

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

3  
4 In the Matter of

5 **DAVID PATZER, M.D.**

6 Holder of License No. 26950  
7 For the Practice of Medicine  
8 In the State of Arizona.

Case No. MD-01-0743

**CONSENT AGREEMENT FOR A  
STAYED SUSPENSION AND  
PROBATION**

8                                   **CONSENT AGREEMENT**

9           By mutual agreement and understanding, between the Arizona Board of Medical  
10 Examiners ("Board") and David Patzer, M.D. ("Respondent"), the parties agreed to the  
11 following disposition of this matter at the Board's public meeting on June 5, 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 David Patzer, M.D. 51102

Reviewed and accepted this First  
day of May, 2002.

1 **FINDINGS OF FACT**

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 26950 for the practice of  
5 allopathic medicine in the State of Arizona.

6 3. Respondent entered into a Stipulated Rehabilitation Agreement (SRA) with  
7 the Board on September 29, 2000. Respondent began participating in the Board's  
8 Monitored Aftercare Program on a confidential basis

9 4. On October 12, 2001, Respondent's random biological fluid sample tested  
10 positive for Amphetamine. The positive biological fluid sample was a violation of the  
11 September 29, 2000, SRA. The Board initiated case number MD-01-0743 after receiving  
12 notice of this positive biological fluid sample.

13 5. On October 19, 2001, Respondent enrolled in Springbrook Northwest for  
14 evaluation and/or treatment. On October 24, 2001, Respondent signed an Interim  
15 Consent Agreement for Practice Restriction and Evaluation. Respondent completed  
16 treatment on January 16, 2002.

17 6. While at Springbrook Northwest, Respondent admitted that he ingested  
18 Dexedrine the day before the October 12, 2001 positive test for Amphetamine.

19 7. Respondent's ingestion of Dexedrine, confirmed by the positive biological  
20 fluid sample constitutes a violation of his SRA, an act of unprofessional conduct.

21 **CONCLUSIONS OF LAW**

22 1. The Board possesses jurisdiction over the subject matter hereof and over  
23 Respondent.

24 2. The conduct and circumstances described above in paragraph 5 and 7  
25 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(r) ("[v]iolating a formal

1 order, probation, consent agreement or stipulation issued or entered into by the board or  
2 its executive director und the provisions of this chapter.”)

3 3. The conduct and circumstances described above in paragraph 5 and 7  
4 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(g)(“[u]sing controlled  
5 substances except if prescribed by another physician for use during a prescribed course of  
6 treatment.”)

7 **ORDER**

8 IT IS HEREBY ORDERED THAT:

9 1. Respondent is suspended for a period of thirty days. However, the  
10 suspension is stayed and Respondent is placed on probation for 5 years with the following  
11 terms and conditions. Upon any violation of a probationary term, after notice and the  
12 opportunity to be heard, the Board shall suspend Respondent’s license for the period  
13 stated above. If an investigation involving an alleged violation of the probation is initiated  
14 but not yet resolved prior to termination of the probation, the Board shall have continuing  
15 jurisdiction and the period of probation shall extend until the matter is final.

16 (a) Respondent shall limit his work hours to 40 hours per week. On the  
17 10<sup>th</sup> of each month, Respondent shall submit to Board staff official copies of his work  
18 schedule and a record of hours actually worked, signed by his supervisor.

19 (b) Respondent shall not dispense or possess samples of controlled  
20 substances.

21 (c) Respondent shall not apply for or hold a dispensing certificate.

22 (d) Respondent shall participate in the Board’s Monitored Aftercare  
23 Program (MAP) pursuant to the following:

1 **I. Definitions**

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

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

6 **II. Terms**

7 1. **Participation.** Respondent shall promptly enroll in and participate in the  
8 Board's substance abuse treatment and rehabilitation program (hereafter, "MAP"). As part  
9 of said participation in MAP, Respondent shall cooperate with the Board's staff and  
10 contracting MAP supervisors.

11 2. Respondent's participation in the program may be unilaterally terminated at  
12 the discretion of the Board at any time after issuance of this Order, with or without cause  
13 for termination.

14 3. If the Board (or its Executive Director) conclude that it is appropriate, this  
15 matter may be referred for further proceedings or investigation to the extent authorized by  
16 Board statutory authority or other applicable law to consider all relevant issues of  
17 Respondent's professional conduct and ability to safely and ethically engage in the  
18 practice of medicine.

19 4. Respondent's participation in the Monitored Aftercare Program will terminate  
20 at the end of five (5) years unless the Board issues an Order authorizing earlier  
21 termination or extending the time period.

22 5. **Group Therapy.** Respondent shall attend the program's group therapy  
23 sessions one time per week for the duration of this Order, unless excused by the group  
24 therapist for good cause such as illness or vacation. Respondent shall instruct the  
25 program group therapist to release to the Board, upon its request, all records relating to

1 Respondent's treatment, and to submit monthly reports to the Board regarding attendance  
2 and progress. The reports shall be submitted on or before the 10th day of each month.

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

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

13       **8.** Respondent shall promptly inform the Board-approved primary care  
14 Physician of Respondent's rehabilitation efforts and provide a copy of this Order to that  
15 Physician. Respondent shall also inform all other health care providers who provide  
16 medical care or treatment that Respondent is participating in the Board's rehabilitation  
17 program.

18       **9. Medication.** Except in an *Emergency*, Respondent shall take no *Medication*  
19 unless the *Medication* is prescribed by Respondent's Board-approved primary care  
20 Physician or other health care provider to whom the Board-approved primary care  
21 Physician makes a referral. Respondent shall not self-prescribe any *Medication*.

