

1 2. Respondent has the right to consult with an attorney prior to entering into
2 this Consent Agreement and has done so.

3 3. Respondent has a right to a formal administrative hearing(s) concerning
4 these cases. He further acknowledges that at such formal hearing(s) he could present
5 evidence and cross-examine witnesses. Respondent has elected to enter into this Consent
6 Agreement in lieu of continuing to expend considerable time and expense in exercising
7 his due process rights in these cases. Respondent irrevocably waives his right to such
8 hearing(s).

9 4. Respondent irrevocably waives any right to rehearing or review or to any
10 judicial review or any other appeal of these matters.

11 5. Although Respondent does not agree that all the Findings of Fact set forth
12 in this Consent Agreement are supported by the evidence, Respondent acknowledges that
13 it is the Board's position that, if these matters proceeded to formal hearing, the Board
14 could establish sufficient evidence to support a conclusion that certain of Respondent's
15 conduct constitutes unprofessional conduct. Therefore, Respondent has agreed to enter
16 into this Consent Agreement as an economical and practical means of resolving these
17 matters. Respondent acknowledges that the Board may use the evidence in its possession
18 relating to this Consent Agreement for purposes of considering any future matters.

19 6. This Consent Agreement shall be subject to the approval of the Board and
20 shall be effective only when accepted by the Board and signed by the Executive Director.
21 In the event that the Board does not approve this Consent Agreement, it is withdrawn and
22 shall be of no evidentiary value and shall not be relied upon nor introduced in any action
23 by any party, except that the parties agree that should the Board reject this Consent
24 Agreement and these cases proceed to hearing, Respondent will assert no claim that the
25 Board was prejudiced by its review and discussion of this document or any records
26 relating thereto.

1 was unprofessional conduct. The Board censured Respondent and restricted him from
2 diagnosing and treating Lyme disease as an osteopathic physician. Respondent's appeal
3 of the Board's Order is currently pending in the Arizona Court of Appeals (1 CA-CV 16-
4 0149; LC 2014-000286-001).

5 5. The following patients underwent alternative, non-standard oncologic and
6 biologic treatment with Respondent at ENMC which the Board regards as outside the
7 scope of Respondent's osteopathic license. Respondent's treatment included several
8 nutritional and homeopathic treatments, medications, and therapies, which are not
9 approved by the FDA:

10 a. S.M. (Case No. DO-13-0225A): Respondent treated S.M., a 7 year-old
11 female with an osteosarcoma of the right proximal humerus, from April 2012 to August
12 2012. S.M.'s parents refused conventional FDA-approved chemotherapy recommended
13 by S.M.'s oncologist and, instead, sought alternative treatment at ENMC even though
14 S.M.'s osteosarcoma was treatable and possibly curable, including limb salvage, with
15 FDA-approved standard chemotherapy. Respondent did not notify Arizona law
16 enforcement authorities or the Arizona Department of Child Safety (formerly known as
17 the Department of Economic Security Child Protective Services Division) to report
18 S.M.'s parents for refusing to allow S.M. to undergo standard chemotherapy. Following
19 Respondent's treatment of S.M., she underwent court-ordered conventional
20 chemotherapy, a limb amputation, and experienced several other medical complications.

21 b. K.C. (Case No. DO-14-0203A): Respondent treated K.C., a 7 year-old
22 female with an advanced inoperable brain tumor, from September to November 2012.
23 Prior to presenting to ENMC, K.C. unsuccessfully underwent standard chemotherapy.
24 K.C.'s oncologic team determined that further oncologic therapy would not be beneficial
25 and recommended that her parents discontinue the chemotherapy, continue palliative
26 care and focus on her quality of life.

1 c. N.S. (Case No. DO-14-0213A): Respondent treated N.S., a four year-old
2 female with advanced, inoperable, primitive neuroectodermal tumor (PNET) with brain
3 and spinal cord metastases, from May to July 2012. Prior to presenting to ENMC, N.S.'s
4 oncologist recommended whole brain irradiation, which her parents refused.

5 d. S.T. (Case No. DO-14-0214A): Respondent treated S.T., a 9 year-old
6 female with metastatic, right adrenal neuroblastoma disease, from June to September
7 2010. Prior to presenting to ENMC, S.T. unsuccessfully underwent standard
8 chemotherapy, a surgical resection, an autologous bone marrow transplant, and radiation
9 therapy. S.T.'s parents refused any further conventional cancer treatment.

10 e. S.A. (Case No. DO-14-0215A): Respondent treated S.A., a six year-old
11 male with stage 4 medulloblastoma, intermittently from January to July 2009. S.A. also
12 remained under the care of a pediatric oncologist in Missouri. Respondent's treatment of
13 S.A. consisted of reviewing laboratory assays and prescribing Vitamin K therapy.

