



1 either long-term residential treatment or an Intensive Diagnostic Evaluation with  
2 appropriate treatment.

3 6. Respondent entered into an Interim Consent Agreement for Practice  
4 Restriction, effective September 26, 2017 ("Practice Restriction").

5 7. On December 11, 2017, Respondent was discharged with staff approval  
6 from a Board approved residential treatment facility. The facility recommended that  
7 Respondent participate in the Board's PHP, including recommendations regarding a  
8 gradual return to a full time work schedule.

9 8. Respondent met with the Board's PHP Contractor for a post-treatment  
10 assessment, who agreed that Respondent is safe to practice medicine, provided that  
11 Respondent enter into a five (5) year Interim Consent Agreement for PHP Participation.

12 9. Respondent subsequently entered into an Interim Consent Agreement to  
13 Participate in the Physician Health Program ("Interim PHP Agreement"), effective  
14 December 15, 2017. The Interim PHP Agreement terminated the Practice Restriction.

15 10. Respondent has complied with the terms and conditions of her Interim PHP  
16 Agreement.

17 11. During a Formal Interview on this matter, Respondent testified that at the  
18 time she consumed alcohol in violation on her SRA, she may not have completely  
19 understood the ramifications of her actions and the need for total sobriety. She stated that  
20 the treatment facility provided a rewarding experience where she was able to gain insight  
21 and develop a specific aftercare program. Respondent further testified regarding her  
22 efforts at developing a healthy work schedule and practices for stress reduction.

23 12. During that same Formal Interview, Board members recognized that there  
24 had been no workplace issues or patient harm involved in this matter, and commented that  
25 Respondent had taken steps to prevent any additional probation violations.

1 **CONCLUSIONS OF LAW**

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

4 2. The conduct and circumstances described above constitute unprofessional  
5 conduct pursuant to A.R.S. § 32-1401(27)(f) (“Exhibiting a pattern of using or being under the  
6 influence of alcohol or drugs or a similar substance while practicing medicine or to the extent that  
7 judgment may be impaired and the practice of medicine detrimentally affected.”).

8 4. The conduct and circumstances described above constitute unprofessional conduct  
9 pursuant to A.R.S. § 32-1401(27)(s) (“Violating a formal order, probation, consent agreement or  
10 stipulation issued or entered into by the board or its executive director under the provisions of this  
11 chapter.”).

12 **ORDER**

13 IT IS HEREBY ORDERED THAT:

14 1. Respondent’s license is placed on Probation for **Five Years**<sup>1</sup> and is subject  
15 to her continued participation in the Board’s PHP and compliance with the following terms  
16 and conditions:

17 2. Respondent shall not consume alcohol or any food or other substance  
18 containing poppy seeds or alcohol.

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

21 4. Respondent shall continue to participate in any personalized aftercare  
22 programs or activities. Respondent shall report on those activities as requested by the  
23 PHP, including executing any releases necessary to allow the PHP to monitor his  
24

25 \_\_\_\_\_  
<sup>1</sup> Respondent’s participation shall be retroactive to December 15, 2017.

1 participation and communicate directly with and obtain records from the treating providers  
2 for those aftercare activities. Respondent shall be responsible for all costs of aftercare,  
3 including costs associated with compliance of this Board Order.

4       5.     Respondent shall promptly obtain a Primary Care Physician ("PCP") and  
5 shall submit the name of the physician to the PHP in writing for approval. The approved  
6 PCP shall be in charge of providing and coordinating Respondent's medical care and  
7 treatment. Except in an Emergency, Respondent shall obtain medical care and treatment  
8 only from the PCP and from health care providers to whom the PCP refers Respondent.  
9 Respondent shall promptly provide a copy of this Interim Consent Agreement to the PCP.  
10 Respondent shall also inform all other health care providers who provide medical care or  
11 treatment that Respondent is participating in PHP. "Emergency" means a serious accident  
12 or sudden illness that, if not treated immediately, may result in a long-term medical  
13 problem or loss of life. Respondent provides full consent for the PHP to discuss the case  
14 with the PCP or any other of Respondent's health care providers to ensure compliance  
15 with PHP.

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

21       8.     If requested by the PHP and not already completed, Respondent shall attend  
22 ninety 12-step meetings or other self-help group meetings appropriate for substance  
23 abuse and approved by the PHP, for a period of ninety days. Upon completion of the  
24 ninety meetings in ninety days, Respondent shall participate in a 12-step recovery  
25 program or other self-help program appropriate for substance abuse as recommended by

1 the PHP. Respondent shall attend a minimum of three 12-step or other self-help program  
2 meetings per week. Two meetings per month must be Caduceus meetings. Respondent  
3 must maintain a log of all self-help meetings.

