

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **JAMES D. GORDON, M.D.**

4 Holder of License No. 28386  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Case No. MD-20-0950A

**ORDER FOR LICENSE  
REACTIVATION, LETTER OF  
REPRIMAND AND PROBATION, AND  
CONSENT TO THE SAME**

7 James D. Gordon, M.D. ("Respondent"), elects to permanently waive any right to a  
8 hearing and appeal with respect to this Order for License Reactivation, Letter of  
9 Reprimand and Probation; admits the jurisdiction of the Arizona Medical Board ("Board");  
10 and 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 28386 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-20-0950A after receiving Respondent's  
17 request for license reactivation.

18 4. Respondent participated in the Board's Physician Health Program ("PHP")  
19 from November 14, 2008 through November 26, 2013 pursuant to a Stipulated  
20 Rehabilitation Agreement ("SRA"). Respondent successfully completed the terms and  
21 conditions of the SRA and the SRA was terminated.

22 **MD-20-0198A**

23 5. The Board initiated case number MD-20-0198A after receiving a complaint  
24 from a patient ("JCT") alleging that Respondent inaccurately documented that she had  
25 issues with her medication during a balloon sinuplasty procedure on December 23, 2019.  
JCT stated that during the procedure she was asked to place her bottles of alprazolam

1 and Percocet on the counter and that following the procedure, she noticed that she was  
2 missing Percocet tablets (10 pills left out of the original 32 pills). JCT further alleged that  
3 Respondent failed to accurately chart the loss of the pills. Additionally, JCT reported that in  
4 April 2019, she had a right tympanoplasty by Respondent and that at several visits after  
5 this procedure, Respondent requested and JCT gave him left over pain medication that he  
6 claimed he would use in humanitarian activities in Ecuador.

7 6. During the course of the Board's investigation, Respondent disclosed that he  
8 had a health condition that impaired his ability to safely practice medicine and requested to  
9 participate in the Board's PHP.

10 7. Effective July 6, 2020 Respondent entered into a Request for License  
11 Inactivation with Cause and Order Inactivating License with Cause.

12 **MD-20-0950A**

13 8. Respondent subsequently entered treatment at a Board approved residential  
14 treatment facility ("Facility"), followed by a structured day treatment program. Respondent  
15 was discharged with staff approval on September 2, 2020. Upon Respondent's discharge,  
16 the Facility made recommendations for additional treatment, aftercare and monitoring.

17 9. Respondent subsequently enrolled in and successfully completed an  
18 intensive outpatient treatment program ("IOP") on November 2, 2020. Upon discharge,  
19 the IOP opined that Respondent was safe to return to the practice of medicine.

20 10. On November 13, 2020, Respondent requested reactivation of his medical  
21 license.

22 11. During the course of the Board's investigation, Respondent provided a  
23 written response regarding the allegations in MD-20-0198A. Respondent admitted to  
24 taking JCT's leftover pain medication for personal use, and stated that his staff would be  
25 correcting JCT's chart as requested by the patient.

1 12. The standard of care prohibits a physician from providing care to a patient  
2 when impaired. Respondent deviated from the standard of care by providing patient care  
3 while impaired.

4 13. There was potential for patient harm in that JCT could have experienced an  
5 adverse event during the procedure performed by Respondent.

6 14. **Board staff stated that according to the Board's three-strike policy, this  
7 is Respondent's "second strike."**

#### 8 **CONCLUSIONS OF LAW**

9 1. The Arizona Medical Board possesses jurisdiction over the subject matter  
10 hereof and over Respondent.

11 2. The Board has received substantial evidence supporting the Findings of Fact  
12 described above and said findings require the Board to either refer the matter for formal  
13 hearing to revoke Respondent's license or reactivate Respondent's license and place  
14 Respondent on probation for five years with restrictions necessary to assure public safety.  
15 A.R.S. § 32-1452(F).

16 3. The conduct and circumstances described above constitute unprofessional  
17 conduct pursuant to A.R.S. § 32-1401(27)(e) ("Failing or refusing to maintain adequate  
18 records on a patient.").

19 4. The conduct and circumstances described above constitute unprofessional  
20 conduct pursuant to A.R.S. § 32-1401(27)(f) ("Exhibiting a pattern of using or being under  
21 the influence of alcohol or drugs or a similar substance while practicing medicine or to the  
22 extent that judgment may be impaired and the practice of medicine detrimentally  
23 affected.").

