

COPY

BEFORE THE ARIZONA STATE BOARD
OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS

In the Matter of,

Thomas Lodi, M.D.(H),
Holder of License Number 0140
For the Practice of Homeopathic Medicine
In the State of Arizona,

Respondent

Case No: 11-11

CONSENT AGREEMENT & ORDER

CONSENT AGREEMENT

RECITALS

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and responsibilities of the Arizona State Board of Homeopathic and Integrated Medicine Examiners ("Board"), and under A.R.S. § 32-2901, *et seq.*, and A.R.S. § 41-1092.07(F)(5), Thomas Lodi, M.D.(H), ("Respondent"), holder of license number 0140 to practice homeopathic medicine in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as the final disposition of this matter. A.R.S. § 32-2934 (F).

1. Respondent has read and understands this Consent Agreement as set forth herein, and has been provided the opportunity to discuss this Consent Agreement with an attorney. Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding the expense and uncertainty of an administrative hearing.

2. Respondent understands that he has a right to a public administrative hearing concerning each and every allegation set forth in the above captioned matter, at which administrative hearing he could present evidence and cross examine witnesses. By entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all

1 rights to an administrative hearing, as well as all rights of rehearing, review,
2 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
3 concerning the matters contained within. Respondent affirmatively agrees that this
4 Consent Agreement shall be irrevocable.

5 3. Respondent agrees that the Board may adopt this Consent Agreement or
6 any part of this agreement, under A.R.S. § 32-2934(F). Respondent understands that the
7 Board may consider this Consent Agreement or any part of it in any future disciplinary
8 action against him.

9 4. Respondent understands that this Consent Agreement does not constitute a
10 dismissal or resolution of other matters currently pending before the Board, *if any*, and
11 does not constitute any waiver, expressed or implied, of the Board's statutory authority or
12 jurisdiction regarding any other pending or future investigation, action, or proceeding.

13 5. Respondent acknowledges and agrees that, upon signing this Consent
14 Agreement and returning this document to the Board's Executive Director, Respondent
15 may not revoke his acceptance of the Consent Agreement or make any modifications to
16 the document, regardless of whether the Executive Director issued the Consent
17 Agreement. Any modification to this original document is ineffective and void unless
18 mutually approved by the parties in writing.

19 6. Respondent understands that this Consent Agreement shall not become
20 effective unless and until the Board adopts it and the Board President signs it.

21 7. Respondent understands and agrees that if the Board does not adopt this
22 Consent Agreement, he will not assert as a defense that the Board's consideration of it
23 constitutes bias, prejudice, prejudgment or other similar defenses.

24 8. Respondent understands that this Consent Agreement is a public record that
25 may be publicly disseminated as a formal action of the Board, and shall be reported as
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1 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
2 Protection Data Bank.

3 9. Respondent understands that any violation of this Consent Agreement
4 constitutes unprofessional conduct under A.R.S. § 32-2933 (A)(32) and may result in
5 disciplinary action under A.R.S. § 32-2934.

6 10. Respondent acknowledges that it is the Board's position that, if this matter
7 proceeded to formal hearing, the Board could establish sufficient evidence to support a
8 conclusion that Respondent's conduct constituted unprofessional conduct. Respondent
9 has agreed to enter into this Consent Agreement as an economical and practical means of
10 resolving the disputed issues associated with the complaint filed against him. Further,
11 Respondent acknowledges that the Board may use the evidence in its possession relating
12 to this Consent Agreement for purposes of determining sanctions in any further
13 disciplinary matter.

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15 DATED: 3/7/13

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18 Thomas Lodi, M.D.(H)

19 **FINDINGS OF FACT**

20 1. The Board is the duly constituted authority for the regulation and control of
21 the practice of homeopathic medicine in the State of Arizona.

22 2. On or about June 4, 2009, Respondent entered into a treatment plan with
23 patient A.Y. at his clinic, An Oasis of Healing, in Mesa, Arizona.

24 3. Respondent began a consensual inter-personal relationship with patient
25 A.Y. on or about September 1, 2010, and they became engaged in December 2010. On
26 or about September 4, 2010, Respondent advised patient A.Y. by letter that he was
terminating their doctor patient relationship and turning over her care to Thomas

1 Alexander, M.D., or his replacement. According to the professional services agreement
2 Respondent provided to the Board, Respondent entered into an employment relationship
3 with Dr. Alexander to provide allopathic physician services at An Oasis of Healing,
4 which commenced on July 29, 2008, and terminated on September 30, 2008. Dr.
5 Alexander, however, continued to be employed by An Oasis of Healing through and
6 including September 23, 2010. The employment contract had terminated before patient
7 A.Y. ever became a patient at An Oasis of Healing. Respondent provided the Board with
8 one progress note on patient A.Y. dated August 20, 2009, that had been signed by Dr.
9 Alexander.

