BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF: **PAUL BALIKIAN, D.O.,** Holder of License No. 0755 For the practice of osteopathic medicine in the State of Arizona	**Case No.: 3948** **CONSENT AGREEMENT FOR SURRENDER OF LICENSE**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Board of Osteopathic Examiners in Medicine and Surgery ("Board") and Paul Balikian, D.O. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). 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. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

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

5. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

6. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction. The acceptance of this Consent Agreement does not preclude any other agency, subdivision or officer of this State from instituting other civil or criminal proceedings with respect to the conduct that is the subject of this Consent Agreement.

7. 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.

8. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the acceptance of the Consent Agreement. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

9. If the Board does not adopt this Consent Agreement, Respondent will not assert as a defense that the Board's consideration of this Consent Agreement constitutes bias, prejudice, prejudgment or other similar defense.

10. This Consent Agreement, once approved and signed, is a public record that will be publicly disseminated as a formal action of the Board and will be reported to the National Practitioner Data Bank and to the Board's website.

11. If any part of the Consent Agreement is later declared void or otherwise unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force and effect.

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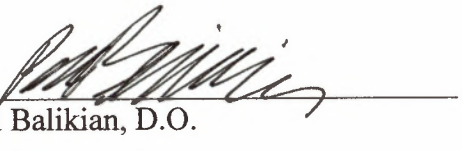
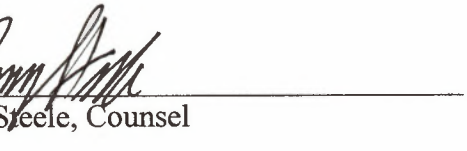
REVIEWED AND ACCEPTED THIS 1st DAY OF December, 2010.



Paul Balikian, D.O.



Jerry Steele, Counsel

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 the State of Arizona.

2. Respondent previously held license No. 0775 issued by the Board to practice as an osteopathic physician. Respondent did not renew that license by May 1, 2010, and thus, pursuant to A.R.S. § 32-3202, the expiration of his license is suspended pending the conclusion of this case.

FINDINGS OF FACT

1. On or about September 11, 2007, the Board received credible information that Respondent was employed by an illegal practitioner who had recently purchased his practice. He was allowing the illegal practitioner to examine patients and write prescriptions using his Drug Enforcement Agency (DEA) number. According to the DEA, the illegal practitioner had a history of committing Medicare fraud.

2. In March 2006, Respondent sold his medical practice to We Care Clinic, LLC. As a result of that sale, Respondent had no further medical practice or relationship with the practice that he sold. On May 11, 2006, Respondent entered into an employment agreement with We Care Clinic, LLC. Under that agreement Respondent was to provide twenty hours a week of service to their patients as a medical doctor. The duration of the employment agreement was twelve months.

3. By November 2006, Respondent learned that Olena Kulakova (a principal in We Care Clinic, LLC), who had represented herself to be a medical doctor, but was in fact unlicensed, had been signing Respondent's name to prescriptions, had been billing insurance

companies under Respondent's name and had been negotiating payment checks written to Respondent by endorsing Respondent's name on the checks and depositing them into Ms. Kulakova's accounts. Respondent's attorney immediately wrote to Ms. Kulakova instructing her to cease and desist her illegal practices relative to Respondent.

4. On September 14, 2007, Respondent told Board staff that he was aware the new owner was unlicensed, and was aware she had seen patients and written prescriptions using his name and DEA number. He had been aware of this since November 14, 2006, when he had his attorney write a letter to the illegal practitioner demanding that she stop signing Respondent's name to prescriptions. Despite this, Respondent continued his employment with the illegal practitioner.

5. On January 1, 2009, Respondent was indicted in the Maricopa County Superior Court, on allegations of seven felony counts, including conspiracy, participating in and assisting a criminal syndicate, fraudulent schemes and artifices, theft, money laundering and illegally conducting an enterprise (CR 2009-0005863-002-DT).

6. On January 29, 2009, Respondent entered into an Interim Consent Agreement for Practice Restriction with the Board, agreeing to stop practicing medicine pending the resolution of this matter in the criminal courts and before the Board.

7. On July 31, 2009, Respondent entered a plea of guilty to a class 6 Undesignated felony, "Securing the Proceeds of an Offense", in violation of A.R.S. §§ 13-2408, 13-701, 13-702, 13-702.31 and 13-801.

8. In October 2009, Respondent was notified of the routine requirement to renew his license. A reminder letter was sent to him in January 2010.

9. On February 16, 2010, the Maricopa County Superior Court designated the charge, to which Respondent had pled guilty, a misdemeanor. This action was taken upon the early termination of Respondent's probation, and his completion of the terms of his sentencing, including performance of community service, payment of fines and court costs.

10. On March 24, 2010, the Maricopa County Superior Court entered its Order setting aside any judgment or record relating to the criminal case, dismissing any accusations in the case and completely relieving Respondent of any penalties that might result from the aforementioned guilty plea.

11. On or about May 1, 2010, Board staff notified Respondent that his license had expired, for his not having renewed it by that date. Respondent was also notified that, pursuant to A.R.S § 32-2302, the expiration of his license was suspended because this matter was not yet resolved.

CONCLUSIONS OF LAW

1. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854(2), which states: "Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction is conclusive evidence of the commission."

2. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854(6), which states, "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."

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854(10), which states, "Having professional connection with or lending one's name to an illegal practitioner of osteopathic medicine or any of the healing arts."

4. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854(34), which states, "Lack of or inappropriate direction, collaboration or supervision of a licensed, certified or registered health care provider or office personnel employed by or assigned to the physician in the medical care of patients."

5. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854(38), which states, "Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so."

ORDER

1. **IT IS HEREBY ORDERED THAT** License Number 0755, previously issued to Paul Balikian, D.O., for the practice of osteopathic medicine in the State of Arizona, is **SURRENDERED,** and that Paul Balikian, D.O. shall no longer engage in the practice of medicine in the State of Arizona after the effective date of this Order.

2. Any violation of this Consent Agreement constitutes unprofessional conduct and may result in disciplinary action and or referral to the appropriate criminal agency.

ISSUED THIS 24th DAY OF January, ~~2010~~ 2011.

STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: _____
Elaine LeTarte, Executive Director

Original "Consent for Surrender of License" filed this 24th day of January, ~~2010~~ 2011 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 for Surrender of License" sent via mail this 24th day of January, ~~2010~~ 2011 to:

Paul Balikian, DO, in care of:

Jerry Steele, Esq.
Law Offices of Jerry Steele
316 W Ocotillo Road
Phoenix AZ 85013

Copy of the foregoing "Consent for Surrender of License" sent via interagency mail this 24th day of January, ~~2010~~ 2011 to:

Camila Alarcon, Asst Attorney General
Office of the Attorney General CIV/LES
1275 West Washington
Phoenix AZ 85007

Kathy Fowkes