

1 .BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

Case No. MD-17-0083A

3 **JOSE PISCOYA, M.D.**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR DECREE
OF CENSURE AND PROBATION WITH
PRACTICE RESTRICTION**

4 Holder of License No. 25569
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

7 The Arizona Medical Board ("Board") considered this matter at its public meeting on
8 December 6, 2017. Jose Piscoya, M.D. ("Respondent"), appeared with legal counsel,
9 Marshall R. Hunt, Esq., before the Board for a Formal Interview pursuant to the authority
10 vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue Findings of Fact,
11 Conclusions of Law and Order after due consideration of the facts and law applicable to
12 this matter.

13 **FINDINGS OF FACT**

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

16 2. Respondent is the holder of license number 25569 for the practice of
17 allopathic medicine in the State of Arizona.

18 3. The Board initiated case number MD-17-0083A after receiving a complaint
19 stating that Respondent had engaged in an inappropriate relationship with a female
20 patient ("MR").

21 4. A review of Respondent's Arizona Controlled Substances Prescription
22 Monitoring Program ("CSPMP") report demonstrated that Respondent prescribed
23 alprazolam to MR in 2010, and then again beginning in 2014 through 2016. Board staff
24 obtained a recorded conversation between the Respondent and MR wherein he admitted
25 to having a relationship with her. Respondent asserts that said relationship did not
happen during the periods of time when the Respondent was providing medical care to

1 MR, and that the relationship was consensual. Respondent asserts that he advised MR
2 that he could not be her personal physician when they were in such a relationship.
3 Nevertheless, on several occasions, he did prescribe to MR medications which had
4 previously been prescribed to MR by other physicians.

5 5. Respondent admitted having taken intimate photographs of a consenting
6 adult female ("JR"). Respondent asserts that he disclosed such photographs to her, and
7 she consented to his having them in his possession.

8 6. Respondent's CSPMP report showed that he prescribed Tramadol to patient
9 JR in July, 2016 but he denies that he was in a relationship with her at the time of the
10 prescription.

11 7. Respondent attended a psychosexual evaluation at a Board approved
12 facility on February 21-23, 2017. Based on the results of their evaluation, the evaluators
13 at the facility concluded that Respondent should "refrain from the practice of medicine"
14 until he has complied with the recommendations of such evaluation in the final report.

15 8. Respondent entered into an Interim Consent Agreement for Practice
16 Restriction on March 2, 2017.

17 9. Respondent was admitted for inpatient treatment at a Board approved
18 facility on March 12, 2017 and during the treatment process, Respondent admitted to
19 engaging in other conduct not directly involving his medical practice. Respondent was
20 discharged with staff approval on June 30, 2017. Respondent's discharge summary
21 included ongoing treatment recommendations including completion of an intensive
22 outpatient treatment program, and that if Respondent returns to practice, that he use a
23 chaperone for patient encounters.

24 10. After discharge from inpatient treatment, MR filed a police report after
25 Respondent came to her house in the evening and allegedly threw rocks at her front door.

1 11. Respondent subsequently enrolled in a Board-approved intensive outpatient
2 treatment program ("IOP") and was discharged with staff approval on September 5, 2017.
3 The IOP agreed with the practice restrictions outlined by the inpatient treatment program,
4 and made additional treatment recommendations based on Respondent's progress in the
5 IOP.

6 12. During a Formal Interview on this matter, Respondent testified that he
7 recognized that what he did was wrong, and accepted responsibility for his conduct. With
8 regard to the incident at MR's home, Respondent testified that he was attempting to
9 apologize to her. Respondent stated that he reported the incident to his IOP therapist.
10 Respondent testified that he would accept whatever the Board recommends, although he
11 requested that he be allowed to use a medical assistant as a chaperone. Respondent
12 stated that he would like to return to the practice of medicine.

13 13. During that same Formal Interview, Board members commented that they
14 struggled with determining what the appropriate outcome should be, and whether to refer
15 the matter to formal hearing for license revocation proceedings. It was recognized that
16 Respondent has engaged in the treatment process, but also that the underlying conduct
17 was egregious.