14 f. C.R. (Case No. DO-15-0010A): Respondent treated C.R., a 34 year-old
15 female, diagnosed with cervical cancer, from May to November 2009. C.R. completed
16 standard chemotherapy and radiation therapy in June 2008 and subsequently developed
17 progression with florid metastatic disease.

18 6. Respondent treated patient R.A. (Case No. DO-14-0267A) in May 2009.
19 R.A., a 29 year-old female, was admitted to the hospital with intractable back pain and
20 fever. While under Respondent's care, R.A. exhibited signs of acute neurologic deficits.
21 Although there is no documentation in R.A.'s medical records that Respondent was
22 notified when these deficits were initially noted, there is no documentation indicating
23 that Respondent closely monitored R.A.'s neurological condition from the time he
24 examined her and Respondent failed to order a Stat MRI. Another physician diagnosed
25 R.A. with a spinal epidural abscess. R.A. was transferred to another hospital for urgent

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1 surgical decompression of the epidural abscess. R.A. suffered paraparesis and bowel/bladder
2 dysfunction.

3 CONCLUSIONS OF LAW

4 1. Respondent's treatment of the patients described in the above Findings of
5 Fact constitutes repeated instances of unprofessional conduct as defined in A.R.S. § 32-
6 1854(6), which prohibits "Engaging in the practice of medicine in a manner that harms
7 or may harm a patient or that the board determines falls below the community standard."
8 Such conduct is grounds for disciplinary action pursuant to A.R.S. § 32-1855.

9 2. With respect to patient S.M., Respondent had a duty to report S.M.'s
10 parents as required by A.R.S. § 13-3620 for their refusal to allow S.M. to undergo
11 standard chemotherapy to treat her osteosarcoma. Such conduct constitutes
12 unprofessional conduct pursuant to A.R.S. § 32-1854(35), which prohibits "Violating a
13 federal law, a state law or a rule applicable to the practice of medicine." Such conduct is
14 grounds for disciplinary action pursuant to A.R.S. § 32-1855.

15 3. Respondent's treatment of the patients described in the above Findings of
16 Fact, constitutes unprofessional conduct as defined in A.R.S. § 32-1854(38), which
17 prohibits, "Any conduct or practice that endangers a patient's or the public's health or
18 may reasonably be expected to do so." Such conduct is grounds for disciplinary action
19 pursuant to A.R.S. § 32-1855.

20 4. Respondent's treatment of the patients described in the above Findings of
21 Fact constitutes unprofessional conduct as defined in A.R.S. § 32-1854(44), which
22 prohibits, "Conduct that the board determines constitutes gross negligence, repeated
23 negligence or negligence that results in harm or death of a patient." Such conduct is
24 grounds for disciplinary action pursuant to A.R.S. § 32-1855.

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1 **ORDER**

2 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties
3 agree to the following Order:

4 1. **IT IS ORDERED** that Respondent's license, no. 4328, is suspended for a
5 period of four (4) years from the effective date of this Consent Agreement. The effective
6 date of this Consent Agreement is the date the Consent Agreement is accepted by the
7 Board as evidenced by the signature of the Board's Executive Director. During the term
8 of the suspension, Respondent shall not practice osteopathic medicine of any kind in
9 Arizona; this includes any medicine involving direct or indirect patient care or
10 prescribing any form of treatment or medications. Nor shall Respondent hold himself out
11 as a licensed osteopathic physician during the period of suspension;

12 2. **IT IS FURTHER ORDERED** that Respondent may submit a written
13 request to the Board seeking the lifting of the suspension and requesting that, after the
14 expiration of the four year suspension, he be permitted to return to the practice of
15 osteopathic medicine. Prior to the lifting of the suspension and returning to practice,
16 Respondent shall successfully complete a continuing education course in the area of
17 ethics, such as the Professional Problem Based Ethics Program or other similar course
18 pre-approved by the Board or the Executive Director. Also prior to the lifting of the
19 suspension and Respondent's return to the practice of osteopathic medicine, Respondent
20 shall successfully complete a Center for Personalized Education for Physicians ("CPEP")
21 practice assessment or PACE practice assessment. Respondent further agrees to comply
22 with the recommendations made as part of the assessment which are reviewed and
23 approved by the Board. Respondent is responsible for the costs of compliance with this
24 paragraph;

25 3. **IT IS FURTHER ORDERED** that during the period of suspension,
26 Respondent shall comply with the continuing medical education requirements required of

1 a licensed osteopathic physician in Arizona. Respondent shall submit proof of
2 compliance with the CME requirements to the Board on or before January 31, 2017 and
3 every two years thereafter through the period of suspension;

