

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **JAMES BAIRD, M.D.**

4 Holder of License No. 28720
5 For the Practice of Medicine
6 In the State of Arizona.

Board Case No. MD-01-0813

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

(Letter of Reprimand & Probation)

7 On September 4, 2002 James Baird, M.D., ("Respondent") appeared before a
8 Review Committee ("Review Committee") of the Arizona Medical Board ("Board") without
9 legal counsel for a formal interview pursuant to the authority vested in the Review
10 Committee by A.R.S. § 32-1451(P). The matter was referred to the Board for
11 consideration at its public meeting on October 2, 2002. After due consideration of the
12 facts and law applicable to this matter, the Board voted to issue the following findings of
13 fact, conclusions of law and order.

14 **FINDINGS OF FACT**

15
16 1. The Board is the duly constituted authority for the regulation and control of
17 the practice of allopathic medicine in the State of Arizona.

18 2. Respondent is the holder of License No. 28720 for the practice of medicine
19 in the State of Arizona.

20 3. The Board initiated case number MD-01-0813 after receiving a report from
21 the federal Drug Enforcement Administration ("DEA") that Respondent had been ordering
22 controlled substances for his own personal use. The DEA reported that the controlled
23 substances included Hydrocodone, Propoxyphene and Diazepam.

24 4. Respondent appeared for an investigational interview with Board
25 Investigative Staff and admitted taking both Propoxyphene and Hydrocodone.

1 Respondent also acknowledged self-prescribing Propoxyphene for approximately 20
2 years and taking 12 to 16 tablets per day.

3 5. After the investigational interview, Respondent entered the Betty Ford
4 Center ("Betty Ford") to undergo treatment for substance abuse. Respondent
5 successfully completed treatment at Betty Ford earlier this year and has been privately
6 monitored since that time. Respondent's private monitoring program has reported no
7 problems with Respondent's behavior. Respondent reported that his sobriety date was
8 December 16, 2001.

9 6. Respondent appeared for formal interview to deal with the issue of his self-
10 prescribing controlled substances. Respondent admitted to having ordered prescribed or
11 controlled substances and diverting them for his own use.

12 7. Respondent reported that he had surrendered his DEA certificate.
13 Respondent stated that he is currently practicing and occasionally sees patients.

14 8. On May 25, 2000, shortly before completing his licensure application,
15 Respondent ordered controlled substances for his personal use. However, when
16 Respondent completed his licensure application he entered a "no" answer to question 16,
17 which states, "Are you currently engaged in the illegal use of any controlled substance,
18 habit forming drug or prescription medicine." Respondent's answer to this question was
19 false.

20 **CONCLUSIONS OF LAW**

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

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

1 **1. Participation.** Respondent shall promptly enroll in and participate in the
2 Board's substance abuse treatment and rehabilitation program ("MAP"). As part of his
3 participation in MAP, Respondent shall cooperate with Board staff and contracting MAP
4 supervisors. Respondent shall remain in MAP for a period of five years from the effective
5 date of this Order.

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

12 **3. 12 Step or Self-Help Group Meetings.**

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

17 b. Following completion of the ninety meetings in ninety days, Respondent
18 shall participate in a 12-step recovery program of other self-help program appropriate for
19 substance abuse as recommended by the MAP group therapist and approved by the
20 Board. Respondent shall attend a minimum of three 12-step or other self-help program
21 meetings per week.

22 **4. Board-Approved Primary Care Physician.** Respondent shall promptly
23 obtain a Primary Care Physician ("PCP") and shall submit the name of the PCP to Board
24 Staff in writing for approval. The PCP shall be in charge of providing and coordinating
25 Respondent's medical care and treatment. Except in an *Emergency*, Respondent shall
obtain Respondent's medical care and treatment. Except in an *Emergency*, Respondent
shall obtain his medical care and treatment only from the PCP and from health care

1 providers to whom the PCP refers Respondent from time to time. Respondent shall
2 request that the PCP document all referrals in the medical record. Respondent shall
3 promptly inform the PCP of Respondent's rehabilitation efforts and provide a copy of this
4 Order to the PCP. Respondent shall also inform all other health care providers who
5 provide medical care or treatment that Respondent is participating in MAP.

