

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **EVAN B. ELLER, M.D.**

4 Holder of License No. 27863
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-18-0899A

**INTERIM CONSENT AGREEMENT
FOR PRACTICE RESTRICTION**

7 **INTERIM CONSENT AGREEMENT**

8 Evan B. Eller, M.D. ("Respondent") elects to permanently waive any right to a
9 hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction
10 and consents to the entry of this Order by the Arizona Medical Board ("Board").

11 **INTERIM FINDINGS OF FACT**

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

14 2. Respondent is the holder of License No. 27863 for the practice of allopathic
15 medicine in the State of Arizona.

16 3. The Board initiated case number MD-18-0899A after receiving notification
17 from the Hospital where Respondent held privileges, that his privileges had been
18 summarily suspended after an incident where illicit substances were found in
19 Respondent's urine.

20 4. The aforementioned information was presented to the investigative staff, the
21 medical consultant and the lead Board member. All reviewed the information and concur
22 that the interim consent agreement to restrict Respondent's practice is appropriate.

23 5. The investigation into this matter is pending and will be forwarded to the
24 Board promptly upon completion for review and action.

25

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

INTERIM CONCLUSIONS OF LAW

- 1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.
- 2. Pursuant to A.R.S. § 32-1405(C)(25) the Executive Director has authority to enter into a consent agreement when there is evidence of danger to the public health and safety.
- 3. Pursuant to A.A.C. R4-16-504, the Executive Director may enter into an interim consent agreement when there is evidence that a restriction is needed to mitigate imminent danger to the public's health and safety. Investigative staff, the Board's medical consultant and the lead Board member have reviewed the case and concur that an interim consent agreement is appropriate.

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 Respondent applies to the Executive Director and receives permission to do so.
- 2. Respondent may request, in writing, release and/or modification of this Interim Consent Agreement. Respondent's request must be accompanied by information demonstrating that Respondent is safe to practice medicine. The Executive Director, in consultation with and agreement of the lead Board member and the Chief Medical Consultant, has the discretion to determine whether it is appropriate to release Respondent from this Interim Consent Agreement.
- 3. The Board retains jurisdiction and may initiate new action based upon any violation of this Interim Consent Agreement, including, but not limited to, summarily suspending Respondent's license.

1 4. Because this is an Interim Consent Agreement and not a final decision by
2 the Board regarding the pending investigation, it is subject to further consideration by the
3 Board. Once the investigation is complete, it will be promptly provided to the Board for its
4 review and appropriate action.

5 5. This Interim Consent Agreement shall be effective on the date signed by the
6 Board's Executive Director.

7
8 DATED this 27th day of September, 2018.

9 ARIZONA MEDICAL BOARD

10 By Patricia E. McSorley
11 Patricia E. McSorley
12 Executive Director

13 **RECITALS**

14 Respondent understands and agrees that:

15 1. The Board, through its Executive Director, may adopt this Interim Consent
16 Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-
17 504.

18 2. Respondent has read and understands this Interim Consent Agreement as
19 set forth herein, and has had the opportunity to discuss this Interim Consent Agreement
20 with an attorney or has waived the opportunity to discuss this Interim Consent Agreement
21 with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and
22 by doing so agrees to abide by all of its terms and conditions.

23
24 3. By entering into this Interim Consent Agreement, Respondent freely and
25 voluntarily relinquishes all rights to an administrative hearing on the matters set forth

1 herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or
2 any other administrative and/or judicial action, concerning the matters related to the
3 Interim Consent Agreement.

4 4. Respondent understands that this Interim Consent Agreement does not
5 constitute a dismissal or resolution of this matter or any matters that may be currently
6 pending before the Board and does not constitute any waiver, express or implied, of the
7 Board's statutory authority or jurisdiction regarding this or any other pending or future
8 investigations, actions, or proceedings. Respondent also understands that acceptance of
9 this Interim Consent Agreement does not preclude any other agency, subdivision, or
10 officer of this State from instituting civil or criminal proceedings with respect to the conduct
11 that is the subject of this Interim Consent Agreement. Respondent further does not
12 relinquish Respondent's rights to an administrative hearing, rehearing, review,
13 reconsideration, judicial review or any other administrative and/or judicial action,
14 concerning the matters related to a final disposition of this matter, unless Respondent
15 affirmatively does so as part of the final resolution of this matter.
16

17 5. Respondent acknowledges and agrees that upon signing this Interim
18 Consent Agreement and returning it to the Board's Executive Director, Respondent may
19 not revoke Respondent's acceptance of this Interim Consent Agreement or make any
20 modifications to it. Any modification of this original document is ineffective and void unless
21 mutually approved by the parties in writing.

22 6. Respondent understands that this Interim Consent Agreement shall not
23 become effective unless and until it is signed by the Board's Executive Director.
24
25

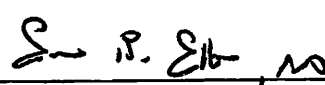
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

7. Respondent understands and agrees that if the Board's Executive Director does not adopt this Interim Consent Agreement, Respondent 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.

8. Respondent understands that this Interim Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

9. 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.

10. Respondent understands that any violation of this Interim Consent Agreement constitutes unprofessional conduct under 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.").



EVAN B. ELLER, M.D.

DATED: 9/27/18

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 e-mailed
this 21st day of September, 2018 to:

Attorney for Evan B. Eller, M.D.
Address of Record

ORIGINAL of the foregoing filed
this 21st day of September, 2018 with:

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


Board staff