BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF:	**Case Nos.: 3834 and 4018**
EROL LEBLANC, D.O.	**CONSENT AGREEMENT AND AMENDED ORDER OF PROBATION WITH TERMS**
Holder of License No. **3452**	
To practice osteopathic medicine in the State of Arizona	

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Erol LeBlanc, D.O. (hereinafter "Respondent"),hereby agree to the following disposition to these matters.

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

2. Respondent understands that by entering into this Consent Agreement and Amended 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 Amended Order in state or federal court.

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

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

5. Respondent without admitting the statement of facts and conclusions of law acknowledges and accepts the imposition of such contained in the Consent Agreement and Amended Order.

6. All admissions made by Respondent are solely for 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 and the Board understand that this Consent Agreement and Amended Order resolves any and all allegations against, and the Board's investigation into, Respondent arising from case nos. 3834 and 4018.

8. 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 Amended Order, without first obtaining Board approval.

REVIEWED AND ACCEPTED THIS 3 DAY OF MARCH, 2009.

Erol LeBlanc, D.O.

Michael A. Schern, Esq.
Respondent's Counsel

JURISDICTIONAL AND BACKGROUND STATEMENTS

1. The Board is empowered, pursuant to A.R.S. § 32-1800 *et seq.*, to regulate the practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed, registered, or permitted to practice osteopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 3452 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

3. On August 11, 2007, the Board conducted an Investigative Hearing on Case No 3834. Respondent was present and represented by counsel, Mr. Roger Decker. The Board voted that day to continue the hearing pending receipt of further information.

4. On November 10, 2007 after hearing testimony and considering the documents and evidence submitted, the Board voted to enter Findings of Fact and Conclusions of Law, and Order of Probation. Respondent was present, but not represented by counsel.

5. On February 28, 2008, the Findings of Fact, Conclusions of Law and Probationary Order in case 3834 were issued.

6. On March 25, 2008, Respondent timely filed a Petition for Rehearing or Review of the Board's decision, staying the effective date of the Order. Respondent was noticed that the Board would hear the Petition for Rehearing or Review on May 17, 2008.

7. On April 28, 2007, the Board notified Respondent of case no. 4018, alleging inappropriate patient care that may harm the patient or the public, and on April 30, 2008 noticed Respondent of an Investigative Hearing on case no. 4018 for May 17, 2008.

8. On May 17, 2008, with agreement of Respondent and his counsel, the Board heard the Rehearing and Review of the decision in case no. 3834 and the Investigative Hearing in case no. 4108. The Board agreed to the acceptance of a single consent agreement in resolution of cases nos. 3834 and 4018.

9. On or about June 30, 2008, a Consent Agreement to Probationary Order with Terms was submitted to Respondent for signature. A revised Consent Agreement and Amended Order of Probation with Terms were submitted to Respondent on or about February 27, 2009.

10. On March 14, 2009, the Board met and considered the Consent Agreement and Amended Order. Respondent was present and represented by counsel, Mr. Michael Schern. The Board and Respondent agreed to the entry of the following:

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FINDINGS OF FACT

Case 3834

1. On January 5, 2007, the Board's Executive Director issued an Order for the Respondent to submit to an observed biological fluid test within one hour of receipt. The Board's Investigator personally served the Order to the Respondent at 12:30pm on January 8, 2007.

2. Respondent failed to comply with the Order and did not obtain an observed biological fluid test within the time period as ordered. Respondent stated that he was already one and one-half hour behind on seeing patients and would not leave the patients waiting.

3. Later in the afternoon that same day, Respondent caused his blood to be drawn by his staff, and submitted same for testing done under his order. While the sample tested negative for controlled substances, the sample submitted was insufficient to provide the information that the Board ordered test would have provided.

4. Respondent attempted but was unable to obtain the Board's agreement for this substituted testing prior to submitting the sample for testing; nor did the Board approve the substituted test after the fact.

Case 4018

5. On or about January 17, 2008, the Board staff received credible information that Respondent was prescribing an atypical amount of methadone to his patients.

6. Based on a pharmacy audit of patients to whom Respondent prescribed methadone between January 1, 2007 and February 2, 2008, staff subpoenaed records of 32 named patients from Respondent's office on or about February 12, 2008.

7. Respondent could not locate six (6) of the records subpoenaed; for patients BT, KM, KE, LM, PJ and RB.

8. Review of the other 27 records (two patients had the same name as listed on the subpoena) showed that several records did not include studies that correlated with the patients' chronic pain, and that the patients were not seen by pain management specialists. The records reflected that Respondent moved patients to methadone frequently and readily, and increased their dosages rapidly.

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 1 through 4 above constitute unprofessional conduct as defined in the following paragraphs of A.R.S. § 32-1854:

> (25) Violating a formal order, probation or a stipulation issued by the Board under this chapter.

3. The conduct and circumstances described in paragraphs 5 through 8 above constitute unprofessional conduct as defined in the following paragraphs of A.R.S. § 32-1854:

> (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard.
>
> (38) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

4. 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).

ORDER

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

Pursuant to A.R.S. § 32-1855 (E)(4), License No. 3452 held by Erol J. LeBlanc, D.O., ("Respondent") shall be placed on **PROBATION** for **TWO AND ONE/HALF (2.5) YEARS**

from the date of this order with the following terms and conditions of probation as set forth herein:

1. Respondent shall complete a minimum of ten (10) hours of Continuing Medical Education in each category of Pain Management and Record Keeping. The courses shall be approved by the Executive Director and completed within six months of the date of this Order.

2. Respondent shall hire a practice consultant to establish and implement office protocol for record keeping as well as set up a system of oversight for physician assistants and staff within the practice.

3. Respondent shall send copies of all prescriptions for scheduled drugs by the first Friday of each month to the Board staff. Board staff will conduct a quarterly random chart review of a minimum of ten (10) patient charts.

4. Respondent will no longer treat chronic pain patients. Respondent shall send out a letter by May 19, 2008 stating that Respondent is dismissing the patient from his pain management care and give the patient 30 days to find another pain management or addictionologist physician.

5. Respondent will be restricted from prescribing methadone as of June 19, 2008.

6. 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 14th DAY OF March, 2009.
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

By: Elaine LeTarte
Elaine LeTarte, Executive Director

Original "Consent Agreement and Amended Order of Probation with Terms" filed this ____ day of 14th, 2009 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 and Amended Order of Probation with Terms" sent via certified, return receipt requested this 16th day of March, 2009 to:

Erol J. Blanc, D.O.
Power and Brown Family Medicine
6820 E Brown Rd
Mesa, AZ 85207

Copies of the foregoing "Consent Agreement and Amended Order of Probation with Terms" sent via regular mail this 16th day of March 2009 to:

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

Michael A. Schern, Esq.
Richard R. Thomas, Esq.
The Stapley Center
1640 S. Stapley Drive, Suite 205
Mesa, AZ 85204
Attorneys for Respondent

Kathy Fowler

Certified Mail: 7006 0810 0002 2000 7515