

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **EUN M. LEE, M.D.**

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

Case No. MD-17-0720A

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

7 Eun M. Lee, M.D. ("Respondent") elects to permanently waive any right to a hearing
8 and appeal with respect to this Order for Probation and Practice Restriction; admits the
9 jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order
10 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 29485 for the practice of
15 allopathic medicine in the State of Arizona.

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

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

24 5. Records from Respondent's prior employer reflect a complaint from a patient
25 in 2014 alleging that Respondent inappropriately touched her during an acupressure
therapy appointment. During the course of the Board's investigation, Respondent stated

1 that he performed a vaginal examination of the patient with consent, but without gloves
2 since there were no gloves in the room at the time. Respondent stated that he now
3 ensures that all examination rooms have gloves.

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

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

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

22 9. Respondent subsequently entered into an Interim Consent Agreement for
23 Practice Restriction on December 14, 2017 requiring him to implement the
24 recommendations of the evaluator including the use of a chaperone, completing an
25 intensive, in-person professional boundaries continuing medical education course, and
engage in individual therapy.

1 c. The conduct and circumstances described above constitute unprofessional
2 conduct pursuant to A.R.S. § 32-1401(27)(r)(“Committing any conduct or practice that is or
3 might be harmful or dangerous to the health of the patient or the public.”).

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

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

16 **ORDER**

17 IT IS HEREBY ORDERED THAT:

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

20 a. **Practice Restriction**

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

1 dating, and legibly printing her name on each patient's chart at the time of the examination.
2 Respondent shall instruct the female chaperone to immediately report any inappropriate
3 behavior to Respondent and the Board.

4 **b. Continuing Medical Education**

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

12 **c. Chart Reviews**

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

17 **d. Obey All Laws**

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

21 **e. Tolling**

22 In the event Respondent should leave Arizona to reside or practice outside the
23 State or for any reason should Respondent stop practicing medicine in Arizona,
24 Respondent shall notify the Executive Director in writing within ten days of departure and
25 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

1 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
2 non-practice within Arizona, will not apply to the reduction of the probationary period.

3 **f. Probation Termination**

4 Prior to the termination of Probation, Respondent must submit a written request to
5 the Board for release from the terms of this Order. Respondent's request for release will
6 be placed on the next pending Board agenda, provided a complete submission is received
7 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for
8 release must provide the Board with evidence establishing that he has successfully
9 satisfied all of the terms and conditions of this Order. The Board has the sole discretion to
10 determine whether all of the terms and conditions of this Order have been met or whether
11 to take any other action that is consistent with its statutory and regulatory authority.

12
13 2. The Board retains jurisdiction and may initiate new action against
14 Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(s).

15 DATED AND EFFECTIVE this 14th day of June, 2018.

16 ARIZONA MEDICAL BOARD

17
18 By Patricia E. McSorley
19 Patricia E. McSorley
20 Executive Director

21 **CONSENT TO ENTRY OF ORDER**

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

25 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.

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

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

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

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

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

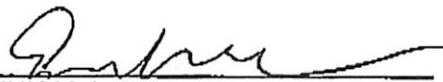
21 8. If any part of the Order is later declared void or otherwise unenforceable, the
22 remainder of the Order in its entirety shall remain in force and effect.

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

1 10. Any violation of this Order constitutes unprofessional conduct and may result
 2 in disciplinary action. A.R.S. § § 32-1401(27)(s) (“[v]iolating a formal order, probation,
 3 consent agreement or stipulation issued or entered into by the board or its executive
 4 director under this chapter.”) and 32-1451.

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

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

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 12 EUN M. LEE, M.D.

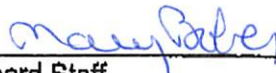
DATED: 5/15/18

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

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

17 ORIGINAL of the foregoing filed
 18 this 14th day of June, 2018 with:

19 Arizona Medical Board
 20 1740 West Adams, Suite 4000
 21 Phoenix, Arizona 85007

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 23 _____
 24 Board Staff
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