BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

EUN M. LEE, M.D.

Case No. MD-17-0720A

Holder of License No. 29485
For the Practice of Allopathic Medicine
In the State of Arizona.

ORDER FOR PROBATION AND
PRACTICERESTRICTION; AND
CONSENT TO THE SAME

Eun M. Lee, M.D. ("Respondent") elects to permanently waive any right to a hearing
and appeal with respect to this Order for Probation and Practice Restriction; 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 29485 for the practice of
allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-17-0720A after receiving a complaint
alleging that Respondent inappropriately touched a female patient during an examination.

4. Patient A, an adult female, alleged that Respondent caused pain while
palpating her inguinal area during an examination on one visit, and then on a subsequent
visit, pressed his groin area to her buttocks while performing a toe touch examination.
Respondent denied inappropriately causing pain during the inguinal examination. With
regard to the toe touch examination, Respondent stated that any contact during the
examination was incidental.

5. Records from Respondent's prior employer reflect a complaint from a patient
in 2014 alleging that Respondent inappropriately touched her during an acupressure
therapy appointment. During the course of the Board's investigation, Respondent stated
that he performed a vaginal examination of the patient with consent, but without gloves since there were no gloves in the room at the time. Respondent stated that he now ensures that all examination rooms have gloves.

6. Respondent’s employee file also contains a corrective action plan that documented complaints from Respondent’s female coworkers regarding unwanted physical interactions, and Respondent’s agreement that he would no longer touch coworkers in any capacity beyond a handshake. The plan also documented concerns regarding prescribing pain medications to patients who fail drug screening tests, and failing to fully communicate with patients, leading to patient complaints.

7. During the course of the Board’s investigation, Respondent admitted that he added information to Patient A’s treatment notes after being notified regarding her complaint to the Board.

8. On November 6-8, 2017, Respondent completed a Licensed Professional Assessment evaluation at a Board-approved facility. The evaluator concluded that Respondent exhibited insufficient recognition of and respect for appropriate environmental and interpersonal boundaries. Based on the findings of the evaluation, the evaluator opined that Respondent should have no physical contact with patients other than that needed for physical examinations; have a female chaperone present during physical examinations of female patients; take a professional boundaries course; separate non-medical activities from his practices; and engage in individual counseling with a therapist experienced in working with patients with sexual behavior problems.

9. Respondent subsequently entered into an Interim Consent Agreement for Practice Restriction on December 14, 2017 requiring him to implement the recommendations of the evaluator including the use of a chaperone, completing an intensive, in-person professional boundaries continuing medical education course, and engage in individual therapy.
10. On February 8-9, 2018, Respondent completed an intensive, in-person course in Medical Ethics, Boundaries and Professionalism and received a total of 15.75 Category I Continuing Medical Education ("CME") credits.

11. Respondent engaged in individual therapy with a Board-approved psychologist. On or about March 14, 2018, the psychologist issued a report opining that Respondent did not appear to suffer from psychological/psychosexual disorders that would place him at a greater risk of engaging in illegal or unwanted sexual behavior. However, the psychologist opined that Respondent demonstrated problems with regard to professional boundaries as a physician, particularly with pain management patients. The psychologist opined that the most effective intervention for Respondent would be continued use of a chaperone with female patients.

12. Respondent is currently in compliance with the requirement to utilize a female chaperone for female patient examinations pursuant to the December 14, 2017 Interim Consent Agreement.

13. The standard of care requires a physician to maintain appropriate professional boundaries with patients. Respondent deviated from the standard of care by failing to maintain appropriate professional boundaries with patients. There was potential for patient harm in that failure to maintain appropriate professional boundaries with patients could potentially result in psychological trauma to the patients, and potentially damage future doctor-patient relationships.

**CONCLUSIONS OF LAW**

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

b. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e)("Failing or refusing to maintain adequate records on a patient.").
c. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(r) ("Committing any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").

d. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(u) ("Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution.").

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

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is placed on Probation for a period of 10 years with the following terms and conditions:

   a. **Practice Restriction**

   Respondent shall have a female chaperone present while examining or treating all female patients in all settings, including but not limited to office, hospital, and clinic. The female chaperone must be an Arizona licensed healthcare provider (i.e. registered nurse, licensed practical nurse or physician assistant) employed by the Respondent, hospital or clinic and may not be a representative or relative who accompanied the patient. Respondent shall instruct the female chaperone to document her presence by signing,
dating, and legibly printing her name on each patient’s chart at the time of the examination.

Respondent shall instruct the female chaperone to immediately report any inappropriate behavior to Respondent and the Board.

b. **Continuing Medical Education**

   Respondent shall within 6 months of the effective date of this Order obtain no less than 15 hours of Board Staff pre-approved Category I Continuing Medical Education ("CME") in an intensive, in-person course regarding medical recordkeeping. Respondent shall within thirty days of the effective date of this Order submit his request for CME to the Board for pre-approval. Upon completion of the CME, Respondent shall provide Board staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure.

c. **Chart Reviews**

   Board staff or its agents shall conduct periodic chart reviews to monitor Respondent’s compliance with this Board Order. Respondent shall bear all costs associated with the chart reviews. Based upon the chart reviews, the Board retains jurisdiction to take additional disciplinary or remedial action.

d. **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.

e. **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
f. **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 he 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 to take any other action that is consistent with its statutory and regulatory authority.

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

DATED AND EFFECTIVE this [Signature] day of June, 2018.

ARIZONA MEDICAL BOARD

By [Signature] Patricia E. McSorley
Executive Director

**CONSENT TO ENTRY OF ORDER**

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

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.
3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

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

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

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

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

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

9. If the Board does not adopt this Order, Respondent will not assert as a defense that the Board's consideration of the Order constitutes bias, prejudice, prejudgment or other similar defense.
10. Any violation of this Order constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-1401(27)(s) ("[v]iolating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.") and 32-1451.

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

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

\[Signature\]  \hspace{2cm} DATED: 5/15/18

EUN M. LEE, M.D.

EXECUTED COPY of the foregoing mailed this [11th] day of [June], 2018 to:

Eun M. Lee, M.D.
Address of Record

ORIGINAL of the foregoing filed this [11th] day of [June], 2018 with:

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

\[Signature\]

Board Staff