BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

GEORGE F. GWINN, M.D.
Holder of License No. 25811
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-14-1608A
AMENDED ORDER FOR LETTER
OF REPRIMAND; AND
CONSENT TO THE SAME

George F. Gwinn, M.D. ("Respondent") elects to permanently waive any right to a
hearing and appeal with respect to this Amended Order for a Letter of Reprimand; admits
the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this
Amended Order by the Board.

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 25811 for the practice of
allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-14-1608A after receiving notification of
from a hospital regarding Respondent's behavioral health status pursuant to A.R.S. § 32-
1451(A).

4. On June 5, 2015, Respondent and the Board entered into an Order for
Stayed Revocation and Probation; and Consent to the Same ("Consent"), which prohibited
Respondent from engaging in the practice of medicine in the State of Arizona, pending the
outcome of an appropriate evaluation and obtaining a recommendation from the Board's
Physician Health Program ("PHP") Contractor that he is safe to practice. Respondent was
also required to provide patients' medical records as demanded in seven other Board
matters. See Consent attached as Exhibit 1.
5. Respondent has provided satisfactory proof of resolving the medical records requests from the matters identified in the Consent.

6. Respondent has completed an appropriate evaluation, and obtained a recommendation from the PHP Contractor that monitoring is not required.

7. Respondent did not renew his Arizona medical license, and is therefore unable to return to the practice of medicine in the State of Arizona without reapplication.

CONCLUSIONS OF LAW

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

b. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q)("Any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").

c. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(v)("Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.").

d. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §§ 32-1401(27)(a) ("[v]iolating any federal or state laws, rules or regulations applicable to the practice of medicine.") and 12-2293(A) ("[e]xcept as provided in subsections B and C of this section, on the written request of a patient or the patient's health care decision maker for access to or copies of the patient's medical records and payment records, the health care provider in possession of the record shall provide access to or copies of the records to the patient or the patient's health care decision maker.").
AMENDED ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

DATED AND EFFECTIVE this ___ day of October, 2017.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Executive Director

CONSENT TO ENTRY OF ORDER

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

2. Respondent acknowledges and agrees that this Amended Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

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

4. The Amended Order is not effective until approved by the Board and signed by its Executive Director.

5. 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.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board’s Executive Director, Respondent may not revoke the consent to the entry of the Order. 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.

7. This Amended Order is a public record that will be publicly disseminated as a formal disciplinary action of the Board and will be reported to the National Practitioner’s Data Bank and on the Board’s web site as a disciplinary action.

8. If the Board does not adopt this Amended Order, Respondent will not assert as a defense that the Board’s consideration of the Order constitutes bias, prejudice, prejudgetment or other similar defense.

9. Respondent has read and understands the terms of this agreement.

GEORGE F. GWINN, M.D.

DATED: 9/27/2017

EXECUTED COPY of the foregoing mailed this 4th day of October, 2017 to:

George F. Gwinn, M.D.
Address of Record

Christine Cassetta, Esq.
Quarles & Brady, LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004-2391
Attorney for Respondent
ORIGINAl of the foregoing filed
this ___ day of October, 2017 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85256

Mary Baker
Board staff
Exhibit 1
BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

GEORGE F. GWINN, M.D.

Case No. MD-14-1608A

ORDER FOR STAYED REVOCATION
AND PROBATION; AND CONSENT TO
THE SAME

Holder of License No. 25811
For the Practice of Allopathic Medicine
In the State of Arizona.

George F. Gwinn, M.D. ("Respondent"), elects to permanently waive any right to a hearing and appeal with respect to this Order for Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

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 25811 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-14-1608A after receiving notification from a hospital regarding Respondent's behavioral health status pursuant to A.R.S. § 32-1451(A).

4. According to the complaint, Respondent experienced a mental health crisis that resulted in an involuntary admission to a mental health care facility for an evaluation.

5. Board staff subsequently opened an investigation; however, Respondent failed to respond to multiple attempts to contact him, and failed to comply with a staff referral to the Physician Health Program ("PHP") for initial assessment. After review of the preliminary investigation results as well as Respondent's failure to respond to the Board investigation, the Executive Director, Chief Medical Consultant and Lead Board Member all concurred that Respondent should be offered an Interim Consent Agreement for Practice Restriction ("ICA"). The ICA was sent to Respondent for signature on December
12, 2014, however Respondent did not respond to the offered ICA. As a result, the Executive Director, with the concurrence of the Lead Board Member and Chief Medical Consultant, issued an Interim Order for Assessment on December 17, 2014, requiring Respondent to present to PHP for an assessment no later than 5:00 p.m. on December 18, 2014. Respondent did not comply with the Order.