10 4. Despite Respondent's assertion that other staff physicians were responsible
11 for patient A.Y.'s care, Respondent continued to also act as patient A.Y.'s physician
12 throughout her illness. Respondent's signature appeared at least 31 times on progress
13 notes in patient A.Y.'s medical record documenting her care and treatment after
14 September 4, 2010, until her death on December 20, 2011. Respondent admitted that he
15 did not keep records regarding his treatment of patient A.Y., including narcotic
16 administration.

17 5. Respondent asserted in a February 27, 2012, written response to the Board,
18 that Dr. Helen Watt, M.D. became the staff physician at his clinic beginning on or about
19 October 1, 2010, however, he did not provide any evidence of a professional services
20 agreement evidencing a professional relationship. Patient A.Y.'s progress notes in her
21 medical record show Dr. Watt signed 32 entries between February 10, 2011 and
22 November 10, 2011.

23 6. Respondent continued to write prescriptions for intravenous Dilaudid for
24 patient A.Y. after staff physician Dr. Watt made a note in the patient's medical record on
25 September 1, 2011, that she would prefer not to write for intravenous Dilaudid and that
26 patient A.Y. needed a pain specialist to manage this aspect of her care.

1 7. Respondent failed to properly and consistently document the medical plan,
2 treatment, and care provided to patient A.Y. in her medical record. Respondent failed to
3 maintain clear and legible patient records for patient A.Y. Patient A.Y.'s medical records
4 contained the following deficiencies:

5 a) Patient A.Y.'s medical record was not consistently retained at the clinic
6 so that it could be readily available to staff physicians providing ongoing treatment. Dr.
7 Watt, indicates in the medical record that on at least five different dates she was unable to
8 find patient A.Y.'s medical record in order to document in the progress notes the
9 treatment she was recommending.

10 b) Treatment notes from Respondent were not kept sequentially in the
11 patient's medical record and appear to be written separately from the rest of the treatment
12 notes and added later.

13 c) Respondent wrote prescriptions for controlled substances for patient
14 A.Y. and failed to document them in the treatment notes in the medical record.

15 d) Patient A.Y.'s medical record included a "Physician's Order Sheet,"
16 that had many documentation gaps. Some entries, including those for intravenous
17 controlled substances, are undated and unsigned.

18 e) In a progress note dated May 19, 2011, a pain consultation from Dr.
19 Castro is mentioned, however, patient A.Y.'s medical record provided to the Board failed
20 to contain the consultation report. The Board issued a subpoena to Dr. Castro and
21 subsequently obtained patient A.Y.'s pain management consultation report.

22 8. Respondent failed to adequately supervise caregivers assisting with
23 therapeutic care provided to patient A.Y. while living in his home, between August 2011
24 and December 2011. According to Respondent, he provided pain management treatment
25 to patient A.Y. while she lived in his home. Respondent failed to document the
26 administration of medications, including intravenous Dilaudid, to patient A.Y.
Specifically, Respondent failed to document the date, time, dose, patient A.Y.'s

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1 therapeutic response, and failed to sign or initial his name in patient A.Y.'s medical
2 record.

3 9. Respondent failed to use the designation M.D.(H) after his name on his
4 website advertising his homeopathic and integrative medical services at his clinic, An
5 Oasis of Healing, in Mesa, Arizona.

6 10. On or about February 8-10, 2012, Respondent participated in a Professional
7 Boundaries Program at the University of California, San Diego, School of Medicine.
8 According to the certificate of completion provided to the Board, Dr. Lodi completed
9 38.75 hours of continuing education.

10 11. On or about July 19-20, 2012, Respondent participated in the PACE
11 Medical Records Course at University of California, San Diego, School of Medicine.
12 According to the certificate of completion provided to the Board, Respondent completed
13 17.0 hours of continuing education.

14 12. On or about January 14-16, 2013, Respondent participated in the Physician
15 Prescribing course at the University of California, San Diego School of Medicine.
16 According to the certificate of completion provided to the Board, Respondent completed
17 24 hours of continuing education.

18 13. On or about July 11, 2012, the Board requested that Respondent undergo a
19 substance abuse evaluation based on concerns about possible diversion because of the
20 large quantity of narcotics that he was prescribing and administering to patient A.Y. The
21 Board also had concerns regarding Respondent's lack of documentation and record
22 keeping regarding the administration of narcotics to patient A.Y.

