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Original "First Amendment to Consent Agreement and Order for Probation" filed this 2nd day of April, 2014 with the:

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

Copy of the foregoing "First Amendment to Consent Agreement and Order for Probation" sent via regular mail this 2nd day of April, 2014 to:

Guy Merz, D.O.
Address of record

Copy of the foregoing "First Amendment to Consent Agreement and Order for Probation" sent via electronic mail this 2nd day of April, 2014 to:

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



**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY**

IN THE MATTER OF:

Case No.: DO-13-0139A

GUY MERZ, D.O.

**CONSENT AGREEMENT AND
ORDER FOR PROBATION**

Holder of License No. 2710

For the practice of osteopathic medicine in the
State of Arizona

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Guy Merz, D.O. (hereinafter "Respondent" or "Physician"), the parties, hereto agree to the following:

1. Respondent acknowledges that he has read this Consent Agreement and Order for Probation; and, Respondent is aware of and understands the content of these documents. Respondent acknowledges that he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

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

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

4. Respondent further understands that this Consent Agreement and Order for Probation, once approved and signed, is a public order and will be publicly disseminated as a formal action of the board to the National Practitioner Databank, the Federation of State Medical Board's databank, the American Osteopathic Association, and on the Board's website.

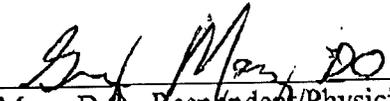


1 5. Respondent admits to the findings of facts and conclusions of law contained in
2 this Consent Agreement and Order for Probation.

3 6. All admissions made by Respondent are solely for final disposition of this matter
4 and any subsequent administrative proceedings or litigation involving the Board, Respondent and
5 the State of Arizona; and therefore, said admissions by Respondent are not intended for any other
6 purpose or administrative regulatory proceeding or litigation in another state or federal court.

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

11 REVIEWED AND ACCEPTED THIS 27 DAY OF September 2013.

12
13 
14 Guy Merz, D.O., Respondent/Physician

15 **FINDINGS OF FACT**

16 1. On February 14, 2013, Respondent into a Confidential Consent Agreement with
17 the Board for substance abuse. After completing an in-patient treatment program Respondent
18 was allowed to return to practice.

19 2. On or about July 15, 2013, Respondent tested positive for Ethylglucuronide.

20 3. On or about August 26, 2013, Respondent was discharged from an in-patient
21 treatment program.

22 **CONCLUSIONS OF LAW**

23 1. Pursuant to A.R.S. § 32-1800, et seq. the Board has subject matter and personal
24 jurisdiction in this matter.
25

1 2. On behalf of the Board, the Executive Director may enter into a consent order
2 with a licensee to protect the public and to ensure that the licensee is able to safely perform
3 health care tasks. A.R.S. § 32-1804(B)(24).

4
5 **NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:**

6 Pursuant to A.R.S. § 32-1855 (C), License No. 2710 held by **GUY MERZ, D.O.**, is
7 placed on **PROBATION** for 5 years from the effective date of this Order, with the following
8 terms:

9 1. **Practice Restriction.** Physician's practice is restricted as follows:

10 a. Physician may practice up to thirty (30) hours per week. Physician may request
11 the Board modify or lift this restriction after ninety (90) days.

12 2. **Participation in Monitored Aftercare:**

13 Physician shall promptly participate in the Board's monitored aftercare program. As
14 part of participation, Physician shall cooperate with Board Staff. Physician may
15 substitute monitoring of terms 4 through 12 by Post Treatment Supervision/Greenberg
16 and Sucher, PC, effective the date a copy of signed contract with PTS is provided to
17 Board Staff.

18 3. **12 Step or Self-Help Group Meetings:** Physician shall participate in a
19 minimum of three 12-step meetings or other self-help group meetings per week
20 appropriate for alcohol/substance abuse and approved by Board Staff. Physician shall
21 attend 90 meetings in 90 days beginning not later than either (a) the first day following
22 Respondent's discharge from chemical dependency treatment or (b) that effective date
23 of this Order.

24 The log of attendance at those meetings shall be initialed by the meeting leader. After
25 successful completion of those 90 meetings, additional meetings shall be completed
 under such terms and within such time frame as recommended by Board Staff after

1 reviewing the updated evaluation. Physician shall obtain a sponsor and maintain
2 contact with them throughout their probationary period.