6. On December 19, 2014, the Board met to consider Respondent’s case and voted to summarily suspend Respondent’s license.

7. Also on December 19, 2014, the Board received a complaint from a federal health facility for which Respondent provided weekly allergy clinic services alleging that Respondent had arrived late for his December 18, 2014 clinic hours, was deemed unsafe to practice medicine by facility staff, and sent home.


9. The matter was referred to the Office of Administrative Hearings and a hearing was held in Case No: 15A-25811-MDX on February 19, 2015. Respondent failed to appear and the Administrative Law Judge recommended that the Board issue an order revoking Respondent’s license.

10. The Board considered the matter at its Board meeting on April 1, 2015 and voted to revoke Respondent’s license.

11. Respondent submitted a timely motion for Review/Rehearing. Respondent admitted that he had suffered a health issue and requested that the Board consider reinstatement of his license with terms and conditions that would provide him with an opportunity to demonstrate his safety to practice medicine.

12. Respondent has voluntarily contacted the Board’s Physician Health Program ("PHP") to obtain a psychiatric fitness for duty evaluation from a Board approved evaluator.
Respondent has also indicated that he is willing to resolve the outstanding complaints regarding his failure to respond to requests from his patients for medical records. Medical records reviewed during the course of the investigation did not indicate that Respondent's condition was the result of any drug or alcohol impairment.

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.").

3. The conduct and circumstances described above constitute unprofessional conduct pursuant to 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.").

4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §§ 32-1401(27)(a) ("[v]iolating any federal or state laws, rules or regulations applicable to the practice of medicine") and 12-2293(A) ("[e]xcept as provided in subsections B and C of this section, on the written request of a patient or the patient's health care decision maker for access to or copies of the patient's medical records and payment records, the health care provider in possession of the record shall provide access to or copies of the records to the patient or the patient's health care decision maker.").

ORDER

IT IS HEREBY ORDERED THAT:
1. License Number 25811, issued to George F. Gwinn, M.D. for the practice of alopathic medicine is REVOLED; however, the revocation is stayed provided Respondent complies with the terms and conditions of probation as stated herein.

2. Respondent is placed on Probation for a period of 5 years with the following terms and conditions:

   a. **Practice Restriction**

      Respondent's practice is restricted in that he shall not practice clinical medicine, or any medicine involving direct patient care, and is prohibited from prescribing any form of treatment including prescription medications, until Respondent applies to the Board and receives permission to do so. Prior to requesting approval to return to practice, Respondent shall complete a psychiatric evaluation by a Board approved evaluator and comply with any recommendations for additional evaluations or treatment made by the evaluator. Respondent shall also obtain a recommendation from the Board's PHP Contractor that Respondent is safe to practice prior to requesting that the Board lift the Practice Restriction. Additionally, Respondent shall provide proof to the Board's satisfaction that Respondent has provided the relevant parties their medical records as demanded in MD-14-1616A, MD-15-0045A, MD-15-0161A, MD-15-0203A, MD-15-0239A, MD-15-0259A, and MD-15-0303A.

   b. **Monitoring**

      If further monitoring is recommended, Respondent shall enroll in the Board's PHP within 5 days of the recommendation to do so. Respondent must comply with all the terms and conditions of PHP monitoring including, at a minimum, the following:

      i. Respondent shall enter treatment with a PHP approved psychiatrist and/or psychotherapist and shall comply with any and all treatment recommendations, including taking any and all prescribed medications.
Respondent shall instruct the treating psychiatrist and/or psychotherapist to submit quarterly written reports to the PHP Contractor regarding diagnosis, prognosis, current medications, recommendation for continuing care and treatment, and ability to safely practice medicine. The reports shall be submitted quarterly to the PHP, the commencement of which to be determined by the PHP Contractor. Respondent shall pay the expenses of treatment and is responsible for paying for the preparation of the quarterly reports. At the expiration of one year or anytime thereafter, Respondent may submit a written request to the PHP Contractor requesting termination of the requirement that Respondent remain in treatment with a psychiatrist and/or psychotherapist.

ii. Respondent shall abstain from taking any illegal drugs or mood altering medications.

iii. All prescriptions for controlled substances shall be approved by the PHP Contractor prior to being filled, except in an Emergency. Controlled substances prescribed and filled in an emergency shall be reported to the PHP within 48 hours. Respondent shall take no medication unless the Primary Care Physician ("PCP") or other health care provider to whom the PCP refers Respondent prescribes and the PHP approves the medication. Respondent shall not self-prescribe any medication. "Medication" means a prescription-only drug, controlled substance, and over-the-counter preparation, other than plain aspirin, plain ibuprofen, and plain acetaminophen.
iv. Respondent shall submit to random biological fluid, hair and nail testing to ensure compliance with PHP for the duration of his participation in the PHP.

