BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **RICHARD J. WHITMAN, M.D.** Holder of License No. 14188 For the Practice of Allopathic Medicine In the State of Arizona	Case No. MD-07-0752A **CONSENT AGREEMENT FOR LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Richard J. Whitman, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

express or implied, of the Board's statutory authority or jurisdiction regarding any other pending or future investigation, action or proceeding. The acceptance of this Consent Agreement does not preclude any other agency, subdivision or officer of this State from instituting other civil or criminal proceedings with respect to the conduct that is the subject of this Consent Agreement.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

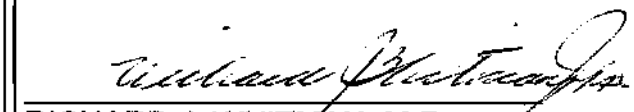
7. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the acceptance of the Consent Agreement. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

8. If the Board does not adopt this Consent Agreement, Respondent will not assert as a defense that the Board's consideration of this Consent Agreement constitutes bias, prejudice, prejudgment or other similar defense.

9. This Consent Agreement, once approved and signed, is a public record that will be publicly disseminated as a formal action of the Board and will be reported to the National Practitioner Data Bank and to the Arizona Medical Board's website.

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

11. Any violation of this Consent Agreement constitutes unprofessional conduct and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter") and 32-1451.



RICHARD J. WHITMAN, M.D.

DATED: 3/4/08

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 number 14188 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-07-0752A after receiving notification of a malpractice settlement involving Respondent's care and treatment of a forty-nine year-old female patient ("JH").

4. On March 23, 2005, JH presented to the emergency department (ED) complaining of abdominal distention and pain. An abdominal and pelvic computed tomography (CT) scan was ordered in the ED and JH was diagnosed with severe colonic distention with a suspicion of colonic obstruction, possible colitis, or volvulus. The ED physician ordered a consultation with Respondent. The CT scan report revealed two lumens within the descending thoracic aorta, indicating an ulcerated plaque or short segment dissections.

5. On March 24, 2005, Respondent saw JH. Respondent's assessment was ileus, rule out small bowel obstruction (SBO). Respondent's plan was to reassess JH. The note made no mention of the CT studies, indicating Respondent did not familiarize himself with the results. Respondent did not see JH again until March 27, 2005. The internist saw JH on that same date and noted JH had an elevated blood pressure and heart rate; however, Respondent's notes described the vital signs as stable.

6. On March 29, 2005, JH was found blue and unresponsive and subsequently died. An autopsy showed a descending aortic dissection with development of a false aneurysm with rupture into the left pleural cavity.

7. The standard of care requires a surgeon a surgeon to examine a patient with possible SBO at least daily until the obstruction is resolved.

8. Respondent deviated from the standard of care because he did not examine JH, a patient with possible SBO on a daily basis.

9. The standard of care requires a surgeon who is evaluating a patient with abdominal pain who has had an abdominal CT scan to be familiar with the results of the CT scan.

10. Respondent deviated from the standard of care because he did not familiarize himself with the results of the CT scan.

11. Respondent's failure to evaluate JH on a daily basis led to a delay in SBO surgery.

CONCLUSIONS OF LAW

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

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.") and A.R.S. § 32-1401 (27)(ll) ("[c]onduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for failure to follow up with a patient with possible small bowel obstruction until three days after an initial visit and for failure to familiarize himself with the results of the computed tomography scan performed.

2. This Order is the final disposition of case number MD-07-0752A.

DATED AND EFFECTIVE this 3rd day of April, 2008.

(SEAL)

ARIZONA MEDICAL BOARD

By _____
Lisa Wynn
Executive Director

ORIGINAL of the foregoing filed this 3rd day of April, 2008 with:

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

EXECUTED COPY of the foregoing mailed this 3rd day of April, 2008 to:

Scott J. Hergenroether
Kendhammer, Colburn & Hergenroether, L.L.P.
394 North 3rd Avenue
Phoenix, AZ 85003-1521

EXECUTED COPY of the foregoing mailed this 3rd day of April, 2008 to:

Richard J. Whitman, M.D.
Address of Record

_____
Investigational Review