3 4. **Relapse Prevention Meetings:** Physician shall participate in Relapse Prevention
4 Meetings for health care professionals approved by the Executive Director, under such
5 terms and within such time frame as recommended by the Board approved health care
6 provider as set forth in Paragraph 5.

7 5. **Board /Staff approved Psychological counseling:** Physician shall promptly
8 obtain a licensed psychiatrist, psychologist or counselor for regular therapy sessions, and
9 submit the name of that person to the Board staff for approval. Physician shall cause that
10 psychiatrist, psychologist or counselor to submit to the Board an initial assessment of
11 Physician within 30 days of this Order, and quarterly statements of progress thereafter.
12 Physician shall continue participation in therapy as recommended by the psychiatrist,
13 psychologist or counselor.

14 If medications are prescribed by a psychiatrist, Physician shall report those to his
15 Primary Care Provider (see section 6) and the Board staff within 48 hours. The
16 notification shall contain all information required for the medication log entry specified
17 in paragraph 8. Physician shall request that the notification be made a part of the PCP's
18 medical record.

19 6. **Board /Staff Approved Primary Care Physician:** Physician shall promptly
20 obtain a primary care physician (“PCP”) and shall submit the name of the PCP in writing
21 to Board Staff for approval. The PCP shall not be in the same office practice as the
22 Physician, nor related to the Physician by blood or marriage. The PCP shall be in charge
23 of providing and coordinating Physician’s medical care and treatment. Except in an
24 *Emergency*, Physician shall obtain medical care and treatment only from the PCP and
25 from health care providers to whom Physician is referred by the PCP. Physician shall
request that the PCP document all referrals in the medical record. Physician shall

1 promptly inform the PCP of Physician's rehabilitation efforts and provide a copy of this
2 Agreement to the PCP. Physician shall also inform all other health care providers who
3 provide medical care or treatment that Physician is under this Order.

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

6 7. **Medication:** Except in an *Emergency*, Physician shall take no *Medication* unless
7 the PCP or other health care provider to whom the PCP refers Physician prescribes the
8 *Medication*. In the case of over-the-counter medications, Physician shall provide to his
9 PCP a list of over-the-counter *Medications* currently taken; PCP shall review and
10 approve those and recommend any new *Medications* needed. Physician shall not self-
11 prescribe any *Medication*.

12 "Medication" means a prescription-only drug, controlled substance, and over-the counter
13 preparation, other than plain aspirin, plain ibuprofen, and plain acetaminophen.

14 If a controlled substance is prescribed, dispensed, or is administered to Physician by
15 any person other than the PCP, Physician shall notify the PCP in writing within 48
16 hours and notify the Board staff immediately. The notification shall contain all
17 information required for the medication log entry specified in paragraph 8. Physician
18 shall request that the notification be made a part of the medical record. This paragraph
19 does not authorize Physician to take any *Medication* other than in accordance with
20 paragraph 6.

21 8. **Medication Log:** Physician shall maintain a current legible log of all *Medication*
22 taken by or administered to Physician, and shall make the log available to Board Staff
23 upon request. For *Medication* (other than controlled substances) taken on an on-going
24 basis, Physician may comply with this paragraph by logging the first and last
25 administration of the *Medication* and all changes in dosage or frequency. The log, at a
minimum, shall include the following:

- a. Name and dosage of Medication taken or administered;
- b. Date taken or administered;
- c. Name of prescribing or administering physician;
- d. Reason Medication was prescribed or administered.

This paragraph does not authorize Physician to take any *Medication* outside the parameters of this Order.

9. **No Alcohol or Poppy Seeds:** Physician shall not consume alcohol or any food or other substance containing poppy seeds or alcohol. It is Physician's responsibility to be aware of and avoid alcohol used in personal hygiene products or in the preparation of food or drink.

