BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

DUANE L. MILLER, M.D.

Applicant for Licensure # 54412
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-17-0572A

ORDER GRANTING PROBATIONARY LICENSE AND CONSENT TO THE SAME

Duane L. Miller, M.D. ("Respondent"), elects to permanently waive any right to a
hearing and appeal with respect to this Order granting his application for licensure subject
to terms and conditions for probation; admits the jurisdiction of the Arizona Medical Board
("Board"); 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 an applicant for licensure for the practice of allopathic
medicine in the State of Arizona.

3. The Board initiated case number MD-17-0572A after receiving Respondent's
license application wherein he disclosed action taken by another state board.

4. On October 20, 2013, Respondent was referred to the Indiana State Medical
Association Physician Program ("ISMA PAP") based on concerns regarding Respondent's
use of alcohol. Respondent subsequently voluntarily ceased practice, obtained an
assessment, and successfully completed residential treatment for alcohol dependency.
After Respondent was discharged, he entered into a continuing care contract with the
ISMA PAP prior to returning to practice.

5. Respondent experienced a relapse on August 1, 2015, after which
Respondent requested inactivation of his license with the Medical Licensing Board of
Indiana ("Indiana Board").
6. Respondent subsequently voluntarily presented to and successfully completed an intensive outpatient treatment program at a facility in Arizona. After completion, Respondent entered into a private Recovery Monitoring Agreement with Post Treatment Supervision ("PTS Agreement") with the Board’s Physician Health Program ("PHP") contractor with terms and conditions similar to the Board’s PHP.

7. On April 12, 2017, the Indiana Board entered a Final Order Accepting Proposed Settlement ("Indiana Order") agreement that reinstated and placed Respondent’s Indiana License on indefinite probation with a two year minimum term. The Indiana Order requires Respondent to maintain compliance with the PTS Agreement and enter into and comply with a new agreement with ISMA PAP.

8. Respondent is in compliance with the PTS Agreement.

**CONCLUSIONS OF LAW**

a. The Board possesses jurisdiction over the subject matter hereof and over Respondent and may issue probationary licenses pursuant to A.R.S. § 32-1427(H).

b. Pursuant to A.R.S. § 32-1422(A), “An applicant for a license to practice medicine in this state pursuant to this article shall meet each of the following basic requirements . . . 3. Have the physical and mental capability to safely engage in the practice of medicine.”

c. Pursuant to A.R.S. § 32-1427(H), “If an applicant does not meet the requirements of section 32-1422, subsection A, paragraph 3 the board may issue a license subject to any of the following probationary conditions. . . . 4. Require the licensee to participate in a specified rehabilitation program.”

**ORDER**

IT IS HEREBY ORDERED THAT:

1. Respondent’s application for licensure in the State of Arizona is granted and is placed on Probation for five years with the following terms and conditions:
a. Respondent shall not consume alcohol or any food or other substance containing poppy seeds or alcohol.

b. Respondent shall not take any illegal drugs or mood altering medications unless prescribed for a legitimate therapeutic purpose.

c. Respondent shall attend the PHP's Contractor's relapse prevention group therapy sessions one time per week for the duration of this Order, unless excused by the relapse prevention group facilitator for good cause. Individual relapse therapy may be substituted for one or more of the group therapy sessions, if the PHP Contractor pre-approves substitution. The relapse prevention group facilitators or individual relapse prevention therapist shall submit monthly reports to the PHP Contractor regarding attendance and progress.

d. If requested by the PHP Contractor, Respondent shall attend ninety 12-step meetings or other self-help group meetings appropriate for substance abuse and approved by the PHP Contractor, for a period of ninety days. Upon completion of the ninety meetings in ninety days, Respondent shall participate in a 12-step recovery program or other self-help program appropriate for substance abuse as recommended by the PHP Contractor. Respondent shall attend a minimum of three 12-step or other self-help program meetings per week. Two meetings per month must be Caduceus meetings. Respondent must maintain a log of all self-help meetings.

e. Respondent shall promptly obtain a Primary Care Physician ("PCP") and shall submit the name of the physician to the PHP Contractor in writing for approval. Except in an Emergency, Respondent shall obtain medical care and treatment only from the PCP and from health care providers to whom the PCP refers
Respondent. Respondent shall promptly provide a copy of this Order to the
PCP. Respondent shall also inform all other health care providers who provide
medical care or treatment that Respondent is participating in the PHP.
"Emergency" means a serious accident or sudden illness that, if not treated
immediately, may result in a long-term medical problem or loss of life.

f. Respondent shall enter treatment with a PHP Contractor approved psychiatrist
and shall comply with any and all treatment recommendations, including taking
any and all prescribed medications. Respondent shall instruct the treating
psychiatrist to submit quarterly written reports to the PHP regarding diagnosis,
prognosis, current medications, recommendation for continuing care and
treatment, and ability to safely practice medicine. The reports shall be submitted
quarterly to the PHP, the commencement of which to be determined by the PHP
Contractor. Respondent shall provide the psychiatrist with a copy of this
Stipulated Rehabilitation Agreement. Respondent shall pay the expenses for
treatment and be responsible for paying for the preparation of the quarterly
reports. Respondent may submit a written request to the PHP Contractor
requesting termination of the requirement that Respondent remain in treatment
with a psychiatrist. The decision to terminate will be based in part upon the
treating psychiatrist's recommendation for continued care and treatment.

