

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of  
**RICHARD A. WALL, M.D.**  
Holder of License No. 10250  
For the Practice of Allopathic Medicine  
In the State of Arizona

**Case No. MD-17-0472A**  
**ORDER GRANTING REVIEW**

At its public meeting on August 21, 2018, the Arizona Medical Board ("Board") considered Richard A. Wall, M.D.'s ("Respondent"), Motion for Review and Rehearing, requesting modification of the Board's Findings of Fact, Conclusions of Law and order for Probation, as previously ordered by the Board in the above referenced matter. After considering all of the evidence, the Board voted to grant Respondent's request in part pursuant to A.A.C. R4-16-103(D)(8), by striking Finding of Fact paragraph 6 and replacing it with alternative language.

1 ORDER

2 **IT IS HEREBY ORDERED that:**

3  
4 1. Respondent's request for review is granted in part. The Board's June 14, 2018  
5 Findings of Fact, Conclusions of Law and Order for Probation is modified as follows:  
6 Finding of Fact paragraph 6 is stricken and replaced with, "Records from a prior employer  
7 indicate that Respondent had been advised by his employer to limit physical contact with  
8 his patients. During a Board investigation in 2013, Respondent completed a two credit  
9 continuing medical education course in maintaining boundaries, and stated that he would  
10 no longer hug or kiss patients in the future. The Board considered this information when  
11 determining the appropriate discipline to impose in order to rehabilitate the physician and  
12 protect the public."

13  
14 DATED AND EFFECTIVE this 31<sup>ST</sup> day of August, 2018.

15 ARIZONA MEDICAL BOARD

16  
17  
18 By Patricia E. McSorley  
19 Patricia E. McSorley  
Executive Director

20 EXECUTED COPY of the foregoing mailed  
21 this 31<sup>ST</sup> day of August, 2018 to:

22 Richard A. Wall, M.D.  
23 Address of Record

24 Cody M. Hall  
25 Broening Oberg Woods & Wilson, PC  
1122 E Jefferson  
Phoenix, AZ 85034  
Attorney for Respondent

1 ORIGINAL of the foregoing filed  
2 this 31<sup>st</sup> day of August, 2018 with:

3 Arizona Medical Board  
4 1740 W. Adams St., Suite 4000  
5 Phoenix, Arizona 85007

6   
7 Board staff

1 ..BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of  
3 **RICHARD A. WALL, M.D.**  
4 Holder of License No. 10250  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Case No. MD-17-0472A

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER FOR PROBATION**

7 The Arizona Medical Board ("Board") considered this matter at its public meeting on  
8 April 17, 2018. Richard A. Wall, M.D. ("Respondent"), appeared with legal counsel, Cody  
9 M. Hall, Esq., before the Board for a Formal Interview pursuant to the authority vested in  
10 the Board by A.R.S. § 32-1451(H). The Board voted to issue Findings of Fact, Conclusions  
11 of Law and Order after due consideration of the facts and law applicable to this matter.

12 **FINDINGS OF FACT**

13 1. The Board is the duly constituted authority for the regulation and control of  
14 the practice of allopathic medicine in the State of Arizona.

15 2. Respondent is the holder of license number 10250 for the practice of  
16 allopathic medicine in the State of Arizona.

17 3. The Board initiated case number MD-17-0472A after receiving a complaint  
18 from patient SK, a 58 year-old female, alleging that Respondent kissed her at an  
19 appointment in 2016, and again in March of 2017 during an appointment.

20 4. During the Board's investigation into the current matter, Respondent  
21 underwent a psychosexual evaluation at a Board approved facility. The evaluators  
22 concluded that Respondent did not have a psychiatric diagnosis requiring treatment, but  
23 did make recommendations to prevent reoccurrence of the events leading to the Board's  
24 current investigation, including using a chaperone and establishing a therapeutic  
25 relationship with a psychologist to assist him to understand the power differential between  
a physician and his patient.

1           5.      During a Formal Interview on this matter, Respondent denied the allegations  
2 from SK, and stated that the patient initiated the kiss. Respondent admitted that he failed  
3 to document the encounter in SK's medical record, and did not tell his supervisor that the  
4 incident had occurred. Respondent testified that since the complaint, he has not hugged  
5 any patient, and has his medical assistant come in after the end of every appointment.  
6 Respondent stated that he did not obtain treatment from a psychologist as recommended  
7 by the evaluators.

8           6.      Records from a prior employer indicate that Respondent had been advised  
9 by his employer to limit physical contact with his patients. During a Board investigation in  
10 2013, Respondent completed a two credit continuing medical education course in  
11 maintaining boundaries, and stated that he would no longer hug or kiss patients in the  
12 future. The Board considered this information when determining the appropriate discipline  
13 to impose in order to rehabilitate the physician and protect the public.

14           7.      During that same Formal Interview, Board members commented that a  
15 finding of unprofessional conduct was appropriate, and that discipline was warranted,  
16 based on the repetitive occurrences of Respondent's behavior, and his failure to discuss  
17 incidents with colleagues and peers. Additionally, Board members agreed that  
18 Respondent should be required to utilize a scribe or chaperone, and engage in treatment  
19 as recommended by the evaluating facility.