24

25

1 5. The conduct and circumstances described above constitute unprofessional  
2 conduct pursuant to A.R.S. § 32-1401(27)(g) (“Using controlled substances except if  
3 prescribed by another physician for use during a prescribed course of treatment.”).

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

7 **ORDER**

8 IT IS HEREBY ORDERED that:

9 Respondent’s license is reactivated upon payment of the renewal fee. Respondent is  
10 placed on Probation with the following terms and conditions:

11 1. Respondent’s license is issued a Letter of Reprimand.

12 2. **ProBE**

13 Within six months of the effective date of this Order, Respondent shall complete the  
14 Professional/Problem-Based Ethics (“ProBE”) program offered by the Center for  
15 Personalized Education for Physicians (“CPEP”) for Ethics and Boundaries. The CME  
16 hours shall be in addition to the hours required for the renewal of licensure. Respondent  
17 shall obtain an unconditional or conditionally passing grade.

18 In the event that Respondent does not receive an unconditional or conditionally  
19 passing grade, Respondent shall follow any and all recommendations made for further  
20 education and/or remediation, subject to approval by the Board or its staff.

21 Respondent shall sign any and all consents or releases necessary to allow CPEP to  
22 communicate to the Board directly. Respondent shall not revoke any releases prior to  
23 successful completion of ProBE. Respondent shall be responsible for the expenses of  
24 participation in ProBE and shall notify Board staff immediately upon scheduling the ProBE  
25 course.

1        3.        Respondent shall enroll and participate in the Board's PHP for a period of  
2 five (5) years.

3        4.        Respondent shall not consume alcohol or any food or other substance  
4 containing poppy seeds or alcohol.

5        5.        Respondent shall not take any illegal drugs or mood altering medications  
6 unless prescribed for a legitimate therapeutic purpose.

7        6.        Respondent shall continue to participate in any personalized aftercare  
8 programs or activities as recommended by the Facility or IOP and approved by the PHP.  
9 Respondent shall report on those activities as requested by the PHP, including executing  
10 any releases necessary to allow the PHP to monitor his participation and communicate  
11 directly with and obtain records from the treating providers for those aftercare activities.  
12 Respondent shall be responsible for all costs of aftercare, including costs associated with  
13 compliance of this Board Order.

14        7.        Respondent shall enter treatment with a PHP Contractor approved  
15 psychiatrist and shall comply with any and all treatment recommendations, including taking  
16 any and all prescribed medications. Respondent shall instruct the treating psychiatrist to  
17 submit quarterly written reports to the PHP regarding diagnosis, prognosis, current  
18 medications, recommendation for continuing care and treatment, and ability to safely  
19 practice medicine. The reports shall be submitted quarterly to the PHP, the  
20 commencement of which to be determined by the PHP Contractor. Respondent shall  
21 provide the psychiatrist with a copy of this Order. Respondent shall pay the expenses for  
22 treatment and be responsible for paying for the preparation of the quarterly reports. At the  
23 expiration of one year or anytime thereafter, Respondent may submit a written request to  
24 the PHP Contractor requesting termination of the requirement that Respondent remain in  
25

1 treatment with a psychiatrist. The decision to terminate will be based in part upon the  
2 treating psychiatrist's recommendation for continued care and treatment.

3 8. If recommended by PHP, Respondent shall enter treatment with a PHP  
4 Contractor approved therapist and shall comply with any and all treatment  
5 recommendations. Respondent shall instruct the treating therapist to submit quarterly  
6 written reports to the PHP regarding diagnosis, prognosis, current medications,  
7 recommendation for continuing care and treatment, and ability to safely practice medicine.  
8 The reports shall be submitted quarterly to the PHP, the commencement of which to be  
9 determined by the PHP Contractor. Respondent shall provide the therapist with a copy of  
10 this Order. Respondent shall pay the expenses for treatment and be responsible for  
11 paying for the preparation of the quarterly reports. At the expiration of one year or anytime  
12 thereafter, Respondent may submit a written request to the PHP Contractor requesting  
13 termination of the requirement that Respondent remain in treatment with a therapist. The  
14 decision to terminate will be based in part upon the treating therapist's recommendation  
15 for continued care and treatment.

