BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **DONALD PORTER, M.D.** Holder of License No. **13521** For the Practice of Allopathic Medicine In the State of Arizona.	Board Case No. MD-07-0571A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** (Letter of Reprimand)

The Arizona Medical Board ("Board") considered this matter at its public meeting on February 7, 2008. Donald Porter, M.D., ("Respondent") appeared with legal counsel, Paul Giancola, before the Board for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue the following Findings of Fact, Conclusions of Law and Order after due consideration of the facts and law applicable to this matter.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 13521 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-07-0571A after receiving a complaint regarding his care and treatment of a twenty-three year-old female patient ("SP"). SP, a student and basketball player at the University of Arizona, was examined by Respondent at the university athletic treatment facility on September 19, 2005 for a complaint of hemoptysis. Respondent ordered a CBC, chest x-ray and a cocci serology. SP had a resting heart rate of 96. No pulse oximetry was recorded. SP was considered dehydrated with diagnoses of upper respiratory infection, hemoptysis and vomiting.

4. SP returned to the clinic on September 22, 2005, and was seen by another physician for a worsened cough and shortness of breath when walking on campus. SP's heart rate was 100 and her oxygen saturation was 96 percent. She was given a nebulizer treatment which improved her peak flow. SP was diagnosed with asthma and started on prednisone. She was to follow up at the clinic the next day.

5. SP returned to the clinic on September 23, 2005, and was seen by Respondent. SP felt better but was short of breath when she worked out but not while in the office. Asthma was again diagnosed and SP was told not to work out until cleared by Respondent. Respondent admitted that no vital signs were taken and no oxygen saturations were documented as he did not believe it to be necessary since she was doing well in the office.

6. Respondent was contacted by the athletic training staff on September 26, 2005 requesting that he come and see SP urgently as she was found to be short of breath with chest pain. Emergency services were called but SP subsequently coded. The cause of death was a pulmonary embolism as well as DV thrombosis.

7. Respondent acknowledged that SP had a past medical history which included asthma and that during the course of her career at the University of Arizona she had numerous illnesses and numerous sports injuries. She had knee surgery in April, 2005. Additionally, Respondent stated that SP was obese and taking oral contraceptives. While Respondent acknowledged that consideration of these factors, along with hemoptysis could indicate pulmonary embolism as a cause for the hemoptysis, he did not consider that diagnosis when evaluating SP.

8. Respondent testified that he has changed his practice since the death of SP. When a patient complains of hemoptysis, he now orders many more D-dimers and tries to get more historical clues in order to rule out pulmonary embolism. Additionally, he pays more attention to vital signs and makes sure that appropriate pulse oximetry has been done.

Respondent has also increased the level and method of communication with the athletic trainers, given that he was not made aware that SP had reported swelling of the legs to an athletic trainer on September 6, 2005.

9. The standard of care is to further evaluate a patient's hemoptysis when the patient is seen on more than one occasion complaining of dyspnea on exertion and hemoptysis and that patient has been on oral contraceptives and is obese.

10. Respondent deviated from the standard of care by failing to do further workup on a patient with indications of pulmonary embolism or consider any other cause of hemoptysis other than purely upper respiratory infection.

11. SP died from a pulmonary embolism.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice which is or might be harmful or dangerous to the health of the patient or the public").

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED:

Respondent is issued a Letter of Reprimand for failing to consider and pursue a diagnosis of pulmonary embolism and failing to perform an adequate examination, including pulse oximetry and measuring of vital signs in a patient complaining of respiratory symptoms.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

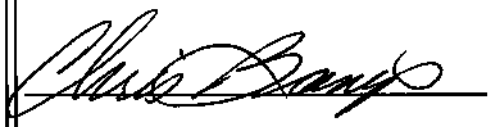
DATED this 3rd day of April, 2008.

THE ARIZONA MEDICAL BOARD

By _____
LISA S. WYNN
Executive Director

ORIGINAL of the foregoing filed this 3rd day of April, 2008 with:
Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing mailed by U.S. Mail this 3rd day of April, 2008, to:

Paul J. Giancola, Esq.
Snell & Wilmer, LLP
One Arizona Center
Phoenix, Arizona 85004-2202

Donald Porter, M.D.
Address of Record