

1 Richard A. Mickle, D.O.
1134 East University, #102
2 Mesa AZ 85203

3 Copies of the foregoing "Termination
4 of Order For Probation" hand delivered
this 1st day of December, 2008 to:

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

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1 hospitals following a severe surgical complication with a patient during a non-emergent
2 tracheotomy on or around August 16, 2006.

3 6. In both cases, concerns were raised related to Respondent's record
4 keeping as to signed consents and follow-up contact and care.

5 7. The Board voted in public session on November 10, 2007, to enter into
6 a Stipulation and Consent Order.

7 **CONCLUSIONS OF LAW**

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

10 2. The conduct and circumstances described in paragraphs 4 through 6
11 above, if proven true, could constitute unprofessional conduct as defined in the following
12 paragraphs of A.R.S. § 32-1854:

13 (6) Engaging in the practice of medicine in a manner that harms or
14 may harm a patient or that the Board determines falls below the
15 community standard.

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

18 **ORDER**

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

20 1. Respondent is hereby issued a Decree of Censure related to the matters
21 set forth in paragraphs 4, 5 and 6 of the above "Findings of Fact."

22 2. Respondent is hereby placed on Probation for a period of one (1) year
23 from the effective date of this Order, with the following terms and conditions as set forth herein.

24 3. Effective immediately, and for the next twelve (12) months, Respondent
25 shall not perform any surgical procedures other than as set forth in the following paragraphs.

26 ...

- 1 This shall not prevent Respondent from providing clinical care in the hospital or office setting,
2 nor shall it preclude usual and customary clinical procedures.
- 3 a. Respondent shall not perform any major surgical procedures as
4 the sole primary surgeon. Respondent shall have an Assistant
5 Surgeon experienced in such procedures present at all times.
6 The following are considered major surgeries:
- 7 • Laryngectomy
 - 8 • Radical neck dissection
 - 9 • Myocutaneous or free flap formation
 - 10 • Glomus jugulare tumor resection
 - 11 • Commando surgeries
 - 12 • Thyroid and parathyroid surgeries
 - 13 • Parotidectomy
- 14 b. Respondent may perform all other hospital or outpatient surgical
15 procedures as a primary surgeon. This includes all usual and
16 customary ENT surgical procedures performed in a hospital or
17 outpatient surgical facility which are not customarily considered
18 to be major surgeries.
- 19 c. Respondent may perform all routine office-based procedures.
- 20 d. Respondent will immediately consult with another qualified ENT
21 physician/surgeon related to all post-operative surgical patients
22 who contact him or his office directly about possible postoperative
23 complications. If Respondent is contacted by an Urgent Care,
24 Emergency Department or other hospital-based physician about
25 such a patient, he shall immediately consult with another qualified
26 ENT physician/surgeon. If such a patient requires further
evaluation or treatment on an emergent basis, Respondent shall
have another qualified ENT physician/ surgeon directly assist him
with that evaluation or treatment. Respondent shall keep a log of

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all such contacts and make it available for inspection by Board staff upon request.

e. Respondent shall immediately make arrangements with another qualified physician/surgeon to accept/take over the care of any and all pediatric patients who require hospitalization.

4. Within two (2) weeks of the date of this Agreement, Respondent shall hold an in-service with Respondent's office staff related to the importance of immediately informing Respondent about all contacts related to complications involving post-operative patients.

5. As soon as possible, but in no event later than twelve (12) months from the date of this Agreement, Respondent shall attend an in person, hands-on 12 hour CME course (or courses) on ENT surgery and postoperative complications, including bleeding. This shall be in addition to the CME normally required for license renewal. The CME course(s) must be pre-approved by the Executive Director.

6. The Board or its designee shall determine Respondent's compliance and/or noncompliance with this Order. If the Board or its designee determines that Respondent has been non-compliant with any of the terms of this Order during the probationary period, the Board may lengthen or broaden the terms of probation or may order further disciplinary action.

7. 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 subsequent receives) privileges to engage in the practice of medicine. Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order.

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

1 written or telephonic notification from the Board's Executive Director which shall be given at least
2 ten (10) days prior to the Board meeting.

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

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

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

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



16 ISSUED THIS 29TH DAY OF NOVEMBER 2007.

17 STATE OF ARIZONA BOARD OF OSTEOPATHIC
18 EXAMINERS IN MEDICINE AND SURGERY

19 By _____
20 Jack Confer, Executive Director

21 Original "Consent Agreement for Decree
22 of Censure and Order of Probation" filed this
23 29TH day of NOVEMBER, 2007,
24 with the:

25 Arizona Board of Osteopathic Examiners
26 in Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale, AZ 85258-5539

...

1 Copy of the foregoing "Consent Agreement for
2 Decree of Censure and Order of Probation"
3 sent via certified mail, return receipt requested,
4 this 29th day of NOVEMBER 2007 to:

5
6 Richard A. Mickle, D.O.
7 1134 East University, #102
8 Mesa, AZ 85203

9 Copies of the foregoing "Consent Agreement for
10 Decree of Censure and Order of Probation"
11 sent via regular mail this 29th day of
12 NOVEMBER 2007 to:

13
14 Blair Driggs, AAG
15 c/o ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
16 9535 East Doubletree Ranch Road
17 Scottsdale, Arizona 85258

18
19 Bruce Crawford, Esq.
20 Crawford & Kline, P.L.C.
21 1920 E. Southern Avenue - Ste. 101
22 Tempe, AZ 85282-7537

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