

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **HILARIO JUAREZ, M.D.**

4 Holder of License No. 12148
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-20-0445B

**ORDER FOR LETTER OF REPRIMAND
AND PROBATION; AND CONSENT TO
THE SAME**

7 Hilario Juarez, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Letter of Reprimand and Probation;
9 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
10 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 12148 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-20-0445B after receiving a complaint
17 regarding Respondent's care and treatment of a 78 year-old female patient ("DN") alleging
18 failure to properly perform a hernia surgery resulting in heartburn and poor gastric
19 emptying with need for an additional surgery.

20 4. On December 4, 2018, DN presented to Respondent's office for a hernia
21 repair. DN had a repair of type IV hiatal hernia in February and recent EDG showing
22 recurrence of same. Respondent recommended a laparoscopic hiatal hernia repair, with
23 the possibility to be converted to an open procedure.

24 5. On December 21, 2018, Respondent performed a laparoscopic hernia
25 reduction, take down of Nissen fundoplication, and Collis type gastrectomy over a 40

1 bougie on Patient DN. The hernia defect in the diaphragm was closed primarily without
2 use of mesh.

3 6. On January 15, 2019, DN presented to Respondent's office for post-
4 operative follow-up. DN reported feeling well. DN reported to eating some peaches which
5 got stuck in her throat that she eventually coughed up. Respondent instructed DN to
6 follow-up in two months.

7 7. On March 5, 2019, DN presented to Respondent's office for post-operative
8 follow-up with complaints of reflux ("GERD"). DN reported that the GERD was controlled
9 with Prilosec. Respondent instructed DN to follow-up as needed.

10 8. On December 6, 2019, an endoscopy was performed for epigastric pain and
11 regurgitation of food. The endoscopy showed food retention in the esophagus and
12 stomach with gastroparesis diagnosed.

13 9. On February 10, 2020, a CT scan showed a recurrence of large hiatal hernia
14 with stomach and pancreas in the left chest.

15 10. On February 26, 2020, a different surgeon performed a combined
16 thoracoscopic and laparotomy to reduce the hernia, repair the diaphragm defect with mesh
17 and perform a pyloroplasty to help alleviate the symptoms of the gastroparesis. A J-tube
18 was placed for feeding.

19 11. The standard of care requires a physician to add an anti-reflux procedure
20 when performing a Collis gastroplasty. Respondent deviated from this standard of care by
21 performing a Collis gastroplasty without fundoplication.

22 12. The standard of care requires a physician to treat an H. pylori infection.
23 Respondent deviated from the standard of care by failing to treat the patient's H. pylori
24 infection.

25

1 13. The standard of care requires a physician to investigate post-operative
2 complaints. Respondent deviated from the standard of care by failing to perform a work-
3 up to ascertain the source of the patient's post-operative complaint of GERD.

4 14. Actual patient harm was identified in that the patient started having
5 symptoms two months after her operation, with findings that her hernia recurred, now with
6 issues of gastroparesis as well. The patient needed to undergo a third, more extensive
7 operation, to correct all these issues.

8 **CONCLUSIONS OF LAW**

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

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

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

17 **ORDER**

18 IT IS HEREBY ORDERED THAT:

- 19 1. Respondent is issued a Letter of Reprimand.
- 20 2. Respondent is placed on Probation for a period of six months with the
21 following terms and conditions:

22 **a. Continuing Medical Education**

23 Respondent shall within 6 months of the effective date of this Order obtain no less
24 than 10 hours of Board Staff pre-approved Category I Continuing Medical Education
25 ("CME") in an intensive, in-person course regarding medical recordkeeping. Respondent

1 shall within **thirty days** of the effective date of this Order submit his request for CME to the
2 Board for pre-approval. Upon completion of the CME, Respondent shall provide Board
3 staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours
4 required for the biennial renewal of medical licensure. The Probation shall terminate upon
5 Respondent's proof of successful completion of the CME.

6 **b. Obey All Laws**

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

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

12 DATED AND EFFECTIVE this 6th day of May, 2022.

13
14 ARIZONA MEDICAL BOARD

15 By Patricia E. McSorley
16 Patricia E. McSorley
17 Executive Director

18 **CONSENT TO ENTRY OF ORDER**

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

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

24 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
25 a hearing or judicial review in state or federal court on the matters alleged, or to challenge

1 this Order in its entirety as issued by the Board, and waives any other cause of action
2 related thereto or arising from said Order.

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

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

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

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

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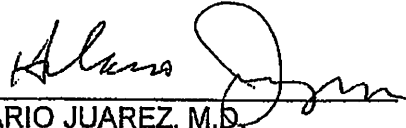
8. This Order is a public record that will be publicly disseminated as a formal disciplinary action of the Board and will be reported to the National Practitioner's Data Bank and on the Board's web site as a disciplinary action.

9. 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.

10. 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.

11. 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.

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


HILARIO JUAREZ, M.D.

DATED: 4/5/22

1 EXECUTED COPY of the foregoing mailed
this 10th day of May, 2022 to:

2
3 Mandi J. Karvis, Esq.
4 Wicker Smith O'Hara McCoy & Ford
5 1 North Central Ave, Ste 885
6 Phoenix, AZ 85004
7 Attorney for Respondent

8 ORIGINAL of the foregoing filed
this 10th day of May, 2022 with:

9 Arizona Medical Board
10 1740 West Adams, Suite 4000
11 Phoenix, Arizona 85007

12 Michelle Rodas
13 Board staff