18 14. Board members stated that Respondent should be prohibited from seeing
19 minor patients, and that a female licensed professional chaperone be utilized for patient
20 encounters in order to reduce the power differential between Respondent and his staff.
21 Board members also recommended that Respondent should also be allowed to see only
22 male patients for two years, in order to ensure that Respondent continues to make
23 progress in the therapy before Respondent may see female adult patients. The Board
24 also stated that Respondent should abide by the return to work and therapy
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1 recommendations made by the inpatient treatment center and the IOP, including the
2 neuropsychological evaluation recommended by the inpatient treatment center.

3 15. Board members agreed that rehearing or review of this matter would be
4 impracticable pursuant to R4-19-103(B) and that immediate effectiveness would allow the
5 Respondent the opportunity to return to work upon meeting the terms and conditions
6 without additional delay.

7 **CONCLUSIONS OF LAW**

8 1. The Board possesses jurisdiction over the subject matter hereof and over
9 Respondent.

10 2. The conduct and circumstances described above constitute unprofessional
11 conduct pursuant to A.R.S. § 32-1401(27)(z) ("Engaging in sexual conduct with a current
12 patient or with a former patient within six months after the last medical consultation unless
13 the patient was the licensee's spouse at the time of the contact or, immediately preceding
14 the physician-patient relationship, was in a dating or engagement relationship with the
15 licensee. For the purposes of this subdivision, "sexual conduct" includes: (i) Engaging in or
16 soliciting sexual relationships, whether consensual or nonconsensual; (ii) Making sexual
17 advances, requesting sexual favors or engaging in any other verbal conduct or physical
18 contact of a sexual nature; and (iii) Intentionally viewing a completely or partially disrobed
19 patient in the course of treatment if the viewing is not related to patient diagnosis or
20 treatment under current practice standards.").

21 **ORDER**

22 IT IS HEREBY ORDERED THAT:

- 23 1. This Order supersedes all previous orders in this matter.
24 2. Respondent is issued a Decree of Censure.

1 3. Respondent is placed on Probation for a period of 20 years with the following terms
2 and conditions:

3 **a. Practice Restriction**

4 Respondent's practice is restricted in that he shall not engage in the practice of
5 medicine as set forth in A.R.S. § 32-1401(22) until he has completed a neuropsychological
6 evaluation with a Board-approved evaluator. If the evaluation identifies additional
7 treatment and/or therapy, Respondent shall comply with any recommendations from the
8 evaluation, subject to approval by the Board or its staff. Once Respondent has been found
9 safe to practice by the evaluator or a subsequent treating provider as applicable,
10 Respondent may request that Board staff authorize him to return to the practice of
11 medicine in accordance with the patient restrictions, chaperone and return to work
12 requirements stated herein.

13 Respondent shall not treat pediatric patients during the period of Probation.

14 Respondent shall see only adult male patients for the first two years that he is
15 permitted to return to practice. After two years of practice, Respondent may petition the
16 Board to request that he be allowed to see female patients with a chaperone present as
17 stated below. Respondent's request shall be accompanied by a recommendation from his
18 current treating provider, and shall be placed on the next Board agenda provided his
19 request is received no less than 30 days prior to the meeting.

20 **b. Chaperone**

21 Upon return to work, Respondent shall have a female chaperone present while
22 examining or treating all patients in all settings, including but not limited to office, hospital,
23 and clinic. The female chaperone must be an Arizona licensed healthcare provider (i.e.
24 registered nurse, licensed practical nurse or physician assistant) employed by the
25 Respondent, hospital or clinic and may not be a representative or relative who

1 accompanied the patient. Respondent shall instruct the female chaperone to document her
2 presence by signing, dating, and legibly printing her name on each patient's chart at the
3 time of the examination, or the electronic equivalent thereof. Respondent shall instruct the
4 female chaperone to immediately report any inappropriate behavior to Respondent and the
5 Board.

