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**BEFORE THE ARIZONA MEDICAL BOARD**

In the Matter of  
**GARY N. SPIRTOS, M.D**  
Holder of License No. 26761  
For the Practice of Medicine  
In the State of Arizona.

**Case No. MD-17-0906A**

**ORDER FOR DECREE OF  
CENSURE AND CONSENT  
TO THE SAME**

Gary N. Spirtos, M.D. (“Respondent”) elects to permanently waive any right to a hearing and appeal with respect to this Order for Decree of Censure; admits the jurisdiction of the Arizona Medical Board (“Board”) will not contest the facts stated in this Order; and consents to the entry of this Order by the Board.

**FINDINGS OF FACT**

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
2. Respondent is the holder of license number 26761 (the “License”) for the practice of allopathic medicine in the State of Arizona, which expired on November 12, 2020.
3. The Board initiated case number MD-17-0906A after receiving a complaint regarding Respondents’ care and treatment of an 89 year-old male patient (“Patient A”).
4. Based on the complaint, the Board requested Medical Consultant (“MC”) review of Respondent’s care and treatment of Patient A.
5. Respondent failed to provide the Board with medical records regarding his care and treatment for Patient A.
6. Based on the review of records obtained from other treating providers and additional information gathered during the Board’s investigation, the MC identified deviations from the standard of care including that Respondent appeared to have treated

1 Patient A while located in states where Respondent did not hold a medical license.  
2 Respondent denied that his care was substandard.

3 7. Respondent failed to report a felony charge to the Board within 10 days as  
4 required by statute. The charge did not involve patient care. Respondent ultimately pled  
5 guilty to a misdemeanor and the felony charge was dismissed.

### 6 CONCLUSIONS OF LAW

7 1. The Board has jurisdiction over the subject matter and over Respondent. See  
8 A.R.S. § 32-3202.

9 2. Dr. Spirtos failed to create and maintain adequate medical records for patient  
10 IM, while providing medical care and treatment to IM, constituting unprofessional conduct  
11 under A.R.S. § 32-1401(27)(e) (“Failing or refusing to maintain adequate records on  
12 patients,”) as defined in A.R.S. § 32-1402(2) (“Adequate records’ means legible records,  
13 produced by hand or electronically, containing, at a minimum, sufficient information to  
14 identify the patient, support the diagnosis, justify the treatment, accurately document the  
15 results, indicate advice and cautionary warnings provided to the patient and provide sufficient  
16 information for another practitioner to assume continuity of the patient’s care at any point in  
17 the course of treatment.”).

18 3. Dr. Spirtos failed to respond to the Board’s request to provide his complete  
19 medical records on patient IM constituting unprofessional conduct under A.R.S. § 32-  
20 1401(27)(ee) (“Failing to furnish information in a timely manner to the board or the board’s  
21 investigators or representatives if legally requested by the board.”).

22 4. Dr. Spirtos failed to report a felony charge to the Board within 10 days  
23 constituting unprofessional conduct under A.R.S. § 32-1401(27)(a) (“Violating any federal  
24 or state laws, rules or regulations applicable to the practice of medicine,”) as defined in A.R.S.  
25 § 32-3208(A) (“A health professional who has been charged with a misdemeanor involving

1 conduct that may affect patient safety or a felony after receiving or renewing a license or  
2 certificate must notify the health professional's regulatory board in writing within ten working  
3 days after the charge is filed.”).

4 **ORDER**

5 IT IS ORDERED THAT:

- 6 1. Respondent is issued a Decree of Censure.  
7 2. The Orders issued to Respondent by the Board on July 9, 2021 and September  
8 14, 2021 are rescinded in their entirety.

9  
10 DATED and effective this 8<sup>th</sup> day of April, 2022.

11  
12 ARIZONA MEDICAL BOARD

13 By: Patricia E. McSorley  
14 Patricia E. McSorley  
15 Executive Director

16 **CONSENT TO ENTRY OF ORDER**

17 1. Respondent has read and understands this Consent Agreement and the  
18 stipulated Findings of Fact, Conclusions of Law and Order (“Order”). Respondent  
19 acknowledges he has the right to consult with legal counsel regarding this matter.

20 2. Respondent acknowledges and agrees that this Order is entered into freely and  
21 voluntarily and that no promise was made or coercion used to induce such entry.