23 14. On or about November 16, 2012, Respondent underwent a substance abuse
24 evaluation by Michel Sucher, M.D., at the Board's request. Dr. Sucher stated in his
25 report that he did not believe that Respondent suffers from a substance use disorder and
26 that further evaluation, treatment, and monitoring were not required. Dr. Sucher
documented that all drug test results were negative and that he did not see any issues

1 regarding Respondent's safety to practice. During the evaluation, Respondent admitted
2 that he did not keep records regarding narcotic administration when treating A.Y. and
3 realized that he should have done so. Dr. Sucher recommended that Respondent take
4 approved continuing education courses in the areas of ethics, boundaries, medical record-
5 keeping, and proper prescribing of medications.

6 CONCLUSIONS OF LAW

7 1. Under A.R.S. § 32-2901, *et seq.*, the Board possesses jurisdiction over
8 Respondent and this matter.

9 2. The conduct and circumstances described in the above Findings of Fact 3-8
10 constitutes unprofessional conduct under A.R.S. § 32-2933(A)(34), failing to
11 appropriately direct, collaborate with or supervise a licensed, certified or registered health
12 care provider, a homeopathic medical assistant or office personnel employed or assigned
13 to the licensee to assist in the medical care of patients.

14 3. The conduct and circumstances described in the above Findings of Fact 3-8,
15 13-14 constitutes unprofessional conduct under A.R.S. § 32-2933(A)(19), any conduct or
16 practice contrary to recognized standards of ethics of the homeopathic medical
17 profession, any conduct or practice that does or might constitute a danger to the health,
18 welfare or safety of the patient or the public or any conduct, practice or condition that
19 does or might impair the ability to practice homeopathic medicine safely and skillfully.

20 4. The conduct and circumstances described in the above Findings of Fact 3-8,
21 13-14 constitutes unprofessional conduct under A.R.S. § 32-29-2933(A)(20), by failing
22 or refusing to maintain adequate records on a patient or to make patient records promptly
23 available to another licensee on request and receipt of proper authorization.

24 5. The conduct and circumstances described in Finding of Fact 9 constitutes
25 unprofessional conduct under A.R.S. § 32-2933(A)(29), by use of the designation "M.D."
26 or "D.O." in a way that would lead the public to believe that a person is licensed by the
Arizona medical board or the board of osteopathic examiners in in medicine and surgery

1 in this state if this is not the case and *A.A.C R4-38-115(B)* which requires, "A
2 homeopathic physician practicing in this state who is not licensed by the Arizona Board
3 of Medical Examiners or the Arizona Board of Osteopathic Examiners in Medicine and
4 Surgery shall not use any designation other than the initials M.D.(H.) or D.O.(H.) (with
5 or without periods) to indicate a doctoral degree."

6 ORDER

7 Based upon the above Findings of Fact and Conclusions of Law, **IT IS HEREBY**
8 **ORDERED:** Homeopathic License No. 0140 issued to Respondent to practice
9 homeopathic medicine is subject to the following terms and conditions for the
10 unprofessional conduct described above.

11 The terms and conditions of Probation are as follows:

12 1. Respondent's Homeopathic License No. 0140 to practice homeopathic
13 medicine in the State of Arizona shall be placed on probation for one year. Respondent
14 shall be affirmatively responsible for petitioning the Board to terminate his probation.
15 Upon petitioning the Board, the Board shall have complete discretion to determine
16 whether Respondent has complied with the required terms and conditions of the Order to
17 grant termination of probation. Respondent's failure to petition the Board to terminate
18 his probation shall cause his probation to continue beyond the one year period until he
19 petitions for termination upon proof of successful completion of the probationary terms.

20 2. In addition to the continuing education hours required for Respondent's
21 homeopathic license renewal, the Board orders that Respondent successfully complete
22 continuing education in the areas of professional boundaries, in the amount of 38.75
23 hours, medical record keeping, in the amount of 17 hours, and a course in the proper
24 prescribing of medications, in the amount of 24 hours and accepts the courses as
25 described in Findings of Fact 10, 11, and 12 as satisfying the requirements of this section
26 for continuing education in the areas of professional boundaries, medical record keeping,
and the proper prescribing of medications as set forth above.