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

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

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

24 12. Respondent shall provide the PHP with written notice of any plans to travel  
25 out of state.

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

3           14. The relationship between the Respondent and the PHP is a direct  
4 relationship. Respondent shall not use an attorney or other intermediary to communicate  
5 with the PHP on participation and compliance issues. All inquiries must be directed to  
6 Board staff.

7           15. Respondent shall be responsible for all costs, including PHP costs  
8 associated with participating in PHP at the time service is rendered, or within 30 days of  
9 each invoice sent to the Respondent. An initial deposit of two months PHP fees is due  
10 upon entering the program. Failure to pay either the initial PHP deposit or monthly fees 60  
11 days after invoicing will be reported to the Board by the PHP and may result in disciplinary  
12 action up to and including license revocation.

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

20           17. In the event Respondent resides or practices as a physician in a state other  
21 than Arizona, Respondent shall participate in the rehabilitation program sponsored by that  
22 state's medical licensing authority or medical society. Respondent shall cause the  
23 monitoring state's program to provide written quarterly reports to the PHP regarding  
24 Respondent's attendance, participation, and monitoring. The monitoring state's program  
25

1 and Respondent shall immediately notify the PHP if Respondent is noncompliant with any  
2 aspect of the Order or is required to undergo any additional treatment.

3 18. The PHP shall immediately notify the Board if Respondent is non-compliant  
4 with any aspect of this Interim Consent Agreement or is required to undergo any additional  
5 treatment.

6 19. In the event of chemical dependency relapse by Respondent or  
7 Respondent's use of drugs or alcohol in violation of this Order, Respondent shall promptly  
8 enter into an Interim Order for Practice Restriction and Consent to the Same that requires,  
9 among other things, that Respondent not practice medicine until such time as Respondent  
10 successfully completes long-term inpatient treatment for chemical dependency designated  
11 by the PHP Contractor and obtains affirmative approval from the Board or its Executive  
12 Director to return to the practice of medicine. Prior to approving Respondent's request to  
13 return to the practice of medicine, Respondent may be required to submit to witnessed  
14 biological fluid collection or undergo any combination of physical examination, psychiatric  
15 or psychological evaluation. In no respect shall the terms of this paragraph restrict the  
16 Board's authority to initiate and take disciplinary action for violation of this Order.

17 20. Respondent shall obey all state, federal and local laws, all rules governing  
18 the performance of health care tasks in Arizona, and remain in full compliance with any  
19 court order criminal probation, payments and other orders.

20 21. The Board retains jurisdiction and may initiate a new action based upon any  
21 violation of this Order.

22 22. This Order supersedes all previous consent agreements and stipulations  
23 between the Board and/or the Executive Director and Respondent.

24 23. Prior to the termination of Probation, Respondent must submit a written  
25 request to the Board for release from the terms of this Order. Respondent's request for

1 release will be placed on the next pending Board agenda, provided a complete submission  
2 is received by Board staff no less than 14 days prior to the Board meeting. Respondent's  
3 request for release must provide the Board with evidence establishing that he has  
4 successfully satisfied all of the terms and conditions of this Order. The Board has the sole  
5 discretion to determine whether all of the terms and conditions of this Order have been  
6 met or whether to take any other action that is consistent with its statutory and regulatory  
7 authority.

8 24. The Board retains jurisdiction and may initiate new action based upon any  
9 violation of this Order.

10 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

11 Respondent is hereby notified that she has the right to petition for a rehearing or  
12 review. The petition for rehearing or review must be filed with the Board's Executive  
13 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The  
14 petition for rehearing or review must set forth legally sufficient reasons for granting a  
15 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after  
16 date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed,  
17 the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

18 Respondent is further notified that the filing of a motion for rehearing or review is  
19 required to preserve any rights of appeal to the Superior Court.

20 DATED AND EFFECTIVE this 23<sup>rd</sup> day of August, 2018.

21 ARIZONA MEDICAL BOARD

22  
23 By Patricia E. McSorley  
24 Patricia E. McSorley  
25 Executive Director

1 EXECUTED COPY of the foregoing mailed  
2 this 20<sup>th</sup> day of August, 2018 to:

3 Paul J. Giancola  
4 Snell & Wilmer, LLP  
5 One Arizona Center  
6 400 E Van Buren  
7 Phoenix, AZ 85004-2202  
8 Attorney for Respondent

9 ORIGINAL of the foregoing filed  
10 this 23<sup>rd</sup> day of August, 2018 with:

11 Arizona Medical Board  
12 1740 West Adams, Suite 4000  
13 Phoenix, Arizona 85007

14 Mary Babey  
15 \_\_\_\_\_  
16 Board Staff