BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
ALPEN B. PATEL, M.D.
Holder of License No. 47525
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-16-1353A
INTERIM CONSENT AGREEMENT
FOR PRACTICE RESTRICTION

INTERIM CONSENT AGREEMENT

Alpen B. Patel, M.D. ("Respondent"), elects to permanently waive any right to a
hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction
and consents to the entry of this Order by the Arizona Medical Board ("Board").

INTERIM 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 No. 47525 for the practice of allopathic
medicine in the State of Arizona.

3. The Board initiated case number MD-16-1353A after receiving a self-report
from Respondent, who at the time was a 5th year otolaryngology resident at a hospital,
disclosing an ongoing investigation by the hospital regarding his prescribing practices with
concern for patient care.

4. During the course of the investigation, Board staff obtained supporting
documentation from the hospital and determined that Respondent was not truthful with
respect to the depth of the hospital investigation. Information showed that Respondent
was dismissed from the residency program at the hospital for conduct that might be
harmful to the health of patients.
5. Respondent also failed to disclose information regarding improper use of controlled substances to the Board in his self-report.

6. On February 9, 2017, Respondent underwent a health assessment with the Board's Physician Health Program ("PHP") Contractor. Based on the assessment, the PHP Contractor opined that Respondent was not safe to practice medicine without appropriate treatment for a substance use disorder.

7. On February 17, 2017, Respondent entered into an Interim Consent Agreement for Practice Restriction ("First Restriction").

8. Respondent subsequently underwent treatment at a Board-approved facility and was discharged with staff approval on April 2, 2017. Respondent met with the PHP Contractor for a post-treatment assessment, and the PHP Contractor opined that Respondent was safe to practice medicine provided that he enroll in and be monitored through the PHP for a period of five (5) years.

9. On April 12, 2017, Respondent entered into an Interim Consent Agreement to Participate in the PHP ("First ICA"), and on April 13, 2017, the First ICA was terminated.

10. On June 14, 2017, the Board received a report from the PHP Contractor disclosing that a complaint was received from the treatment facility alleging that Respondent wrote prescriptions for a controlled substance to a female patient ("DG") he had met while undergoing treatment. The treatment facility reported that Respondent prescribed oxycodone for DG, and that Respondent and DG shared the medication.

11. Respondent explained to the PHP Contractor that DG sought him out repeatedly and told him she needed the medication to treat her cancer. Respondent denied seeking DG out, splitting the prescriptions or using the oxycodone.
12. Board staff obtained copies of four prescriptions written by Respondent between May and June of 2017, confirming that Respondent wrote oxycodone prescriptions on his urgent care script pad for DG.

13. On July 7, 2017, the Board received the PHP Contractor's report stating that Respondent was not safe to practice until he was re-evaluated, including a medical polygraph examination, and any recommended treatment is completed.

14. On July 10, 2017, Respondent entered into a second Interim Consent Agreement for Practice Restriction ("Second Restriction").

15. Respondent subsequently completed an inpatient evaluation at a Board approved facility on July 12-14, 2017. Based on the recommendations of the evaluators at the facility, the PHP Contractor opined that Respondent was safe to practice with more frequent monitoring requirements, including regular hair testing every two months for at least a year; avoiding "dual relationships" with patients; and participation in a Board-approved medical ethics course.

16. Respondent subsequently entered into an Interim Consent Agreement for Participation in the Physician Health Program on August 24, 2017 ("Second ICA"), and the Second Restriction was terminated.

17. On December 6, 2017, Board staff received a report from the PHP Contractor stating that Respondent tested positive for a controlled substance on a November 26, 2017 urine drug screen and a follow-up hair follicle test performed on November 28, 2017. The Contractor opined that Respondent was not safe to practice, due to a relapse and requires long term inpatient rehabilitation prior to returning to practice.
18. The aforementioned information was presented to the investigative staff, the medical consultant and the lead Board member. All reviewed the information and concur that the interim consent agreement to restrict Respondent’s practice is appropriate.

19. The investigation into this matter is pending and will be forwarded to the Board promptly upon completion for review and action.

**INTERIM CONCLUSIONS OF LAW**

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. Pursuant to A.R.S. § 32-1405(C)(25) the Executive Director has authority to enter into a consent agreement when there is evidence of danger to the public health and safety.

3. Pursuant to A.A.C. R4-16-504, the Executive Director may enter into an interim consent agreement when there is evidence that a restriction is needed to mitigate imminent danger to the public’s health and safety. Investigative staff, the Board’s medical consultant and the lead Board member have reviewed the case and concur that an interim consent agreement is appropriate.