6 **c. Acceptable Hours of Work**

7 Respondent shall practice no more than 30 hours per week for the first four weeks
8 of returning to work, and no more than an additional 10 hours per week for the purpose of
9 supervising employees, physician assistants, nurses and others. After the first four weeks
10 and with the recommendation of his provider (as identified in paragraph 5 below), return to
11 work full time for the next 16 weeks, not to exceed 40 hours per week. Subsequently,
12 Respondent may work full time and at such hours as deemed appropriate by his provider.
13 Respondent shall maintain a record of compliance with this term and provide it to Board
14 staff upon request.

15 **d. Continued Care Recommendations**

16 Respondent shall comply with the clinical recommendations for follow-up care as
17 stated in the inpatient treatment program discharge summary and IOP discharge
18 summary.

19 Specifically, Respondent shall continue with individual therapy with his current
20 counselor, or engage in therapy with a Board-approved provider at a frequency and
21 duration recommended by the provider. Respondent shall comply with any and all
22 treatment recommendations of the provider including any recommendations regarding
23 relapse prevention, drug testing and other interventions recommended by the IOP.
24 Respondent shall instruct the provider to submit written reports to Board staff regarding
25 diagnosis, prognosis, current medication, recommendations for continuing care and

1 treatment, and ability to safely practice medicine. The reports shall be submitted quarterly
2 to Board staff for the duration of treatment. Respondent shall authorize the provider to
3 communicate with Board staff regarding Respondent's compliance with treatment, and if at
4 any time the provider finds evidence that Respondent poses a safety risk to his patients.
5 Within 5 days of the date of this Order, or upon entering into treatment with any
6 subsequent provider, Respondent shall provide Board staff with a written statement from
7 the provider indicating that the provider has received and reviewed this Order as well as
8 the records from the psychosexual evaluation, inpatient treatment and IOP, and agrees to
9 provide treatment in accordance with the recommendations from these facilities and this
10 Order. Respondent shall pay the expenses of treatment and be responsible for paying for
11 the preparation of the quarterly reports.

12 Respondent shall obtain a 12 step sponsor and continue with 12 step meetings as
13 recommended in the IOP discharge summary. If not already completed, Respondent shall
14 attend 90 meetings in 90 days, and subsequently attend 12 step meetings at a frequency
15 as recommended by the IOP or his provider. Respondent shall promptly provide the
16 Board with the name of his sponsor and shall maintain an attendance log of all 12 step
17 meetings attended and provide it to Board staff upon request.

18 Respondent shall promptly obtain a Primary Care Physician ("PCP") and shall
19 submit the name of the physician to Board staff in writing for approval. Except in an
20 Emergency, Respondent shall obtain medical care and treatment only from the PCP and
21 from health care providers to whom the PCP refers Respondent. Respondent shall
22 promptly provide a copy of this Order to the PCP. As recommended by the inpatient
23 treatment provider, Respondent shall meet with his PCP at least annually to monitor his
24 general health, and provide proof to Board staff that his requirement has been fulfilled.
25 Respondent shall also inform all other health care providers who provide medical care or

1 treatment that Respondent is currently subject to this Order and upon request by Board
2 staff, Respondent shall authorize the PCP and any other treating provider to communicate
3 with Board staff regarding his care and treatment. "Emergency" means a serious accident
4 or sudden illness that, if not treated immediately, may result in a long-term medical
5 problem or loss of life.

6 Respondent shall participate in the annual alumni retreat offered by the inpatient
7 treatment program.

8 **e. Costs**

9 Respondent shall be responsible for all costs associated with the implementation of
10 the practice and treatment recommendations made by the IOP and inpatient treatment
11 provider.

12 **f. Notification**

13 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 employment or privileges. Within 10 days of the effective date of this Order,
16 Respondent shall provide the Board with a signed statement of compliance with this
17 notification requirement.

18 **g. Obey All Laws**

19 Respondent shall obey all federal, state and local laws, and all rules governing the
20 practice of medicine in the State of Arizona.

21 **h. Interviews and Chart Reviews**

22 Respondent shall appear in person before the Board and/or its staff for interviews,
23 upon request with reasonable notice. Board staff or its agents shall conduct periodic chart
24 reviews to monitor Respondent's compliance with this Board Order.

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1 Arizona Medical Board
2 9545 E. Doubletree Ranch Road
3 Scottsdale, AZ 85258

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4 Mary Bobey
5 Board staff

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