

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **PAUL M. BOLGER, M.D.**

4 Holder of License No. 50030
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-17-0857A

**ORDER FOR DECREE OF CENSURE
AND PROBATION WITH PRACTICE
RESTRICTION; AND CONSENT TO
THE SAME**

7 Paul M. Bolger, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for a Decree of Censure and Probation with
9 Practice Restriction; admits the jurisdiction of the Arizona Medical Board ("Board"); and
10 consents to the entry of this Order by the Board.

11 **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 number 50030 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-17-0857A after receiving Respondent's
17 self-report disclosing that he had recently pled guilty to felony and misdemeanor charges.

18 4. On August 22, 2017, in case 3:17-cr-77 in the US District Court for the
19 Southern District of Iowa, Respondent pled guilty to 18 federal felony criminal charges and
20 5 misdemeanor charges in a criminal matter involving prescriptions for topical
21 compounded creams. According to the findings, Respondent signed 1,375 prescriptions
22 for compounded medications without first performing an examination or establishing a
23 doctor-patient relationship. Respondent also signed prescriptions for 105 patients in 16
24 states where he does not hold a license to practice medicine. The prescriptions signed by
25

1 Respondent included an attestation confirming their medical necessity based on review of
2 records.

3 **CONCLUSIONS OF LAW**

4 a. The Board possesses jurisdiction over the subject matter hereof and over
5 Respondent.

6 b. The conduct and circumstances described above constitute unprofessional
7 conduct pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws or rules
8 and regulations applicable to the practice of medicine."). Specifically, Respondent's
9 conduct violated, 18 U.S.C. §§ 2 and 1035, as well as 21 U.S.C. §§ 333(a)(1) and
10 353(b)(1) as found in the Iowa criminal case.

11 c. The conduct and circumstances described above constitute unprofessional
12 conduct pursuant to A.R.S. § 32-1401(27)(d) ("Committing a felony, whether or not
13 involving moral turpitude, or a misdemeanor involving moral turpitude. In either case,
14 conviction by any court of competent jurisdiction or a plea of no contest is conclusive
15 evidence of the commission.").

16 d. The conduct and circumstances described above constitute unprofessional
17 conduct pursuant to A.R.S. § 32-1401(27)(q) ("Any conduct or practice that is or might be
18 harmful or dangerous to the health of the patient or the public.").

19 e. The conduct and circumstances described above constitute unprofessional
20 conduct pursuant to A.R.S. § 32-1401(27)(p) ("Sanctions imposed by an agency of the
21 federal government, including restricting, suspending, limiting or removing a person from
22 the practice of medicine or restricting that person's ability to obtain financial
23 remuneration.").

24 f. The conduct and circumstances described above constitute unprofessional
25 conduct pursuant to A.R.S. § 32-1401(27)(t) ("Knowingly making any false or fraudulent

1 statement, written or oral, in connection with the practice of medicine or if applying for
2 privileges or renewing an application for privileges at a health care institution.”).

3 g. The conduct and circumstances described above constitute unprofessional
4 conduct pursuant to A.R.S. § 32-1401(27)(v)(“Obtaining a fee by fraud, deceit or
5 misrepresentation.”).

6 h. The conduct and circumstances described above constitute unprofessional
7 conduct pursuant to A.R.S. § 32-1401(27)(cc)(“Maintaining a professional connection with
8 or lending one’s name to enhance or continue the activities of an illegal practitioner of
9 medicine.”).

10 i. The conduct and circumstances described above constitute unprofessional
11 conduct pursuant to A.R.S. § 32-1401(27)(ss)(“Prescribing, dispensing or furnishing a
12 prescription medication or a prescription-only device as defined in section 32-1901 to a
13 person unless the licensee first conducts a physical examination of that person or has
14 previously established a doctor-patient relationship. The physical or mental health status
15 examination may be conducted during a real-time telemedicine encounter with audio and
16 video capability, unless the examination is for the purpose of obtaining a written
17 certification from the physician for the purposes of title 36, chapter 28.1.”).

18 **ORDER**

19 IT IS HEREBY ORDERED THAT:

20 1. Respondent is issued a Decree of Censure.

21 2. Respondent is placed on Probation for a period of 5 years with the following
22 terms and conditions:

23 a. **Practice Restriction**

24 Respondent’s practice is restricted in that he shall not practice telemedicine in the
25 State of Arizona for the duration of this Probation.

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b. Civil Penalty

Respondent is assessed a \$2000.00 Civil Penalty. The Civil Penalty shall be paid, by certified funds, within 90 days of the effective date of this Order.

c. Obey All Laws

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

d. Tolling

In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing medicine in Arizona, Respondent shall notify the Executive Director in writing within ten days of departure and return or the dates of non-practice within Arizona. Non-practice is defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of medicine. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.

e. Probation Termination

Prior to the termination of Probation, Respondent must submit a written request to 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 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for release must provide the Board with evidence establishing that she has successfully satisfied all of the terms and conditions of this Order. The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether

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

3 DATED AND EFFECTIVE this 14th day of February, 2018.
4

5 ARIZONA MEDICAL BOARD

6 By *Patricia E. McSorley*
7 Patricia E. McSorley
8 Executive Director

9 CONSENT TO ENTRY OF ORDER

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

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

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

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

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

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

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

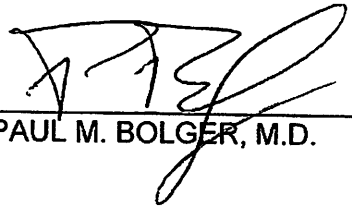
11 8. If any part of the Order is later declared void or otherwise unenforceable, the
12 remainder of the Order in its entirety shall remain in force and effect.

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

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

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

23 12. ***Respondent has read and understands the conditions of probation.***

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PAUL M. BOLGER, M.D.

DATED: 1/18/18

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

Paul M. Bolger, M.D.
Address of Record

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

Arizona Medical Board
~~9545 E. Doubletree Ranch Road~~ 1740 W. Adams St, #4000
~~Scottsdale, AZ 85258~~ Phoenix, AZ 85007

Mary Baker
Board staff