22       **10.** If a controlled substance is prescribed, dispensed, or is administered to  
23 Respondent by any person other than the Board-approved primary care Physician,  
24 Respondent shall notify the Board-approved primary care Physician in writing within 48  
25 hours. The notification shall contain all information required for the medication log entry

1 specified in paragraph 13. Respondent shall request that the notification be made a part  
2 of the medical record. This paragraph does not authorize Respondent to take any  
3 *Medication* other than in accordance with paragraph 11.

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

- 10           a. Name and dosage of *Medication* taken or administered;
- 11           b. Date taken or administered;
- 12           c. Name of prescribing or administering Physician;
- 13           d. Reason *Medication* was prescribed or administered.

14 This paragraph does not authorize Respondent to take any *Medication* other than in  
15 accordance with paragraph 11.

16       **12. No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or  
17 any food or other substance containing poppy seeds and alcohol.

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

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

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

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

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

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

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



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

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

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

11           **22. Relapse, Violation.** In the event of chemical dependency relapse by  
12 Respondent or use of drugs or alcohol by Respondent in violation of this Order,  
13 Respondent shall promptly enter into a Interim Stipulated Agreement that requires, among  
14 other things, that Respondent not practice medicine until such time as Respondent  
15 successfully completes an inpatient or residential treatment program for chemical  
16 dependency designated by the Board or staff and obtains the affirmative approval of the  
17 Board to return to the practice of medicine. Prior to approving Respondent's request to  
18 return to the practice of medicine, the Diversion Committee may require Respondent to  
19 submit to witnessed biological fluid collection, undergo any combination of a physical  
20 examination, psychiatric or psychological evaluation and/or to successfully pass the  
21 special purpose licensing examination or the Board may conduct interviews for the  
22 purposes of assisting it in determining the ability of Respondent to safely return to the  
23 practice of medicine. In no respect shall the terms of this paragraph restrict the Board's  
24 authority to initiate and take disciplinary action for violation of this Order.

1           **23.    Notice Requirements.**

2           (a) Physician shall immediately provide a copy of this Order to all employers  
3           and hospitals and free standing surgery centers at which Physician currently has  
4           privileges. Within 30 days of the date of the Order, Physician shall provide the  
5           Board with a signed statement that Physician has complied with this notification  
6           requirement. Upon any change in employer or upon the granting of privileges at  
7           additional hospitals or free standing surgery centers, Physician shall provide the  
8           employer, hospital or free standing surgery center with a copy of this Order. Within  
9           30 days of a change in employer or upon the granting of privileges at additional  
10          hospitals or free standing surgery centers, Physician shall provide the Board with a  
11          signed statement that Physician has complied with this notification requirement.

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

18          (c) Physician shall immediately submit to the Board, under penalty of perjury,  
19          on a form provided by the Board, the name(s) and address(es) of all employers and  
20          all hospitals and free-standing surgery centers at which Physician currently holds  
21          privileges to practice. Physician is further required to, under penalty of perjury, on a  
22          form provided by the Board, immediately notify the Board of any changes in his  
23          employment and of any hospitals and freestanding surgery centers at which  
24          Physician gains privileges after the effective date of this Order.

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

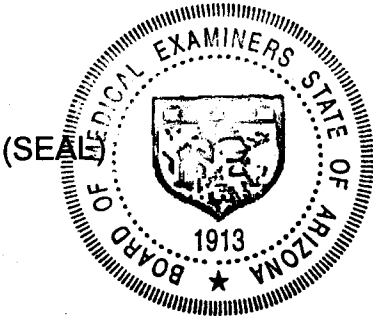
3           **25. Out-of State.** In the event Respondent resides or practices medicine in a  
4 state other than Arizona, Respondent shall participate in the physician rehabilitation  
5 program sponsored by that state's medical licensing authority or medical society.  
6 Respondent shall cause the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

10           **26. Quarterly Declarations** Respondent shall submit quarterly declarations  
11 under penalty of perjury on forms provided by the Board, stating whether there has been  
12 compliance with all conditions of probation. The declarations shall be submitted on or  
13 before the 15th of March, June, September and December of each year, beginning on or  
14 before June 15, 2002.

15           **27.** Respondent shall immediately obtain a treating psychiatrist approved by  
16 Board staff and shall remain in treatment with the psychiatrist until further order of the  
17 Board. Respondent shall instruct the psychiatrist to release to the Board, upon its request,  
18 all records relating to treatment of Respondent, and to submit quarterly written reports to  
19 the Board regarding diagnosis, prognosis, and recommendations for continuing care and  
20 treatment of respondent. The reports shall be submitted on or before the 15th day of  
21 March, June, September and December of each year.

1 This Order is the final disposition of case number MD-01-0743.

2 DATED AND EFFECTIVE this 5<sup>th</sup> day of June, 2002.



BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF ARIZONA

9 By Claudia Foutz  
CLAUDIA FOUTZ, Executive Director

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

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

15 EXECUTED COPY of the foregoing mailed by  
16 Certified Mail this 6<sup>th</sup> day of June, 2002 to:

17 David Patzer, M.D.  
18 5051 N Sabino Canyon Rd #1110  
19 Tucson AZ 85750-6456

20 EXECUTED COPY of the foregoing  
21 hand-delivered this 6<sup>th</sup> day of  
22 June, 2002, to:

23 Christine Cassetta, Assistant Attorney General  
24 Sandra Waitt, Management Analyst  
25 Lynda Mottram, Compliance Officer  
Investigations (Investigation File)  
c/o Arizona Board of Medical Examiners  
9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258