6 **5. Medication.**

7 a. Except in an *Emergency*, Respondent shall take no *Medication*
8 unless the *Medication* is prescribed by the PCP or other health care provider to whom the
9 PCP makes a referral. Respondent shall not self-prescribe any *Medication*.

10 b. If a controlled substance is prescribed, dispensed, or is administered
11 to Respondent by any person other than the PCP, Respondent shall notify the PCP in
12 writing within 48 hours. The notification shall contain all information required for the
13 medication log entry specified in Paragraph 6. Respondent shall request that the
14 notification be made a part of the medical record. This paragraph does not authorize
15 Respondent to take any *Medication* other than in accordance with Paragraph 5A.

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

- 21 a. Name and dosage of *Medication* taken or administered;
22 b. Date taken or administered;
23 c. Name of prescribing or administering Physician;
24 d. Reason *Medication* was prescribed or administered.

25 This paragraph does not authorize Respondent to take any *Medication* other than in
accordance with paragraph 5.

1 7. No Alcohol or Poppy Seeds. Respondent shall not consume alcohol or
2 any food or other substance containing poppy seeds or alcohol.

3 8. Biological Fluid Collection.

4 a. During all times that Respondent is physically present in the State of
5 Arizona and such other times as Board Staff may direct, Respondent shall promptly
6 comply with requests from Board Staff, the MAP group therapist, or MAP Director to
7 submit to witnessed biological fluid collection. If Respondent is directed to contact an
8 automated telephone message system to determine when to provide a specimen,
9 Respondent shall do so within the hours specified by Board Staff. For the purposes of
10 this paragraph, in the case of an in-person request, "promptly comply" means
11 "immediately". In the case of a telephonic request, "promptly comply" means that, except
12 for good cause shown, Respondent shall appear and submit to specimen collection not
13 later than two hours after telephonic notice to appear is given. The Board in its sole
14 discretion shall determine good cause.

15 b. Respondent shall provide Board Staff in writing with one telephone
16 number that shall be used to contact Respondent on 24 hour per day/seven day per
17 week basis to submit to biological fluid collection. For the purposes of this section,
18 telephonic notice shall be deemed given at the time a message to appear is left at the
19 contact telephone number provided by Respondent. Respondent authorizes any person
20 or organization conducting tests on the collected samples to provide testing results to the
21 Board and the MAP Director.

22 c. Respondent shall cooperate with collection site personnel regarding
23 biological fluid collection. Repeated complaints from collection site personnel regarding
24 Respondent's lack of cooperation regarding collection may be grounds for termination
25 from MAP.

 9. Payment for Services. Respondent shall pay for all costs, including
personnel and contractor costs, associated with participating in MAP at the time service

1 is rendered, or within 30 days of each invoice sent to Respondent.

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

6 **11. Treatment.** Respondent shall submit to all medical, substance abuse, and
7 mental health care and treatment ordered by the Board, or recommended by the MAP
8 Director.

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

11 **13. Interviews.** Respondent shall appear in person before the Board and its
12 Staff and committees for interviews upon request, upon reasonable notice.

13 **14. Address and Phone Changes, Notice.** Respondent shall immediately
14 notify the Board in writing of any change in office or home addresses and telephone
15 numbers. Respondent shall provide Board Staff at least three business days advance
16 written notice of any plans to be away from office or home for more than five (5)
17 consecutive days. The notice shall state the reason for the intended absence from home
18 or office, and shall provide a telephone number to contact Respondent.

19 **15. Relapse, Violation.** In the event Respondent violates any term of this
20 Order, Respondent's license will be summarily suspended. Alternatively, Respondent
21 may request Surrender of License. If Respondent's license is revoked, Respondent may
22 not reapply for a license for 5 years.