g. All prescriptions for controlled substances shall be approved by the PHP
Contractor prior to being filled except in an Emergency. Controlled substances
prescribed and filled in an emergency shall be reported to the PHP within 48
hours. Respondent shall take no Medication unless the PCP or other health care
provider to whom the PCP refers Respondent prescribes and the PHP
Contractor approves the Medication. Respondent shall not self-prescribe any
Medication. “Medication” means a prescription-only drug, controlled substance, and over-the-counter preparation, other than plain aspirin, plain ibuprofen, and plain acetaminophen.

h. Respondent shall submit to random biological fluid, hair and/or nail testing for the remainder of this Order (as specifically directed below) to ensure compliance with the PHP.

i. Respondent shall provide the PHP Contractor in writing with one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid, hair, and/or nail testing to ensure compliance with the PHP. For the purposes of this section, telephonic notice shall be deemed given at the time a message to appear is left at the contact telephone number provided by Respondent. Respondent authorizes any person or organization conducting tests on the collected samples to provide testing results to the PHP Contractor. Respondent shall comply with all requirements for biological fluid, hair, and/or nail collection. Respondent shall pay for all costs for the testing.

j. Respondent shall provide the PHP Contractor with written notice of any plans to travel out of state.

k. Respondent shall immediately notify the Board and the PHP Contractor in writing of any change in office or home addresses and telephone numbers.

l. Respondent provides full consent for the PHP Contractor to discuss the Respondent's case with the Respondent's PCP or any other health care providers to ensure compliance with the PHP.
m. The relationship between the Respondent and the PHP Contractor is a direct relationship. Respondent shall not use an attorney or other intermediary to communicate with the PHP Contractor on participation and compliance issues.

n. Respondent shall be responsible for all costs, including costs associated with participating in the PHP, at the time service is rendered or within 30 days of each invoice sent to the Respondent. An initial deposit of two (2) months PHP fees is due upon entering the program. Failure to pay either the initial PHP deposit or monthly fees 60 days after invoicing will be reported to the Board by the PHP Contractor and may result in disciplinary action.

o. Respondent shall appear in person before with the PHP Contractor for interviews upon request, upon reasonable notice.

p. Respondent shall immediately provide a copy of this Order to all employers, hospitals and free standing surgery centers where Respondent currently has or in the future gains or applies for employment or privileges. Within 30 days of the date of this Order, Respondent shall provide the PHP with a signed statement of compliance with this notification requirement. Respondent is further required to notify, in writing, all employers, hospitals and free standing surgery centers where Respondent currently has or in the future gains or applies for employment or privileges of a violation of this Order.

q. In the event Respondent resides or practices as a physician in a state other than Arizona, Respondent shall participate in the rehabilitation program sponsored by that state’s medical licensing authority or medical society. Respondent shall cause the monitoring state’s program to provide written quarterly reports to the PHP Contractor regarding Respondent’s attendance, participation, and monitoring. The monitoring state’s program and Respondent shall immediately
notify the PHP Contractor if Respondent is non-compliant with any aspect of the monitoring requirements or is required to undergo any additional treatment.

r. The PHP Contractor shall immediately notify the Board if Respondent is non-compliant with any aspect of this Order or is required to undergo any additional treatment.

s. In the event of a chemical dependency relapse by Respondent or Respondent’s use of controlled substances or alcohol in violation of this Order, Respondent shall promptly enter into an Interim Consent Agreement for Practice Restriction that requires, among other things, that Respondent not practice medicine until such time as Respondent successfully completes long-term inpatient treatment designated by the PHP Contractor and obtains affirmative approval from the Executive Director, in consultation with the Lead Board Member and Chief Medical Consultant, to return to the practice of medicine. Prior to approving Respondent’s request to return to the practice of medicine, Respondent may be required to undergo any combination of physical examinations, psychiatric or psychological evaluations. In no respect shall the terms of this paragraph restrict the Board’s authority to initiate and taken disciplinary action for any violation of this Order.

t. Respondent shall obey all state, federal and local laws, all rules governing the practice of medicine in Arizona, and remain in full compliance with any court ordered criminal probation, payments and other orders.

u. In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing medicine in Arizona, Respondent shall notify the Executive Director in writing within ten days of departure and return the dates of non-practice within Arizona. Non-practice is
defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of medicine. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.

v. Prior to the termination of Probation, Respondent must submit a written request to the Board for release from the terms of this Order. Respondent's request for release will be placed on the next pending Board agenda, provided a complete submission is received by Board staff no less than 30 days prior to the Board meeting. Respondent's request for release must provide the Board with evidence establishing that she has successfully satisfied all of the terms and conditions of this Order. The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether to take any other action that is consistent with its statutory and regulatory authority.

2. The Board retains jurisdiction and may initiate new action against Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(r).

DATED AND EFFECTIVE this 15th day of September, 2017.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.
2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

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

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

5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board’s Executive Director, Respondent may not revoke the consent to the entry of the Order. 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.

7. This Order is a public record that will be publicly disseminated as a formal disciplinary action of the Board and will be reported to the National Practitioner’s Data Bank and on the Board’s web site as a disciplinary action.

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

9. If the Board does not adopt this Order, Respondent will not assert as a defense that the Board’s consideration of the Order constitutes bias, prejudice, prejudgment or other similar defense.
10. Any violation of this Order constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-1401(27)(r) ("[v]iolating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.") and 32-1451.

11. **Respondent has read and understands the conditions of probation.**

   [Signature]

   DUANE L. MILLER, M.D.

   DATED: 8-29-17

EXECUTED COPY of the foregoing mailed this 15th day of September, 2017 to:

Duane L. Miller, M.D.
Address of Record

ORIGINAL of the foregoing filed this 15th day of September 2017 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

[Signature]

Board staff