1 3. Respondent shall file a written report to the Board every other month,
2 disclosing whether he provided direct patient care and/or consulted in any manner by
3 providing direct or indirect patient care in Arizona, during the preceding sixty day
4 period. Respondent shall disclose the patient name, date(s) of treatment, and all patient
5 records, including consultation reports, pertaining to his treatment/consultation of the
6 patient. Respondent shall also disclose whether he prescribed narcotic medications to
7 patients in Arizona, during the preceding sixty day period, and Respondent shall disclose
8 the patient name, date(s) of treatment, and all patient records, including consultation
9 reports, pertaining to his treatment/consultation of the patient. Respondent's first report
10 shall be submitted to the Board sixty days from the effective date of the Order and every
11 sixty days thereafter until the Order is terminated by the Board. Respondent shall fully
12 and promptly cooperate with Board staff or its Board appointed designee during these
13 medical records reviews and provide whatever assistance or resources they require. If
14 Respondent's medical records are determined to be insufficient, incomplete, or otherwise
15 not in compliance with minimum standards relating to medical records that would include
16 information to identify the patient, support the diagnosis, justify the treatment, document
17 the results, indicate advice and cautionary warnings provided to the patient, document
18 vital signs, and provide information for another practitioner to assume continuity of the
19 patient's care, the Board may consider Respondent in violation of the Order and may
20 impose additional disciplinary sanctions.

21 4. Within ten business days of the effective date of the Consent Agreement,
22 Respondent shall comply with Arizona law regarding the use of the M.D.(H.) designation
23 on his websites, including but not limited to An Oasis of Healing, and shall provide the
24 Board with written proof of the changes.

25 5. Respondent shall meet all requirements to renew his license for each year
26 that he remains on probation and shall keep his license current by submitting a complete

1 license renewal application to the Board prior to the date for renewal for each year that he
2 remains on probation.

3 6. Respondent shall bear all direct and indirect costs of complying with this
4 Consent Agreement.

5 7. Respondent shall appear in person before the Board to respond to questions
6 or concerns regarding his compliance with this Order when requested in writing by the
7 Board or the Board's designee.

8 8. In the event Respondent moves out-of-state or ceases to practice
9 homeopathic medicine in Arizona, he shall notify the Board of these events in writing
10 within twenty (20) days of these events, and the terms and conditions of this Order may
11 be stayed by the Board until Respondent returns to the practice of homeopathic medicine
12 in Arizona.

13 9. Respondent shall immediately notify the Board, in writing, of any change
14 in office or home addresses and telephone numbers.

15 10. Respondent shall obey all federal, state and local laws, rules, and
16 regulations including those governing the practice of homeopathic medicine in this State.
17 Respondent shall fully comply with the terms and conditions of this Order. Violation of
18 this paragraph, in addition to being considered noncompliant with this Order, shall also
19 be a separate violation of the laws, rules, and regulations governing the practice of
20 homeopathic medicine in this State.

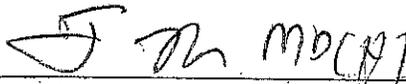
21 11. Respondent's failure to comply with any term or condition of this Order
22 may constitute a violation of the Consent Agreement and the Board may impose
23 additional disciplinary sanctions.

24 12. This Order shall become effective as of the date stated below.

25 DATED this 12th day of March, 2013.

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ARIZONA STATE BOARD OF
HOMEOPATHIC AND INTEGRATED
MEDICINE EXAMINERS

By: 
Todd Rowe, MD, MD(H)
President

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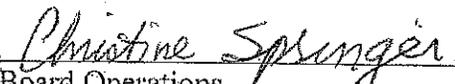
COPY of the foregoing mailed by
certified mail this 13th day of March 2013,
Certificate No. _____ to:

Dr. Thomas Lodi, M.D.(H)
Respondent
An Oasis of Healing
210 North Center Street, Ste 102
Mesa, AZ 85201

Steven Myers, Esq.
Attorney for Respondent
Myers and Jenkins P.C.
1 East Camelback Road, Suite 500
Phoenix, AZ 85012

COPY of the foregoing scanned and electronically sent
this 12th day of March, 2013 to:

Mona Baskin, Assistant Attorney General
Arizona Office of the Attorney General
1275 W. Washington, CIV/LES
Phoenix, Arizona 85007
Attorney for the State


Board Operations

**BEFORE THE ARIZONA STATE BOARD
OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS**

In the Matter of,

Thomas Lodi, M.D.(H),
Holder of License Number 0140
For the Practice of Homeopathic Medicine
In the State of Arizona,

Respondent

Case No: 11-11

**TERMINATION OF CONSENT
AGREEMENT & ORDER**

This matter came before the Board of Homeopathic and Integrated Medicine Examiners for review on March 11, 2014. The Board considered and determined that Respondent had complied with all of the terms of the Consent Agreement and Order dated March 12, 2013.

It is Hereby Ordered that that no further monitoring by the Arizona Board of Homeopathic and Integrated Medicine Examiners is necessary regarding the referenced matter; and

It is Further Ordered that monitoring of the licensee's compliance with the terms of the Consent Agreement and Order be and hereby is terminated effective March 12, 2014.

Dated this 31st day of March, 2014.



Christine Springer

Executive Director