16 9. Respondent shall promptly obtain a Primary Care Physician ("PCP") and  
17 shall submit the name of the physician to the PHP Contractor in writing for approval.  
18 Except in an Emergency, Respondent shall obtain medical care and treatment only from  
19 the PCP and from health care providers to whom the PCP refers Respondent. Respondent  
20 shall promptly provide a copy of this Order to the PCP. Respondent shall also inform all  
21 other health care providers who provide medical care or treatment that Respondent is  
22 participating in the PHP. "Emergency" means a serious accident or sudden illness that, if  
23 not treated immediately, may result in a long-term medical problem or loss of life.

24 10. All prescriptions for controlled substances shall be approved by the PHP  
25 Contractor prior to being filled except in an Emergency. Controlled substances prescribed

1 and filled in an emergency shall be reported to the PHP within 48 hours. Respondent shall  
2 take no Medication unless the PCP or other health care provider to whom the PCP refers  
3 Respondent prescribes and the PHP Contractor approves the Medication. Respondent  
4 shall not self-prescribe any Medication. "Medication" means a prescription-only drug,  
5 controlled substance, and over-the counter preparation, other than plain aspirin, plain  
6 ibuprofen, and plain acetaminophen.

7 11. If recommended by the PHP Contractor, Respondent shall attend a relapse  
8 prevention outpatient program for a duration and frequency recommended by the PHP  
9 Contractor, unless Respondent is excused by the relapse program facilitator for good  
10 cause. The relapse prevention group facilitators shall submit monthly reports to the PHP  
11 regarding Respondent's attendance and progress.

12 12. If requested by the PHP and not already completed, Respondent shall attend  
13 ninety 12-step meetings or other self-help group meetings appropriate for substance  
14 abuse and approved by the PHP, for a period of ninety days. Upon completion of the  
15 ninety meetings in ninety days, Respondent shall participate in a 12-step recovery  
16 program or other self-help program appropriate for substance abuse as recommended by  
17 the PHP. Respondent shall attend a minimum of three 12-step or other self-help program  
18 meetings per week. Two meetings per month must be Caduceus meetings. Respondent  
19 must maintain a log of all self-help meetings.

20 13. Respondent shall submit to random biological fluid, hair and/or nail testing  
21 for the remainder of this Order (as specifically directed below) to ensure compliance with  
22 the PHP.

23 14. Respondent shall provide the PHP Contractor in writing with one telephone  
24 number that shall be used to contact Respondent on a 24 hour per day/seven day per  
25 week basis to submit to biological fluid, hair, and/or nail testing to ensure compliance with

1 the PHP. For the purposes of this section, telephonic notice shall be deemed given at the  
2 time a message to appear is left at the contact telephone number provided by  
3 Respondent. Respondent authorizes any person or organization conducting tests on the  
4 collected samples to provide testing results to the PHP Contractor. Respondent shall  
5 comply with all requirements for biological fluid, hair, and/or nail collection. Respondent  
6 shall pay for all costs for the testing.

7 15. Respondent shall provide the PHP Contractor with written notice of any  
8 plans to travel out of state.

9 16. Respondent shall successfully complete a PHP approved 36 hour  
10 alcohol/drug awareness education class.

11 17. Respondent shall immediately notify the Board and the PHP Contractor in  
12 writing of any change in office or home addresses and telephone numbers.

13 18. Respondent provides full consent for the PHP Contractor to discuss the  
14 Respondent's case with the Respondent's PCP or any other health care providers to  
15 ensure compliance with the PHP.

16 19. The relationship between the Respondent and the PHP Contractor is a direct  
17 relationship. Respondent shall not use an attorney or other intermediary to communicate  
18 with the PHP Contractor on participation and compliance issues. All inquiries must be  
19 directed to Board staff.

20 20. Respondent shall be responsible for all costs, including costs associated with  
21 participating in the PHP, at the time service is rendered or within 30 days of each invoice  
22 sent to the Respondent. An initial deposit of two (2) months PHP fees is due upon  
23 entering the program. Failure to pay either the initial PHP deposit or monthly fees 60 days  
24 after invoicing will be reported to the Board by the PHP Contractor and may result in  
25 disciplinary action.



1       21.       Respondent shall appear in person before with the PHP Contractor for  
2 interviews upon request, upon reasonable notice.