22 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to  
23 a hearing or judicial review in state or federal court on the matters alleged, or to challenge  
24 this Order in its entirety as issued by the Board, and waives any other cause of action related  
25 to this Order or arising from the Order.

1           4.     The Order is not effective until approved by the Board and signed by its  
2 Executive Director.

3           5.     This Order resolves all matters and all issues, claims, defenses, regardless of  
4 whether or not raised or alleged in this proceeding or in proceedings that were filed, could be  
5 filed or could have been arising from or related to the Case. The Board and Respondent are  
6 barred by this Order from initiating, pursuing or otherwise seeking any administrative or civil  
7 action and from seeking any judgment, order or award, including damages, costs, attorney's  
8 fees or any other form of relief, except:

9           a.     As expressly permitted by this Order.

10          b.     If Respondent files an application for a license or to reinstate the License, in  
11 which case the Board has the discretion to grant or deny the application for issues related to  
12 or arising from this Case, including pursuant to A.R.S. § 32-3208(E).

13          6.     Notwithstanding any language in this Order, this Order does not preclude in any  
14 way any other State agency or officer or political subdivision of this state from instituting  
15 proceedings, investigating claims, or taking legal action as may be appropriate now or in the  
16 future relating to this matter or other matters concerning Respondent. Respondent  
17 acknowledges that, other than with respect to the Board, this Order makes no representations,  
18 implied or otherwise, about the views or intended actions of any other state agency or officer  
19 or political subdivisions of the State relating to this matter or other matters concerning  
20 Respondent

21          7.     Upon signing this agreement, and returning this document (or a copy thereof)  
22 to the Board's Executive Director, Respondent may not revoke his consent to the entry of the  
23 Order, provided that the Board adopts this Order without amendment within 60 days of the  
24 date Respondent executes this document. For the period of 60 days after Respondent executes  
25 this document, or if the Board adopts this order within 60 days, Respondent may not make

1 any modifications to the document. If the Board does not adopt this Order within 60 days  
2 without modification, Respondent may withdraw his consent and any and all stipulations,  
3 waivers, or admissions will be null and void. Any modifications to this original document  
4 are ineffective and void unless mutually approved by the parties.

5 8. This Order is a public record that will be publicly disseminated as a formal  
6 disciplinary action of the Board and will be reported to the National Practitioner's Data Bank  
7 and on the Board's web site as a disciplinary action to the extent required by law.

8 9. If the Board does not adopt this Order, the parties stipulate that any admission,  
9 stipulation, or consent to discipline by Respondent is an offer made in compromise/settlement  
10 of a claim, and will be inadmissible for any purpose under Ariz. R. Evidence Rule 408 and  
11 otherwise. If the Board does not adopt this Order, the Board waives any right to admit this  
12 Order or the communications surrounding the consent to this order in evidence for any  
13 purpose. Respondent will not assert as a defense that the Board's consideration of the Order  
14 constitutes bias, prejudice, prejudgment or other similar defense.

15 10. Upon the Board's approval of this Order, the Parties agree to submit a  
16 stipulation to the Maricopa County Superior Court for the dismissal with prejudice of the  
17 judicial review action in Case No. LC-2021-000292-001.

18 11. *Respondent has read and understands the terms of this agreement.*

19  
20   
21 GARY N. SPIRTOS, M.D.

DATED: 3-30-2022

22 EXECUTED COPY of the foregoing mailed  
23 this 8<sup>th</sup> day of April, 2022 to:

24  
25 M.E. "Buddy" Rake Jr., Esq.  
Rake Law Group, P.C.

1 201 East Camelback Road, Ste. 160  
Phoenix, AZ 85016  
2 Attorney for Respondent

3 Mark J. DePasquale, Esq.  
4 Mark J. DePasquale, P.C.  
3300 N. Central Avenue, Ste. 2700  
5 Phoenix, AZ 85012  
6 Attorney for Respondent

7 ORIGINAL of the foregoing filed  
8 this 8<sup>th</sup> day of April, 2022 with:

9 Arizona Medical Board  
10 1740 West Adams, Suite 4000  
Phoenix, Arizona 85007

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12 Michelle Rhodes  
13 Board staff

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