BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF: **PATRICK MARSH, D.O.** Holder of License No. **2502** For the practice of osteopathic medicine in the State of Arizona	**Case No.: 3657** **CONSENT AGREEMENT TO FINDINGS OF FACT, CONCLUSIONS OF LAW AND PROBATIONARY ORDER**

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Patrick Marsh, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Consent Agreement and Order; and, Respondent is aware of and understands the content of these documents.

2. Respondent understands that by entering into this Consent Agreement and Order, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the Consent Agreement and Order in state or federal court.

3. Respondent understands that this Consent Agreement and Order will not become effective unless approved by the Board and signed by its Executive Director.

4. Respondent further understands that this Consent Order and Order, once approved and signed, shall constitute a public record which will be disseminated as a formal action of the Board.

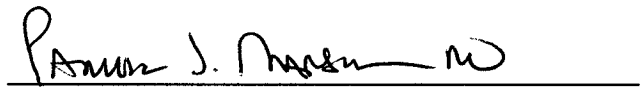
5. Respondent admits to the statement of facts and conclusions of law contained in the Consent Agreement & Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any

other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend any part of the Consent Agreement and Order, without first obtaining Board approval.

REVIEWED AND ACCEPTED THIS 28 DAY OF FEBRUARY, 2006.



Patrick Marsh, D.O., Respondent

JURISDICTIONAL STATEMENTS

1. The Board is empowered, pursuant to A.R.S. §§ 32-1800 et seq. to regulate the licensing and practice of osteopathic medicine in Arizona.

2. The Board has the authority to informally dispose by stipulation, agreed settlement, consent order or default pursuant to A.R.S. § 41-1092.05 (F)(5).

3. Respondent holds license No. 2502 to practice osteopathic medicine in Arizona.

FINDINGS OF FACT

4. On January 12, 2006, Board staff received anonymous information that Respondent may have a substance abuse problem and may by forging prescriptions to obtain drugs for self-medication.

5. On the same day, Board staff reviewed the Respondent's licensing history and determined that the Respondent had been previously disciplined for substance abuse.

6. On January 12, 2006, the Respondent was sent an Order to submit for a biological fluid test. The Respondent complied with the Order and the analysis was positive for hydrocodone.

7. In his response to the Board, the Respondent stated that he had an upper respiratory infection and was under the care of brother, Christopher Marsh, D.O. In addition, Dr. Marsh stated that he had been prescribed Histussin HC.

8. On January 17, 2006, Dr, Marsh was ordered to obtain and assessment and evaluation for possible impairment and/or chemical dependency with Dr. Michel Sucher, MD. the Respondent complied with the Order

9. On January 21, 2006, the board reviewed the evaluation and recommendations received from Dr. Sucher.

10. In addition, the Respondent testified at the board meeting that he had in fact relapsed and requested the assistance of the Board to assist in his rehabilitation and recovery. The Board voted in public session on January 21, 2006 to enter into a Stipulation and Consent Order.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. § 32-1800, et seq. the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The conduct and circumstances described in paragraphs 4 through 10 above constitute unprofessional conduct as defined in the following paragraphs of A.R.S. § 32-1854:

(3) Practicing medicine while under the influence of alcohol, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.

(5) Prescribing, dispensing or administering controlled substances or prescription only drugs for other than accepted therapeutic purposes.

(22) Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.

(38) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

ORDER

NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:

Pursuant to A.R.S. §§ 32-1855 (C) and 41-1064 (C), License No. 2502 held by **PATRICK MARSH, D.O.,** ("Respondent") shall be placed on **PROBATION** for 5 years from the date of this order with the following terms and conditions of probation as set forth herein:

1. Respondent shall not practice medicine until such time as he successfully completes an in-patient evaluation and in-patient treatment program as recommended by a treatment and care facility approved by the Executive Director. Respondent must adhere to any and all recommendations of his evaluators upon release form the in-patient treatment program and appear before the Board prior to renew practicing medicine in the State of Arizona..

2. Respondent will develop a plan for aftercare treatment and monitoring which shall include, but may not be limited to, individual and/or group counseling sessions, random body fluid testing, agreement for release of treatment records and reports to the Board, prohibition of the use of alcohol and controlled substances unless the latter is prescribed or coordinated by his treating physician, and regular meeting with the Board, and submit this plan to the Board for its approval.

3. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of

psychotherapy sessions until he has submitted a written request to the Board and obtained Board approval.

4. Respondent's therapist(s) shall receive a copy of this Order and Board staff shall cooperate with and disclose all relevant information in the Board's files concerning Respondent. The treating therapist shall be directed by Respondent to send to the Board a detailed written progress report every month for the remainder of the probation; and Respondent, shall waive any confidentiality concerning his psychotherapy in order that the Board may receive full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by Respondent's therapist shall be the sole responsibility of the Respondent.

5. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine. Respondent shall provide a copy of this Order to all treating physicians, dentists and or health care professionals. Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order.

6. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

(a) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
(b) There are new grounds for finding unprofessional conduct concerning Respondent; or,
(c) Fails to comply fully with the terms and conditions of this Order.

6. Respondent shall abstain completely from the consumption of alcoholic beverages or any substance with alcohol (i.e. cough syrups); and, Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless his treating physician prescribes such medication for him with the awareness that Respondent has a substance abuse disorder. Respondent shall maintain a monthly log (for the duration of

probation) of all prescription only drugs taken by his and such log shall include the following information:

(a) the name of the medication;
(b) name of prescribing physician;
(c) reason for the medication.

7. At the first of each month, Respondent shall report by letter to the Board whether or not he is taking any prescription only medication and, if so, a copy of his log reflecting the above information.

8. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e., within sixty (60) minutes of notification) required biological fluids for testing and said testing shall be done at the Respondent's expense.

9. Respondent shall participate in 90 meetings in 90 days upon his discharge from the Betty Ford Center and then in a minimum of three (3) self-help meetings per week through such organizations as A.A., N.A., C.A. and doctor's Caduceus group. Respondent shall keep a log of all meetings attended and have the log signed by the chairperson of the meeting. Respondent will provide the Board with a copy of the signed log the first of every month.

10. In the event Respondent moves and ceases to practice medicine in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

11. Respondent shall reimburse the Board for all expenses associated with the continued monitoring of this matter.

12. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

13. The Board's Executive Director shall send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances.

14. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED THIS 20TH DAY OF MARCH, 2006.

STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS IN
MEDICINE AND SURGERY

By: _____
Jack Confer, Executive Director

Original "Consent Agreement to
Findings of Fact, Conclusions of Law,
and Probationary Order" filed this 20TH
day of MARCH, 2006 with the:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale AZ 85258-5539

Copy of the foregoing "Consent Agreement to
Findings of Fact, Conclusions of Law,
and Probationary Order" sent via certified,
return receipt requested this 20TH
day of MARCH, 2006 to:

Patrick J. Marsh, D.O.
Arizona Professional Medical Assoc., LTD
541 West Wetmore
Tucson, AZ 85705

Copies of the foregoing "Consent Agreement to Findings of Fact, Conclusions of Law, and Probationary Order" sent via regular mail this 20th day of MARCH, 2006 to:

Blair Driggs, AAG
Office of the Attorney General CIV/LES
1275 West Washington
Phoenix AZ 85007