3       22.       Respondent shall immediately provide a copy of this Order to all employers,  
4 hospitals and free standing surgery centers where Respondent currently has or in the  
5 future gains or applies for employment or privileges. Within 30 days of the date of this  
6 Order, Respondent shall provide the PHP with a signed statement of compliance with this  
7 notification requirement. Respondent is further required to notify, in writing, all employers,  
8 hospitals and free standing surgery centers where Respondent currently has or in the  
9 future gains or applies for employment or privileges of a violation of this Order.

10       23.       In the event Respondent resides or practices as a physician in a state other  
11 than Arizona, Respondent shall participate in the rehabilitation program sponsored by that  
12 state's medical licensing authority or medical society. Respondent shall cause the  
13 monitoring state's program to provide written quarterly reports to the PHP Contractor  
14 regarding Respondent's attendance, participation, and monitoring. The monitoring state's  
15 program and Respondent shall immediately notify the PHP Contractor if Respondent is  
16 non-compliant with any aspect of the monitoring requirements or is required to undergo  
17 any additional treatment.

18       24.       The PHP Contractor shall immediately notify the Board if Respondent is non-  
19 compliant with any aspect of this Order or is required to undergo any additional treatment.

20       25.       In the event of a violation of A.R.S. § 32-1401(27)(f) by Respondent or  
21 Respondent's use of drugs or alcohol in violation of the Order, Respondent's license shall  
22 be **summarily suspended pending a hearing for revocation**. In the alternative,  
23 Respondent may **SURRENDER THE LICENSE** if Respondent agrees in writing to being  
24 impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).

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

4 27. **Respondent is not eligible to request early termination of this Order.**  
5 Prior to the termination of Probation, Respondent must submit a written request to the  
6 Board for release from the terms of this Order. Respondent's request for release will be  
7 placed on the next pending Board agenda, provided a complete submission is received by  
8 Board staff no less than 30 days prior to the Board meeting. Respondent's request for  
9 release must provide the Board with evidence establishing that she has successfully  
10 satisfied all of the terms and conditions of this Order. The Board has the sole discretion to  
11 determine whether all of the terms and conditions of this Order have been met or whether  
12 to take any other action that is consistent with its statutory and regulatory authority.

13 28. This Order supersedes any and all Consent Agreements previously entered  
14 into by Respondent and the Board regarding this matter.

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

17 DATED AND EFFECTIVE this 4<sup>th</sup> day of March, 2022.

18 ARIZONA MEDICAL BOARD

19 By Patricia E. McSorley

20 Patricia E. McSorley  
21 Executive Director  
22  
23  
24  
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1 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

19 6. Notwithstanding any language in this Order, this Order does not preclude in  
20 any way any other State agency or officer or political subdivision of this state from  
21 instituting proceedings, investigating claims, or taking legal action as may be appropriate  
22 now or in the future relating to this matter or other matters concerning Respondent,  
23 including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent  
24 acknowledges that, other than with respect to the Board, this Order makes no  
25 representations, implied or otherwise, about the views or intended actions of any other

1 state agency or officer or political subdivisions of the State relating to this matter or other  
2 matters concerning Respondent.

3 7. Upon signing this agreement, and returning this document (or a copy  
4 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the  
5 entry of 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 8. 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 9. 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 10. 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 11. Any violation of this Order constitutes unprofessional conduct and may result  
17 in disciplinary action. A.R.S. § § 32-1401(27)(s) ("Violating 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 has read and understands the conditions of probation.**

21  
22   
23 JAMES D. GORDON, M.D.

DATED: 23 Feb 2022

24  
25

1 EXECUTED COPY of the foregoing mailed  
this 4<sup>th</sup> day of March, 2022 to:

2  
3 James D. Gordon, M.D.  
Address of Record

4 DeeDee Armer Holden, Esq.  
5 Holden & Armer, P.C.  
6 4505 East Chandler Boulevard, Suite 210  
Phoenix, Arizona 85048  
Attorney for Respondent

7  
8 PHP Contractor  
Address of Record

9  
10 ORIGINAL of the foregoing filed  
this 4<sup>th</sup> day of March, 2022 with:

11 Arizona Medical Board  
12 1740 West Adams, Suite 4000  
13 Phoenix, Arizona 85007

14 Michelle Rossler  
Board staff

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