BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

FRANC W. BRODAR, M.D.

Holder of License No. 24079
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-18-0427A

ORDER FOR LICENSE
REACTIVATION, DECREES OF
CENSURE AND PROBATION, AND
CONSENT TO THE SAME

Franc W. Brodar, M.D. ("Respondent") elects to permanently waive any right to a
hearing and appeal with respect to this Order for License Reactivation, Decree of Censure
and 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 the holder of license number 24079 for the practice of
allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-18-0427A after receiving Respondent's
request for license reactivation.

4. Respondent participated in the Board's Physician Health Program ("PHP")
from August 21, 2006 through August 22, 2011 pursuant to an Order for Letter of
Reprimand and Probation; and Consent to Same ("Probation Order"). Respondent
successfully completed the terms and conditions of the Probation Order, and it was
terminated.

5. On January 28, 2018, Respondent's employer suspended his clinical
privileges after he admitted to writing a prescription for a nurse and then requesting that
she fill it and return the medication to him. The employer did not identify any patient care
concerns in the time period preceding Respondent's suspension.
6. Respondent presented to the PHP Contractor for an assessment on February 2, 2018, who opined that Respondent was not safe to practice.

7. On February 9, 2018, Respondent requested that his license be placed on "Inactive with Cause" status, which the Board's Executive Director approved.

8. On February 6, 2018, Respondent entered into treatment at a Board-approved inpatient treatment facility and was discharged with staff approval on May 9, 2018. Based on the findings and conclusions from Respondent's course of treatment, the facility determined that Respondent is safe to return to the practice of medicine subject to his participation in PHP for a period of five years.


10. Board staff stated that according to the Board's three-strike policy, this is Respondent's "second strike."

CONCLUSIONS OF LAW

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

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings require the Board to either refer the matter for formal hearing to revoke Respondent's license or reactivate Respondent's license and place Respondent on probation for five years with restrictions necessary to assure public safety. A.R.S. § 32-1452(F).

3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(f) ("A pattern of using or being under the influence of alcohol or drugs or a similar substance while practicing medicine or to the extent that judgment may be impaired and the practice of medicine detrimentally affected.").
4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(g) ("Using controlled substances except if prescribed by another physician for use during a prescribed course of treatment.").

5. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(j) ("Prescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes.").

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

7. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(u) ("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.").

ORDER

IT IS HEREBY ORDERED that:

Respondent’s license is reactivated upon payment of the renewal fee. Respondent is placed on Probation with the following terms and conditions:

1. Respondent’s license is issued a Decree of Censure.

2. Respondent shall enroll and participate in the Board’s PHP for a period of five (5) years.

3. Respondent shall not consume alcohol or any food or other substance containing poppy seeds or alcohol.

4. Respondent shall not take any illegal drugs or mood altering medications unless prescribed for a legitimate therapeutic purpose.
5. Respondent shall continue to participate in any personalized aftercare programs or activities as recommended by the inpatient facility and approved by PHP. Respondent shall report on those activities as requested by the PHP, including executing any releases necessary to allow the PHP to monitor his participation and communicate directly with and obtain records from the treating providers for those aftercare activities. Respondent shall be responsible for all costs of aftercare, including costs associated with compliance of this Board Order.

6. 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.

7. 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.

8. If recommended by the PHP Contractor, Respondent shall attend a relapse prevention outpatient program for a duration and frequency recommended by the PHP.
Contractor, unless Respondent is excused by the relapse program facilitator for good
cause. The relapse prevention group facilitators shall submit monthly reports to the PHP
regarding Respondent's attendance and progress.

9. If requested by the PHP and not already completed, Respondent shall attend
ninety 12-step meetings or other self-help group meetings appropriate for substance
abuse and approved by the PHP, 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. 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.

10. 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.

11. 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.

12. Respondent shall provide the PHP Contractor with written notice of any
plans to travel out of state.
13. Respondent shall successfully complete a PHP approved 36 hour alcohol/drug awareness education class.

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

15. 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.

16. 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. All inquiries must be directed to Board staff.

17. 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.

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

19. 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.

20. 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.

21. 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.

22. In the event of a violation of A.R.S. § 32-1401(27)(f) by Respondent or
Respondent's use of drugs or alcohol in violation of the Order, Respondent's license shall
be **summarily suspended pending a hearing for revocation**. In the alternative,
Respondent may **SURRENDER HIS LICENSE** if he agrees in writing to being impaired by
alcohol or drug abuse. A.R.S. § 32-1452(G).

23. 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.

24. 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.

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

DATED AND EFFECTIVE this 23rd day of August, 2018.

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)(s) ("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 has read and understands the conditions of probation.

FRANC W. BRODAR, M.D.

DATED: 8/3/18
EXECUTED COPY of the foregoing mailed this ___ day of August, 2018 to:

Franc W. Brodar, M.D.
ADDRESS OF RECORD

ORIGINAL of the foregoing filed this ___ day of August, 2018 with:

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

Mary Baker
Board staff