v. Respondent shall provide the PHP in writing with one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid, hair and nail testing to ensure compliance with PHP. For the purposes of this section, telephonic notice shall be deemed given at the time a message to appear is left at the contact telephone number provided by Respondent. Respondent authorizes any person or organization conducting tests on the collected samples to provide testing results to the PHP. Respondent shall comply with all requirements for biological fluid, hair and nail collection. Respondent shall pay for all costs for the testing.

vi. Respondent shall provide the PHP with written notice of any plans to travel out of state.

vii. Respondent must provide full consent for the PHP to discuss the Respondent's case with the Respondent's PCP or any other health care providers to ensure compliance with PHP.

viii. The relationship between the Respondent and the PHP is a direct relationship. Respondent shall not use an attorney or other intermediary to communicate with the PHP on participation and compliance issues.

ix. Respondent shall be responsible for all costs, including PHP costs associated with participating in PHP at the time service is rendered, or within 30 days of each invoice sent to the Respondent. An initial deposit of two months PHP fees is due upon entering the program. Failure to pay either the
initial PHP deposit or monthly fees 60 days after invoicing will be reported to
the Board by the PHP and may result in disciplinary action up to and
including revocation.

x. Respondent shall immediately provide a copy of this Order to all
employers, hospitals and free standing surgery centers where Respondent
currently has or in the future gains employment or privileges. Within 30 days
of the date of this Order, Respondent shall provide the PHP with a signed
statement of compliance with this notification requirement. Respondent is
further required to notify, in writing, all employers, hospitals and free standing
surgery centers where Respondent currently has or in the future gains
employment or privileges of a chemical dependency relapse or violation of
this Interim Consent Agreement.

xi. In the event Respondent resides or practices as a physician in a state
other than Arizona, Respondent shall participate in the rehabilitation program
sponsored by that state's medical licensing authority or medical society.
Respondent shall cause the monitoring state's program to provide written
quarterly reports to the PHP regarding Respondent's attendance,
participation, and monitoring. The monitoring state's program and
Respondent shall immediately notify the PHP if Respondent is non-compliant
with any aspect of the monitoring requirements or is required to undergo any
additional treatment.

xii. The PHP shall immediately notify the Board if Respondent is non-
compliant with any aspect of the monitoring requirements or this Order.

c. **Obey All Laws**
Respondent shall obey all state, federal and local laws, all rules governing the practice of medicine in Arizona, and remain in full compliance with any court ordered criminal probation, payments and other orders.

d. **Tolling**

In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing medicine in Arizona, Respondent shall notify the Executive Director in writing within ten days of departure and return or the dates of non-practice within Arizona. Non-practice is defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of medicine. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.

e. **Probation Termination**

Prior to the termination of Probation, Respondent must submit a written request to the Board for release from the terms of this Order. Respondent's request for release will be placed on the next pending Board agenda, provided a complete submission is received by Board staff no less than 14 days prior to the Board meeting. Respondent's request for release must provide the Board with evidence establishing that he has successfully satisfied all of the terms and conditions of this Order. The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether to take any other action that is consistent with its statutory and regulatory authority.

4. Upon any alleged violation of this Order, Respondent shall be given notice and an opportunity to be heard on the alleged violations. Thereafter, the Board shall revoke Respondent's license.

DATED AND EFFECTIVE this 4th day of June, 2015.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Executive Director

CONSENT TO ENTRY OF ORDER

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

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

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

4. The Order is not effective until approved by the Board and signed by its Executive Director.

5. 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.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board’s Executive Director, Respondent may not revoke the consent to the entry of the Order. 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.

7. This Order is a public record that will be publicly disseminated as a formal disciplinary action of the Board and will be reported to the National Practitioner’s Data Bank and on the Board’s web site as a disciplinary action.

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

9. If the Board does not adopt this Order, Respondent will not assert as a defense that the Board’s consideration of the Order constitutes bias, prejudice, prej udgment or other similar defense.

10. Any violation of this Order 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.

11. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), he cannot act as a supervising physician for a physician assistant while his license is on probation.

12. Respondent has read and understands the conditions of this agreement for Stayed Revocation and Probation.
GEORGE F. GWINN, M.D.

DATED: 6/3/2015

EXECUTED COPY of the foregoing mailed this 14th day of June, 2015 to:

Christine Cassetta, Esq.
Quarles & Brady, LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004-2391

ORIGINAL of the foregoing filed this 14th day of June, 2015 with:

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

Board Staff