4 4. **IT IS FURTHER ORDERED** that within 180 days from the effective date
5 of this Consent Agreement, Respondent shall pay a civil penalty to the Board in the
6 amount of \$1,000.00;

7 5. **IT IS FURTHER ORDERED** that should the suspension of Respondent's
8 license be lifted by the Board and he is authorized by the Board to return to practice,
9 Respondent's license shall be placed on probation immediately for a minimum period of
10 five (5) years from the date the suspension is lifted. During the period of probation,
11 Respondent shall be subject to the following terms and conditions:

12 a. Respondent shall be restricted from treating patients and/or directing
13 the treatment of patients by another healthcare provider in the following areas:
14 pediatric patients (defined as those patients under the age of 18); Lyme disease;
15 oncology; and, alternative or homeopathic medicine;

16 b. Respondent shall be required to obtain a Board-approved practice
17 monitor who shall conduct quarterly audits of Respondent's practice to ensure his
18 compliance with the foregoing restrictions and to ensure Respondent is practicing
19 within the standard of care for an osteopathic physician; Respondent shall ensure
20 that the practice monitor submits quarterly reports to the Board following each
21 audit. Respondent shall ensure that he complies with all state and federal laws and
22 regulations regarding the release of confidential patient information to the practice
23 monitor. Respondent shall be responsible for all of the costs associated with the
24 practice monitor and audits;

25 6. **IT IS FURTHER ORDERED** that Respondent shall terminate
26 **immediately** any formal or informal homeopathic medicine preceptorship(s) in which he

1 is currently participating and shall not pursue or undertake any formal or informal
2 homeopathic preceptorships at any time in the future. Within five (5) business days of
3 the effective date of this Consent Agreement and Order, Respondent shall provide to the
4 Board a copy of a letter he provided to his preceptor(s) terminating all formal or informal
5 preceptorships.

6 7. **IT IS FURTHER ORDERED** that Respondent agrees to withdraw the
7 appeal of the Board's Order in case no. DO-11-0159A which is currently pending in the
8 Arizona Court of Appeals (1 CA-CV 16-0149; LC 2014-000286-001). The Notice of
9 Withdrawal of Appeal shall be filed with the Court of Appeals no later than 20 calendar
10 days from the effective date of the Consent Agreement and Order. This Consent
11 Agreement shall supersede the Board's Order in Case No. DO-11-0159A.

12 8. Respondent has read and understands this Consent Agreement as set forth
13 herein, and has had the opportunity to discuss it with an attorney or has waived the
14 opportunity to do so. Respondent voluntarily enters into this Consent Agreement for the
15 purpose of avoiding the expense and uncertainty of an administrative hearing.

16 9. Respondent affirmatively agrees that this Consent Agreement shall be
17 irrevocable.

18 10. Time is of the essence with regard to this Consent Agreement.

19 11. If Respondent fails to comply with the terms of this Consent Agreement,
20 the Board shall properly institute proceedings for noncompliance, which may result in
21 injunctive proceedings.

22 12. Respondent understands that this Consent Agreement does not constitute a
23 dismissal or resolution of other matters currently pending before the Board, if any, and
24 does not constitute any waiver, express or implied, of the Board's statutory authority or
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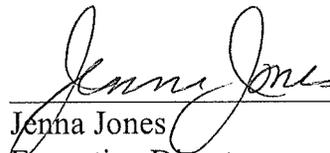
1 jurisdiction regard any other pending or future investigation, action or proceeding.
2 Respondent also understands that acceptance of this Consent Agreement does not
3 preclude any other agency, subdivision or officer of this state from instituting other civil
4 or criminal proceedings with respect to the conduct that is the subject of this Consent
5 Agreement.
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7 13. Respondent understands that the foregoing Consent Agreement shall not
8 become effective unless and until adopted by the Board and executed on behalf of the
9 Board. Any modification to this original document is ineffective and void unless
10 mutually approved by the parties in writing.
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12 DATED this 25th day of May, 2016.

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15 _____
16 Brent Robert Korn, D.O.
17 Respondent

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19 _____
20 Jenna Jones
21 Executive Director
22 Arizona Board of Osteopathic Examiners

23 **COPY** of the foregoing mailed regular mail
24 this 25th day of May, 2016 to:

25 Paul Giancola
26 One Arizona Center
400 East Van Buren Street, Suite 1900
Phoenix, AZ 85004-2202
Attorneys for Respondent

27 **COPY** of the foregoing
28 sent via electronic mail
29 this 25th day of May, 2016 to:

30 Mary DeLaat Williams
31 Assistant Attorney General
32 1275 W. Washington – SGD/LES
33 Phoenix, Arizona 85007-2997

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By: Jenny Jones
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