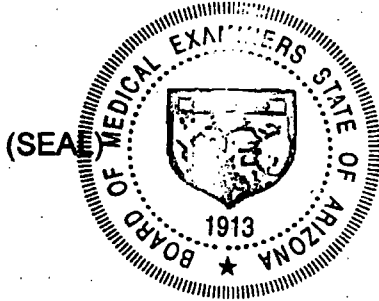
11 In the event Respondent resides or practices medicine in a state other than
12 Arizona, Respondent shall participate in the physician rehabilitation program sponsored by
13 that state's medical licensing authority or medical society. Respondent shall cause the
14 other state's program to provide written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

17 **19. Quarterly Declarations**

18 Respondent shall submit quarterly declarations under penalty of perjury on forms
19 provided by the Board, stating whether there has been compliance with all the terms of
20
21
22
23
24
25

1 this order. The declarations shall be submitted on or before the 15th of March, June,
2 September and December of each year.

3 DATED AND EFFECTIVE this 7th day of February, 2002.



BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

10
11
12
13
14
15
16
17
18
19

By Claudia Foutz
CLAUDIA FOUTZ, Executive Director
TOM ADAMS, Deputy Director

20
21
22
23
24
25

ORIGINAL of the foregoing filed this
7th day of FEBRUARY, 2002 with:

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

EXECUTED COPY of the foregoing mailed by
Certified Mail this 7th day of FEBRUARY, 2002 to:

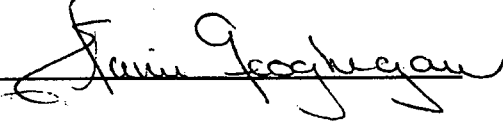
Lawrence J. Rosenfeld, Esq.
Greenberg Traurig, LLP
2375 E. Camelback Road, Ste. 700
Phoenix, AZ 85016

EXECUTED COPY of the foregoing mailed
this 7th day of FEBRUARY, 2002 to:

Keith Levitt, M.D.
2203 N. 80th Street
Seattle, WA 98103-4508

1 EXECUTED COPY of the foregoing
hand-delivered this 7th day of
2 FEBRUARY, 2002, to:

3 Christine Cassetta, Assistant Attorney General
4 [REDACTED] Management Analyst
Lynda Mottram, Compliance Officer
5 Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
c/o Arizona Board of Medical Examiners
6 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

7
8 
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 BEFORE THE ARIZONA MEDICAL BOARD

2
3 In the Matter of

Case No. MD-01-0259

4 **KEITH LEVITT, M.D.**

5 Holder of License No. **26382**
6 For the Practice of Medicine
In the State of Arizona.

**AMENDMENT TO CONSENT
AGREEMENT FOR LETTER OF
REPRIMAND AND PROBATION
DATED FEBRUARY 7, 2002**

7
8 **AMENDMENT TO CONSENT AGREEMENT**

9 By mutual agreement and understanding between the Arizona Medical Board
10 ("Board") and Keith Levitt, M.D. ("Respondent") on February 7, 2002 the parties entered
11 into a Consent Agreement ("Agreement") to resolve case number MD-01-0259. The terms
12 and conditions of the Agreement are incorporated herein by reference. One of the terms
13 of probation prohibited Respondent from prescribing, administering or dispensing
14 controlled substances until further Board order. The Agreement provided that one year
15 from the effective date of the Agreement, Respondent could request that the Board
16 remove this prohibition.

17 At its public meeting on March 12, 2003, the Board was presented with
18 Respondent's request that the Board remove this prohibition and with evidence that
19 Respondent has demonstrated a successful rehabilitation and that removal of this
20 prohibition was warranted. After due consideration of the facts and law applicable to this
21 matter, the Board voted to amend the Agreement as indicated below.
22
23
24
25

ORDER

IT IS HEREBY ORDERED THAT Paragraph 3(a) of Respondent's probation contained in the Agreement dated February 7, 2002 is deleted. Respondent may now prescribe, administer or dispense controlled substances.

All other terms of the Agreement remain in full force and effect.

DATED AND EFFECTIVE this 19th day of MARCH, 2003.



ARIZONA MEDICAL BOARD

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

Executed copy of the foregoing
mailed by U.S. Certified Mail this
19th day of MARCH, 2003, to:

Keith Levitt, M.D.
2600 2nd Avenue #1108
Seattle, Washington 98121-1239

Copy of the foregoing hand-delivered this
19th day of MARCH, 2003, to:

Christine Cassetta
Assistant Attorney General
Sandra Waitt, Management Analyst
Compliance
Investigations (Investigation File)
Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

John Joseph