

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **PATRICK J. DONOVAN, M.D.**

4 Holder of License No. 14106
5 For the Practice of Medicine
6 In the State of Arizona.

Case No. MD-20-0165A

**CONSENT ORDER FOR SURRENDER
OF LICENSE AND CONSENT TO THE
SAME**

7 Patrick J. Donovan, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Surrender of License; admits the
9 jurisdiction of the Arizona Medical Board ("Board") as well as the facts stated herein; and
10 consents to the entry of this Order by the Board.

FINDINGS OF FACT

11 1. The Board is the duly constituted authority for the regulation and control of
12 the practice of allopathic medicine in the State of Arizona.

13 2. Respondent is the holder of license number 14106 for the practice of
14 allopathic medicine in the State of Arizona.

15 3. The Board initiated case number MD-20-0165A after receiving a complaint
16 regarding Respondent's care and treatment of a 40-year-old female patient ("Patient 1")
17 alleging that Respondent touched her inappropriately during an examination.

18 4. Patient 1 was referred to Respondent by her primary care provider in 2020
19 for evaluation of cyclical neutropenia and low blood count. After obtaining permission from
20 Patient 1 to examine the lymph nodes in Patient 1's groin area, she reported that
21 Respondent pressed multiple times on her labia instead. During an investigational
22 interview with Board staff, Respondent denied intentional contact with the patient's labia,
23 and stated that there may have been incidental contact when moving his hand from one
24 side of the patient's groin to the other. There was no chaperone present during
25 Respondent's examination of Patient 1. In addition to filing a complaint with the Board,
Patient 1 also lodged a complaint with the Hospital.

1 5. Based on the complaint from Patient 1, Board staff obtained the Hospital
2 peer review records regarding Respondent and identified a second patient who had filed a
3 complaint with the Hospital regarding an evaluation performed by Respondent.

4 6. Patient 2 was referred to Respondent by her primary care provider in 2018
5 for evaluation of a MTHFR gene mutation that was preventing the absorption of vitamin B.
6 Patient 2 reported that during the initial examination, Respondent pulled her shirt up and
7 sports bra down without requesting permission, which exposed her left breast. Respondent
8 then placed his stethoscope under her breast to listen for her heartbeat.

9 7. During an interview with Board staff, Respondent reported that his typical
10 practice is to listen to the patients' heart and lung under the breast area, when the patient
11 is lying down. Respondent reported that Patient 2's left breast may have been exposed
12 when he lifted the bra and placed the stethoscope under her left breast.

13 8. Records from the Hospital peer review noted that a chaperone was
14 recommended after the 2018 incident. During the investigation into the 2020 incident with
15 Patient 1, Respondent reported that he utilized a chaperone for approximately 6 months,
16 and then, due to the burden on practice resources and existing staff, discontinued
17 regularly using a female chaperone for female patients.

18 9. During an interview with Board staff, Respondent reported that his current
19 practice was to utilize a chaperone upon patient request, but that he did not routinely ask
20 patients if they would like a chaperone.

21 10. Based on the information obtained during the investigation, the Executive
22 Director issued an Interim Order for Psychosexual Evaluation on October 29, 2020
23 ("Interim Order"). The Interim Order required Respondent to complete an evaluation and
24 comply with any recommendations by the evaluating facility and approved by Board staff,
25 including any recommendations for additional treatment. Respondent subsequently
completed the evaluation with a Board-approved facility ("Facility"). The Facility opined that
Respondent performed unnecessary and improper medical evaluations on the two
patients. The Facility noted that Respondent did not need to put his ungloved hand
underneath the underwear of Patient 1 in order to examine her inguinal lymph nodes, and

1 that Respondent failed to take necessary standard precautions that would assist in
2 avoiding incidental contact with Patient 1's labia. Additionally, the Facility opined that
3 Respondent did not need to expose Patient 2's breast in order to check her heart and lung
4 function. Based on the evaluation findings and testing results, Facility staff opined that
5 Respondent was unfit to practice, pending completion of treatment.

6 11. Based on the recommendations from the Facility, Respondent entered into
7 an Interim Consent Agreement for Practice Restriction, prohibiting him from engaging in
8 the practice of medicine effective January 26, 2021.

9 12. Respondent disagreed with the Facility's recommendations for treatment and
10 aftercare. Respondent sought an additional Psychosexual Evaluation from an additional
11 ("Second Evaluator"), who was credentialed and experienced in the field.

12 13. During that evaluation, and in other aspects of this proceeding, Respondent
13 admitted that while his behavior with Patients 1 and 2 was in line with his training,
14 education, and experience, he failed to stay current with professional standards and
15 patient expectations. Respondent admitted and accepted full responsibility for the
16 resulting poor communication and lack of sensitivity, which caused Patients 1 and 2
17 distress and discomfort.

18 14. The Second Evaluator recommended that Respondent voluntarily implement
19 logistical changes the parties agree are necessary and appropriate by current standards
20 and practices including having chaperones present when examining patients; wearing
21 gloves when conducting exams; having patients be gowned before beginning exams; more
22 thoroughly explaining what he is doing before and during an exam. The Second Evaluator
23 noted Respondent on his own accord completed a course regarding boundaries in
24 professional relationships and intended to continue to remain up to date regarding current
25 medical practices and ethics. The Second Evaluator opined that Patient 1's and Patient 2's
complaints were outlier complaints in Respondent's long and otherwise distinguished,
unblemished career.

15. The Second Evaluator opined: Respondent's behavior toward Patients 1
and 2 was not the result of inappropriate motivation by Respondent; that contrary to the

1 Facility's opinion, Respondent did not require further, evaluation, treatment, or
2 rehabilitation; and that Respondent was fit to practice.

3 16. During the pendency of this matter, Respondent was unable to see patients
4 for approximately two years. Approaching seventy years of age, Respondent has made
5 the decision to retire and requests surrender of license.

6 **CONCLUSIONS OF LAW**

7 17. The Board possesses jurisdiction over the subject matter hereof and over
8 Respondent.

9 18. The conduct and circumstances described above constitute unprofessional
10 conduct pursuant to A.R.S. § 32-1401(27)(r) ("Committing any conduct or practice that is
11 or might be harmful or dangerous to the health of the patient or the public.").

12 19. The Board possesses statutory authority to enter into a consent agreement
13 with a physician and accept the surrender of an active license from a physician who admits
14 to having committed an act of unprofessional conduct. A.R.S. § 32-1451(T)(2).

15 **ORDER**

16 IT IS HEREBY ORDERED THAT Respondent immediately surrender License
17 Number 14106, issued to Patrick J. Donovan, M.D., for the practice of allopathic medicine
18 in the State of Arizona, and return his certificate of licensure to the Board

19 DATED AND EFFECTIVE this 8th day of April, 2022.

20 ARIZONA MEDICAL BOARD

21 By Patricia E. McSorley
22 Patricia E. McSorley
23 Executive Director
24
25

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2 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

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

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

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

12 J. ***Respondent has read and understands the terms of this agreement.***

13 Patrick J. Donovan, MD
PATRICK J. DONOVAN, M.D.

DATED: 3/23/2022

14 EXECUTED COPY of the foregoing mailed
15 this 8th day of April, 2022 to:

16 Steve Myers, Esq.
17 Barry Mitchell, Esq.
18 Mitchell Stein Carey Chapman, PC
2600 N. Central Avenue, Suite 1000
19 Phoenix, Arizona 85004
Attorney for Respondent

20 ORIGINAL of the foregoing filed
this 8th day of April, 2022 with:

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

23 Michelle Probes
24 Board staff