

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

WAYNE F. YAKES, M.D.

Holder of License No. 23960
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-16-0876A

**ORDER FOR PROBATION;
AND CONSENT TO THE SAME**

Wayne F. Yakes, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for 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 23960 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-16-0876A after receiving a Disciplinary Action Report generated by the Federation of State Medical Boards stating that the Colorado Medical Board ("Colorado Board") placed Respondent's license on probation for five years.

4. On July 14, 2016, Respondent entered into a Stipulation and Final Agency Order ("Colorado Order") with the Colorado Board, placing his Colorado medical license on probation for five years with terms and conditions including participation in the Colorado Board's Physician Health Program ("CPHP"). The Colorado Order stated that Respondent had pled guilty to Driving Under the Influence ("DUI") and "excessively used or abused alcohol."

5. During the course of the investigation, it was determined that Respondent received a DUI charge on August 20, 2010 for which charges were dismissed on January

1 2, 2012; and a second DUI charge on June 11, 2015, to which Respondent pled guilty on
2 February 12, 2016. Respondent failed to timely report the charges to the Board as
3 required by statute.

4 6. Based on the Colorado Order, Respondent's medical licenses in Illinois,
5 Virginia and North Carolina have been placed on probation by the respective medical
6 boards in those states.

7 **CONCLUSIONS OF LAW**

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

10 b. The conduct and circumstances described above constitute unprofessional
11 conduct pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws or rules
12 and regulations applicable to the practice of medicine."). Specifically, Respondent's
13 conduct violated A.R.S. §32-3208(A) ("A health professional who has been charged with a
14 misdemeanor involving conduct that may affect patient safety or a felony after receiving or
15 renewing a license or certificate must notify the health professional's regulatory board in
16 writing within ten working days after the charge is filed.").

17 c. The conduct and circumstances described above constitute unprofessional
18 conduct pursuant to A.R.S. § 32-1401(27)(o) ("Action that is taken against a doctor of
19 medicine by another licensing or regulatory jurisdiction due to that doctor's mental or
20 physical inability to engage safely in the practice of medicine, the doctor's medical
21 incompetence or for unprofessional conduct as defined by that jurisdiction and that
22 corresponds directly or indirectly to an act of unprofessional conduct prescribed by this
23 paragraph. The action taken may include refusing, denying, revoking or suspending a
24 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise
25 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on
probation by that jurisdiction.").

1 **ORDER**

2 IT IS HEREBY ORDERED THAT:

3 1. Respondent is placed on Probation for a period of time equal to the term of
4 the Colorado Order with the following terms and conditions:

5 **a. Colorado Order**

6 Respondent shall comply with the terms and conditions of the Colorado Order.
7 Respondent shall provide a copy of this Order to the Colorado Board and execute any and
8 all authorizations necessary to allow the Colorado Board and CPHP to communicate
9 directly with Board staff regarding Respondent's compliance with the Colorado Order,
10 including immediately communicating to the Board any concerns regarding Respondent's
11 safety to practice medicine. Respondent shall immediately report to the Board any
12 violation of the Colorado Order. Respondent shall cause the Colorado Board or CPHP to
13 provide quarterly written reports to the Board regarding Respondent's compliance with the
14 Colorado Order. Respondent shall be responsible for all costs related to the Colorado
15 Order and any costs related to the preparation of the quarterly reports.

16 If requested by the Colorado Board, Respondent shall promptly enroll in Arizona's
17 Physician Health Program ("PHP") and comply with any and all recommendations made by
18 the PHP Contractor.

19 **b. Obey All Laws**

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

23 **c. Probation Termination**

24 Prior to the termination of Probation, Respondent must submit a written request to
25 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

1 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for
2 release must provide the Board with evidence establishing that he has successfully
3 satisfied all of the terms and conditions of the Colorado Order and he is safe to practice
4 medicine without further monitoring. The Board has the sole discretion to determine
5 whether all of the terms and conditions of this Order have been met or whether to take any
6 other action that is consistent with its statutory and regulatory authority.

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

9 DATED AND EFFECTIVE this 14th day of February, 2018.

10
11 ARIZONA MEDICAL BOARD

12
13 By Kristina Fredrickson for
14 Patricia E. McSorley
Executive Director

15 **CONSENT TO ENTRY OF ORDER**

16 1. Respondent has read and understands this Consent Agreement and the
17 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
18 acknowledges he has the right to consult with legal counsel regarding this matter.

19 2. Respondent acknowledges and agrees that this Order is entered into freely
20 and voluntarily and that no promise was made or coercion used to induce such entry.

21 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
22 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
23 this Order in its entirety as issued by the Board, and waives any other cause of action
24 related thereto or arising from said Order.

25 4. The Order is not effective until approved by the Board and signed by its
Executive Director.

1 5. All admissions made by Respondent are solely for final disposition of this
2 matter and any subsequent related administrative proceedings or civil litigation involving
3 the Board and Respondent. Therefore, said admissions by Respondent are not intended
4 or made for any other use, such as in the context of another state or federal government
5 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
6 any other state or federal court.

7 6. Upon signing this agreement, and returning this document (or a copy thereof)
8 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
9 the Order. Respondent may not make any modifications to the document. Any
10 modifications to this original document are ineffective and void unless mutually approved
11 by the parties.

12 7. This Order is a public record that will be publicly disseminated as a formal
13 disciplinary action of the Board and will be reported to the National Practitioner's Data
14 Bank and on the Board's web site as a disciplinary action.

15 8. If any part of the Order is later declared void or otherwise unenforceable, the
16 remainder of the Order in its entirety shall remain in force and effect.

17 9. If the Board does not adopt this Order, Respondent will not assert as a
18 defense that the Board's consideration of the Order constitutes bias, prejudice,
19 prejudgment or other similar defense.

20 10. Any violation of this Order constitutes unprofessional conduct and may result
21 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation,
22 consent agreement or stipulation issued or entered into by the board or its executive
23 director under this chapter.") and 32-1451.

24 11. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), he
25 cannot act as a supervising physician for a physician assistant while his license is on
probation.

1 12. Respondent has read and understands the conditions of probation.

2 Wayne F. Yakes M.D. DATED: 1/29/18
3 WAYNE F. YAKES, M.D.

4
5 EXECUTED COPY of the foregoing mailed
6 this 14th day of February, 2018 to:

7 Wayne F. Yakes, M.D.
8 Address of Record

9 ORIGINAL of the foregoing filed
10 this 14th day of February, 2018 with:

11 Arizona Medical Board
12 ~~9545 E. Doubletree Ranch Road~~ 1740 W. Adams St. Suite 400
13 Scottsdale, AZ 85258 Phoenix, AZ 85007

14 Mary Beber
15 Board Staff

16
17
18
19
20
21
22
23
24
25