#### **CONCLUSIONS OF LAW**

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

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

1 3. The conduct and circumstances described in paragraphs 3-5 above  
2 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(aa) ("Engaging in  
3 sexual conduct with a current patient or with a former patient within six months after the  
4 last medical consultation unless the patient was the licensee's spouse at the time of the  
5 contact or, immediately preceding the physician-patient relationship, was in a dating or  
6 engagement relationship with the licensee. For the purposes of this subdivision, "sexual  
7 conduct" includes: (ii) Making sexual advances, requesting sexual favors or engaging in  
8 any other verbal conduct or physical contact of a sexual nature.").

### 9 10 ORDER

11 IT IS HEREBY ORDERED THAT:

- 12 1. Respondent is placed on Probation for a period of 5 years with the following terms  
13 and conditions:

14 a. Chaperone/Scribe

15 Respondent shall have a female chaperone or scribe present while examining or  
16 treating all female patients in all settings, including but not limited to office, hospital, and  
17 clinic. The female chaperone may be an Arizona licensed healthcare provider (i.e.  
18 registered nurse, licensed practical nurse or physician assistant) or Respondent may  
19 utilize a scribe employed by the Respondent, hospital or clinic and may not be a  
20 representative or relative who accompanied the patient. Respondent shall instruct the  
21 female chaperone to document her presence by signing, dating, and legibly printing her  
22 name on each patient's chart at the time of the examination. Respondent shall instruct the  
23 female chaperone to immediately report any inappropriate behavior to Respondent and the  
24 Board.

1                   **b. Board-Approved Psychologist**

2                   Respondent shall enter treatment with a psychologist as recommended by the  
3 evaluator and shall comply with any and all treatment recommendations. Respondent shall  
4 instruct the treating psychologist to submit written reports to Board staff regarding  
5 diagnosis, prognosis, current medications, recommendation for continuing care and  
6 treatment, and ability to safely practice medicine. The reports shall be submitted quarterly  
7 to Board staff for the duration of treatment. Respondent shall pay the expenses of  
8 treatment and is responsible for paying for the preparation of the quarterly reports.  
9 Respondent shall authorize the psychologist to communicate with Board staff regarding  
10 Respondent's compliance with treatment, and if at any time the psychologist finds  
11 evidence that Respondent is a safety threat to patients.

12                   After 12 months of treatment with the psychologist, Respondent may submit a  
13 written request to Board staff requesting that the Board terminate the requirement that  
14 Respondent remain in treatment with the psychologist. Respondent's request must be  
15 accompanied by a final report from the psychologist affirming that Respondent has  
16 completed treatment and is safe to practice. The Board shall have the sole discretion to  
17 determine whether to grant Respondent's request for termination of this requirement.

18                   **c. Obey All Laws**

19                   Respondent shall obey all state, federal and local laws, all rules governing the  
20 practice of medicine in Arizona, and remain in full compliance with any court ordered  
21 criminal probation, payments and other orders.

22                   **d. Tolling**

23                   In the event Respondent should leave Arizona to reside or practice outside the  
24 State or for any reason should Respondent stop practicing medicine in Arizona,  
25 Respondent shall notify the Executive Director in writing within ten days of departure and

1 return or the dates of non-practice within Arizona. Non-practice is defined as any period of  
2 time exceeding thirty days during which Respondent is not engaging in the practice of  
3 medicine. Periods of temporary or permanent residence or practice outside Arizona or of  
4 non-practice within Arizona, will not apply to the reduction of the probationary period.

5 **e. Probation Termination**

6 Prior to the termination of Probation, Respondent must submit a written request to  
7 the Board for release from the terms of this Order. Respondent's request for release will  
8 be placed on the next pending Board agenda, provided a complete submission is received  
9 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for  
10 release must provide the Board with evidence establishing that she has successfully  
11 satisfied all of the terms and conditions of this Order. The Board has the sole discretion to  
12 determine whether all of the terms and conditions of this Order have been met or whether  
13 to take any other action that is consistent with its statutory and regulatory authority.

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

16 **RIGHT TO APPEAL TO SUPERIOR COURT**

17 Respondent is hereby notified that he has exhausted his administrative remedies.  
18 Respondent is advised that an appeal to Superior Court in Maricopa County may be taken  
19 from this decision pursuant to title 12, chapter 7, article 6.

20  
21 DATED AND EFFECTIVE this 31<sup>ST</sup> day of August, 2018.

22 ARIZONA MEDICAL BOARD

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

EXECUTED COPY of the foregoing mailed  
this 31<sup>st</sup> day of August, 2018 to:

Cody M. Hall  
Broening Oberg Woods & Wilson, PC  
1122 E Jefferson  
Phoenix, AZ 85034  
Attorney for Respondent

ORIGINAL of the foregoing filed  
this 31<sup>st</sup> day of August, 2018 with:

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

  
Board staff