23 **16. Notice Requirements.**

24 a. Respondent shall immediately provide a copy of this Order to all
25 employers and hospitals and free-standing surgery centers at which Respondent
currently has privileges. Within 30 days of the date of the Order, Respondent shall
provide the Board with a signed statement that the Respondent has complied with this

1 notification requirement. Upon any change in employer or upon granting of privileges at
2 additional hospitals or free-standing surgery centers, Respondent shall provide the
3 employer, hospital or free-standing surgical center a copy of this Order. Within 30 days
4 of a change in employer or upon the granting of privileges at additional hospitals or free-
5 standing surgery centers, Respondent shall provide the Board with a signed statement
6 that Respondent has complied with this notification requirement.

7 b. Respondent shall immediately submit to the Board, under penalty of
8 perjury, on a form provided by the Board, the name(s) and address(es) of all employers
9 and all hospitals and free-standing surgery centers at which Respondent currently holds
10 privileges to practice. Respondent is further required to, under penalty of perjury on a
11 form provided by the Board, immediately notify the Board of any changes in his
12 employment and of any hospitals or free-standing surgery centers at which Respondent
13 gains privileges after the effective date of this Order.

14 c. Respondent is further required to notify, in writing, all hospitals and free
15 standing surgery centers at which Respondent has any privileges of a chemical
16 dependency relapse, use of drugs or alcohol in violation of this Order and/or entry into a
17 treatment program. Respondent shall provide the Board, within seven days of any of
18 these events, written confirmation that Respondent has complied with this notification
19 requirement.

20 17. **Public Record.** This Order is a public record document and may be
21 disclosed to the extent required by law.

22 18. **Out-of State.** In the event Respondent resides or practices medicine in a
23 state other than Arizona, Respondent shall participate in the physician rehabilitation
24 program sponsored by that state's medical licensing authority or medical society.
25 Respondent shall cause the other state's program to provide written reports to the Board
regarding Respondent's attendance, participation, and monitoring. The reports are due

1 on or before the 15th day of March and September of each year, until the Board
2 terminates this requirement in writing.

3 **II. Definitions**

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

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

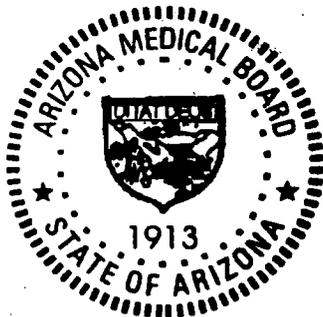
8 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

9 Respondent is hereby notified that he has the right to petition for a rehearing or
10 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or
11 review must be filed with the Board's Executive Director within thirty days after service of
12 this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons
13 for granting a rehearing or review. Service of this order is effective five days after date of
14 mailing. If a motion for rehearing or review is not filed, the Board's Order becomes
15 effective thirty-five days after it is mailed to Respondent.

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

18 DATED this 3rd day of October, 2002.

19 ARIZONA MEDICAL BOARD



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

1 ORIGINAL of the foregoing filed this
2 31st day of October, 2002 with:

3 Arizona Medical Board
4 9545 East Doubletree Ranch Road
5 Scottsdale, Arizona 85258

6 Executed copy of the foregoing
7 mailed by U.S. Certified Mail this
8 31st day of October, 2002, to:

9 James Baird, M.D.
10 2005 N Central Ave Ste 700
11 Phoenix AZ 85004-1535

12 Copy of the foregoing hand-delivered this
13 31st day of October, 2002, to:

14 Christine Cassetta
15 Assistant Attorney General
16 Sandra Waitt, Management Analyst
17 Lynda Mottram, Senior Compliance Officer
18 Investigations (Investigation File)
19 Arizona Medical Board
20 9545 East Doubletree Ranch Road
21 Scottsdale, Arizona 85258

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