BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

JYOTNSA SAHNI, M.D.

Case No. MD-16-0054A

HOLDER OF LICENSE NO. 35720

For the Practice of Allopathic Medicine

In the State of Arizona.

ORDER FOR LETTER OF

REPRIMAND AND PROBATION;

AND CONSENT TO THE SAME

Jyotsna Sahni, M.D. ("Respondent") elects to permanently waive any right to a
hearing and appeal with respect to this Order for a Letter of Reprimand and Probation;
adopts 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 the holder of license number 35720 for the practice of
allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-16-0054A after receiving information
indicating that Respondent had surrendered her DEA controlled substances prescribing
certificate and that she had allowed an unlicensed individual to perform and/or assist with
medical procedures at the Medical Spa where Respondent served as Medical Director
from May, 2012 through August, 2013.

4. During her tenure at the Medical Spa, Respondent was the only employed
individual who held a DEA certificate. The Medical Spa Owner was a clinical aesthetician
and a licensed, certified medical laser technician. At the time Respondent became
Medical Director, Gustavo Nunez was an employee of the Medical Spa who held himself
out to have qualifications for performing Botox injections and fillers in patients. In fact, Mr.
Nunez had no such qualifications. Respondent did not verify Mr. Nunez's training or certifications at the time she became Medical Director.

5. Respondent allowed Mr. Nunez to actively participate in liposuction procedures, administer medications and at times, left Mr. Nunez alone with liposuction patients.

6. Respondent wrote prescriptions to the Medical Spa Owner, Mr. Nunez, and her immediate family members without conducting a physical examination, and without maintaining a medical record.

7. During the course of an investigation into Mr. Nunez that was conducted by the DEA, Respondent voluntarily surrendered her DEA certificate and agreed to testify against Mr. Nunez in exchange for immunity from prosecution. Respondent reapplied after approximately one year, and her DEA certificate was reinstated.

8. Respondent applied for renewal of her medical license in 2016, and did not disclose her DEA certificate surrender as required to do so on her renewal application. Respondent asserts that she discovered that a staff member submitted her renewal application without her final review. Respondent provided an affidavit to the Board from the member of her staff who took responsibility for the failure to report the DEA surrender on Respondent's renewal application.

9. The Board's Medical Consultant ("MC") reviewed the matter and noted that prior to her tenure at the Medical Spa, Respondent had insufficient training and background in surgical procedures or operating room sterile procedure.

10. The standard of care required Respondent to see or know the individual to whom the physician is prescribing medication while maintaining an adequate medical record. Respondent deviated from this standard of care by prescribing medications without seeing or knowing the individual, and without keeping adequate medical records.
11. The standard of care for performing surgical procedures required Respondent to have adequate training to do so. Respondent deviated from this standard of care by performing surgical procedures for which she has not received adequate training.

12. The standard of care for a Medical Director required Respondent to provide adequate supervision of medical staff, including use of proper safety protocols as well as credential verification and training for staff. Respondent deviated from this standard of care in her role as Medical Director by failing to provide adequate supervision of medical staff, by failing to use proper safety protocols, and by failing to verify staff credentials and training.

13. There was the potential for patient harm in that, when a physician does not have the required background, or training for a particular surgical procedure, anything from permanent deformities to death are possible.

CONCLUSIONS OF LAW

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

b. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e)("Failing or refusing to maintain adequate records on a patient.").

c. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q)("Any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").

d. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(t)("Knowingly making any false or fraudulent
statement, written or oral, in connection with the practice of medicine or if applying for
privileges or renewing an application for privileges at a health care institution.

e. The conduct and circumstances described above constitute unprofessional
conduct pursuant to A.R.S. § 32-1401(27)(cc) ("Maintaining a professional connection with
or lending one's name to enhance or continue the activities of an illegal practitioner of
medicine.").

f. The conduct and circumstances described above constitute unprofessional
conduct pursuant to A.R.S. § 32-1401(27)(ii) ("Lack of or inappropriate direction,
collaboration or direct supervision of a medical assistant or a licensed, certified or
registered health care provider employed by, supervised by or assigned to the physician.").

g. The conduct and circumstances described above constitute unprofessional
conduct pursuant to A.R.S. § 32-1401(27)(jj) ("Knowingly making a false or misleading
statement to the board or on a form required by the board or in a written correspondence,
including attachments, with the board.").

h. The conduct and circumstances described above constitute unprofessional
conduct pursuant to A.R.S. § 32-1401(27)(ss) ("Prescribing, dispensing or furnishing a
prescription medication or a prescription-only device as defined in section 32-1901 to a
person unless the licensee first conducts a physical or mental health status examination of
that person or has previously established a doctor-patient relationship.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

2. Respondent is placed on Probation for a period of 2 years with the following
terms and conditions:
a. **Practice Restriction**

Respondent shall be restricted from performing cosmetic surgical procedures, including liposuction, until she applies to the Board and receives permission to do so. Respondent's request for the Board to terminate the Practice Restriction shall be accompanied by documentation demonstrating that she has the ability to adequately perform cosmetic surgical procedures, including liposuction.

Respondent shall not be employed or otherwise serve as a Medical Director in any practice setting during the term of this Probation.

b. **Continuing Medical Education**

Respondent shall within 6 months of the effective date of this Order obtain no less than 15 hours of Board Staff pre-approved Category I Continuing Medical Education ("CME") in an intensive, in-person course regarding medical recordkeeping. Respondent shall within **thirty days** of the effective date of this Order submit her request for CME to the Board for pre-approval. Upon completion of the CME, Respondent shall provide Board staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure.

c. **ProBE/ProBE PLUS**

Within 12 months of the effective date of this Order, Respondent shall complete the Professional/Problem-Based Ethics ("ProBE") program offered by the Center for Personalized Education for Physicians ("CPEP") for Ethics and Boundaries. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure. Respondent shall obtain an unconditional or conditionally passing grade.

Upon completion of the ProBE course, Respondent shall enroll in ProBE Plus (also offered by CPEP) within two months after completion of the ProBE course. Respondent
shall comply with all assignments, requests, and recommendations of the ProBE Plus evaluator.

Respondent shall sign any and all consents or releases necessary to allow CPEP to communicate to the Board directly. Respondent shall not revoke any releases prior to successful completion and final assessment by her ProBE Plus evaluator.

Respondent shall be responsible for the expenses of participation in ProBE and ProBE Plus.

d. Chart Reviews

Board staff or its agents shall conduct periodic chart reviews. Respondent shall bear all costs associated with the chart reviews. Based upon the chart review, the Board retains jurisdiction to take additional disciplinary or remedial action. The chart reviews shall commence upon proof of Respondent's successful completion of the medical recordkeeping CME, and shall involve current patients' charts.

e. Obey All Laws

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.

f. Tolling

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 or 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.
g. **Probation Termination**

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 an upcoming Board agenda, provided a complete submission is received by Board Staff no less than 14 days prior to the scheduled 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, including receiving a passing grade in ProBE Plus. 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.

3. 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 5th day of May, 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 she 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) ("violating 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 acknowledges that, pursuant to A.R.S. § 32-2501(16), she cannot act as a supervising physician for a physician assistant while her license is on probation.

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

JYOTISNA SAHNI, M.D.

DATED: 4/3/17

EXECUTED COPY of the foregoing mailed this 5th day of May, 2017 to:

Mark D. Lammers
Rusing Lopez & Lizardi, PLLC
6363 North Swan Road, Suite 151
Tucson, AZ 85718
Attorney for Respondent

ORIGINAL of the foregoing filed this 5th day of May, 2017 with:

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

Michelle Rogers
Board Staff