BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

GARY L. BOHAY, M.D.  

Case No. MD-17-0882A

INTERIM CONSENT AGREEMENT FOR PRACTICE LIMITATION
(Non-Disciplinary)

 Holder of License No. 20864 For the Practice of Allopathic Medicine In the State of Arizona.

INTERIM CONSENT AGREEMENT

Gary L. Bohay, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Interim Consent Agreement for Practice Limitation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the 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. 20864 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-17-0882A after receiving Respondent's self-report that he had recently taken some unexplained absences from work due to a health condition.

4. Respondent met with the Board's Physician Health Program ("PHP") Contractor, and subsequently attended an inpatient evaluation with a Board approved evaluator. Based on the evaluation results, the Contractor opined that Respondent may have a health condition that has the potential to place patients and the public at risk; and recommended that Respondent cease practicing medicine pending completion of long term residential treatment, followed by a reassessment with the PHP regarding Respondent's fitness for duty.
5. The aforementioned information was presented to the investigative staff, the medical consultant and the lead Board member. All reviewed the information and concur that an interim consent agreement to limit Respondent's practice is appropriate.

INTERIM CONCLUSIONS OF LAW

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

2. Pursuant to A.A.C. R4-16-509, the executive director has the authority to enter into consent agreements to limit a physician's practice if there is evidence that he is mentally unable to safely engage in the practice of medicine and the investigative staff, the medical consultant and the lead Board member concur after a review of the case that a consent agreement is appropriate.

3. In addition, pursuant to A.R.S. §§ 32-1405(C)(25) and 32-1451(F), the Executive Director, on behalf of the Board, has the authority to enter into consent agreements if there is evidence of danger to the public health and safety.

INTERIM ORDER

IT IS HEREBY ORDERED THAT:

1. 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 he applies to the Board and receives its affirmative permission to do so.

2. Respondent may request, in writing, release and/or modification from this Interim Consent Agreement. The Board has the sole discretion to determine whether it is appropriate to release Respondent from this Interim Consent Agreement and enter a final disposition in this matter or take any other action that is consistent with its statutory and regulatory authority. In making the determination regarding whether Respondent is safe to
practice medicine, the Board may order any combination of examinations or evaluations it
deems appropriate.

3. This Interim Consent Agreement is not a final decision by the Board
regarding the pending investigative file and as such is subject to further consideration by
the Board. In addition, the Board retains jurisdiction and may initiate a separate
disciplinary action based on the facts and circumstances that form the basis for this
practice limitation or any violation of this Interim Consent Agreement.

DATED this 8th day of January, 2019.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent agrees and understands that 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 32-1451(F) and A.A.C. R4-16-509.

2. Respondent has read and understands this Interim Consent Agreement for
Practice Limitation, 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.
3. Respondent acknowledges and agrees that this Interim Consent Agreement is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry, and by doing so agrees to abide by all of its terms and conditions.

4. By consenting to this Interim 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 Interim Consent Agreement in its entirety as issued, and waives any other cause of action related thereto or arising from said Interim Consent Agreement.

5. The Interim Consent Agreement is not effective unless and until it is approved and signed by the Executive Director.

6. 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.

7. 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 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 his rights to an administrative hearing, rehearing, review, reconsideration,
judicial review of any other administrative and/or judicial action, concerning the matters
related to a final disposition of this matter, unless he affirmatively does so as part of the
final resolution of this matter.

8. Upon signing this Interim Consent 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 Interim 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. Respondent understands and agrees that if the Board’s Executive Director
does not adopt this Interim Consent Agreement, he 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.

10. This Interim Consent Agreement is a public record that will be publicly
disseminated as a formal non-disciplinary action of the Board.

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

12. 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.

13. Any violation of this Interim Consent Agreement 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.

14. Respondent has read and understands the terms of this agreement.

[Signature]

DATED: 1/5/2018

GARY L. BOHAY, M.D.

EXECUTED COPY of the foregoing e-mailed this 2nd day of January, 2018 to:

Gary L. Bohay, M.D.
Address of Record

ORIGINAL of the foregoing filed this 8th day of January, 2017 with:

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

[Signature]

Board staff