10. **Biological Fluid Collection:** During all times that Physician is physically present in the State of Arizona and such other times as Board Staff may direct, Physician shall promptly comply with requests from Board Staff to submit to biological fluid collection. If Physician is directed to contact an automated telephone message system to determine when to provide a specimen, Physician shall do so within the hours specified by Board Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly comply" means "immediately". In the case of a telephonic request, "promptly comply" means that, except for good cause shown, Physician shall appear and submit to specimen collection not later than two hours after telephonic notice to appear is given. The Board in its sole discretion shall determine good cause. The Board staff may require the collection to be observed or witnessed. Physician shall cooperate with collection site personnel regarding biological fluid collection. Repeated reports from collection site personnel that Physician is not cooperating regarding collection may be considered failure to comply with this Order (see paragraph 20).

Physician authorizes any person or organization conducting tests on the collected samples to provide testing results to the Board.

1 11. **Relapse:** For the purpose of this Order, the positive finding in Physician's
2 biological fluid of a drug or medication not prescribed to the Physician in accordance
3 with this Order shall be considered proof of a relapse. In the event of a chemical
4 dependency relapse by the Respondent, or Respondent's use of drugs or alcohol in
5 violation of the Order, Respondent's license shall be SUMMARILY SUSPENDED
6 pending a formal administrative hearing for revocation. In the alternative, Respondent
7 may SURRENDER his license if he agrees in writing to being impaired by alcohol or
8 drug abuse.

9 12. **Payment for Services:** Physician shall pay for all costs associated with
10 participating in this Probation, at time service is rendered, if required, or within 30 days
11 of each invoice sent to Physician.

12 13. **Out of State Travel and/or Unavailability at Home or Office Telephone**
13 **Number:** Physician shall provide Board Staff at least three business days advance
14 written notice of any plans to be away from the office or home when such absence
15 would prohibit Physician from responding to an order to provide a biological fluid
16 specimen or from responding to communications from the Board. The notice shall
17 state the reason for the intended absence from home or office, and shall provide a
18 telephone number that may be used to contact Physician.

19 14. **Examination:** Physician shall submit to mental, physical, and medical
20 competency examinations at such times and under such conditions as directed by the
21 Executive Director to assist in monitoring compliance with the terms of this Agreement
22 and Physician's ability to safely engage in the practice of medicine.

23 15. **Treatment:** Physician shall submit to all medical, substance abuse, and mental
24 health care and treatment ordered by the Board or Executive Director.

25 16. **Obey All Laws:** Physician shall obey all federal, state and local laws, and all
rules governing the practice of medicine in the State of Arizona.

1 17. **Interviews:** Physician shall appear in person before the Board and or Board staff
2 for interviews upon request, upon reasonable notice.

3 18. **Address and Phone Changes, Notice:** Physician shall immediately notify the
4 Board in writing of any change in office or home addresses and telephone numbers.

5 19. **Ceasing Practice in the State of AZ:** In the event that Physician ceases to
6 practice medicine in the State of Arizona, by moving out of state, failing to renew her
7 license, or maintaining an AZ license but ceasing to practice clinical medicine or
8 administrative medicine requiring licensure, Physician shall notify the Board that he
9 has ceased practicing in AZ, in writing, within 10 days of ceasing to practice. In its sole
10 discretion, the Board may stay the terms of this Order until such time as the Physician
11 resumes the practice of medicine in AZ, or may take other action to resolve the findings
12 of fact and conclusions of law contained in this Consent Agreement and Order for
13 Probation.

14 20. **Failure to Comply / Violation:** Respondent's failure to comply with the
15 requirements of this Order shall constitute an allegation of unprofessional conduct as
16 defined at A.R.S. § 32-1854(25); proven violations may be grounds for further
17 disciplinary action (e.g., suspension or revocation of license).

18 EFFECTIVE AND ISSUED THIS 27th DAY OF September, 2013.



STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Jenna Jones
Jenna Jones, Executive Director

1 Original "Consent Agreement and Order for Probation"
2 filed this 27th day of September, 2013 with the:

3 Arizona Board of Osteopathic Examiners in Medicine and Surgery
4 9535 East Doubletree Ranch Road
5 Scottsdale AZ 85258-5539

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8 Guy Merz, D.O.
9 Address of Record

10 Copy of the foregoing "Consent Agreement and Order for Probation"
11 sent via interagency mail this 27th of September, 2013 to:

12 Jeanne Galvin, Asst Attorney General
13 Office of the Attorney General CIV/LES
14 1275 West Washington
15 Phoenix AZ 85007

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