**INTERIM ORDER**

IT IS HEREBY ORDERED THAT:

1. This Order supersedes all previous orders in this case.

2. Respondent is prohibited from engaging in the practice of medicine in the State of Arizona as set forth in A.R.S. § 32-1401(22) until Respondent applies to the Executive Director and receives permission to do so. Respondent shall continue to be enrolled in, and comply with the requirements of the PHP and shall complete a Board-approved long term inpatient rehabilitation program.
3. Respondent may request, in writing, release and/or modification of this Interim Consent Agreement. Respondent’s request must be accompanied by a recommendation from the PHP Contractor that Respondent has completed any recommended inpatient treatment and is safe to return to the practice of medicine. The Executive Director, in consultation with and agreement of the lead Board member and the Chief Medical Consultant, has the discretion to determine whether it is appropriate to release Respondent from this Interim Consent Agreement.

4. The Board retains jurisdiction and may initiate new action based upon any violation of this Interim Consent Agreement, including, but not limited to, summarily suspending Respondent's license.

5. Because this is an Interim Consent Agreement and not a final decision by the Board regarding the pending investigation, it is subject to further consideration by the Board. Once the investigation is complete, it will be promptly provided to the Board for its review and appropriate action.

6. This Interim Consent Agreement shall be effective on the date signed by the Board's Executive Director.

DATED this 12th day of December, 2017.

ARIZONA MEDICAL BOARD

By __________________________
Patricia E. McSorley
Executive Director
RECITALS

Respondent understands and agrees that:

1. The Board, through its Executive Director, may adopt this Interim Consent Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-504.

2. Respondent has read and understands this Interim Consent Agreement as set forth herein, and has had the opportunity to discuss this Interim Consent Agreement with an attorney or has waived the opportunity to discuss this Interim Consent Agreement with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and by doing so agrees to abide by all of its terms and conditions.

3. By entering into this Interim Consent Agreement, Respondent freely and voluntarily relinquishes all rights to an administrative hearing on the matters set forth herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters related to the Interim Consent Agreement.

4. Respondent understands that this Interim Consent Agreement does not constitute a dismissal or resolution of this matter or any matters that may be currently pending before the Board and does not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding this or any other pending or future investigations, actions, or proceedings. Respondent also understands that acceptance of this Interim Consent Agreement does not preclude any other agency, subdivision, or officer of this State from instituting civil or criminal proceedings with respect to the conduct that is the subject of this Interim Consent Agreement. Respondent further does not
relinquish Respondent's rights to an administrative hearing, rehearing, review, reconsideration, judicial review or any other administrative and/or judicial action, concerning the matters related to a final disposition of this matter, unless Respondent affirmatively does so as part of the final resolution of this matter.

5. Respondent acknowledges and agrees that upon signing this Interim Consent Agreement and returning it to the Board's Executive Director, Respondent may not revoke Respondent's acceptance of this Interim Consent Agreement or make any modifications to it. Any modification of this original document is ineffective and void unless mutually approved by the parties in writing.

6. Respondent understands that this Interim Consent Agreement shall not become effective unless and until it is signed by the Board's Executive Director.

7. Respondent understands and agrees that if the Board's Executive Director does not adopt this Interim Consent Agreement, Respondent will not assert in any future proceedings that the Board's consideration of this Interim Consent Agreement constitutes bias, prejudice, prejudgment, or other similar defense.

8. Respondent understands that this Interim Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

9. Respondent understands that this Interim Consent Agreement does not alleviate Respondent's responsibility to comply with the applicable license-renewal statutes and rules. If this Interim Consent Agreement remains in effect at the time Respondent's allopathic medical license comes up for renewal, Respondent must renew the license if Respondent wishes to retain the license. If Respondent elects not to renew
the license as prescribed by statute and rule, Respondent's license will not expire but rather, by operation of law (A.R.S. § 32-3202), become suspended until the Board takes final action in this matter. Once the Board takes final action, in order for Respondent to be licensed in the future, Respondent must submit a new application for licensure and meet all of the requirements set forth in the statutes and rules at that time.

10. Respondent understands that any violation of this Interim Consent Agreement constitutes unprofessional conduct under 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.").

DURATION: 12/11/17

ALPEN B. PATEL, M.D.

EXECUTED COPY of the foregoing e-mailed this 12th day of December, 2017 to

Alpen B. Patel, M.D.
Address of Record

ORIGINAL of the foregoing filed this 12th day of December 2017 with:

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

Mary Slepy
Board staff