

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. MD-19-0041A

3 **MICHAEL L. GRAHAM, M.D.**

4 Holder of License No. 23389
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

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

7 Michael L. Graham, 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 23389 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-19-0041A after receiving notification of
17 peer review from the Hospital Medical Group regarding Respondent's care and treatment
18 of four patients alleging failure to properly care for and treat the patients and practicing
19 outside of his scope.

20 **Patient JL**

21 4. JL was an 8 year-old male with a history of neutropenia and hereditary
22 hypogammaglobulinemia. JL started treatment with IV immunoglobulin ("IVIG") every 2 to
23 3 weeks as an infant under the supervision of multiple immunologists and multiple
24 hematologists, including Respondent with Neupogen at varying doses that were adjusted
25 for weight and absolute neutrophil count. Respondent elected to treat JL at home for fever

1 on numerous occasions and prescribed antibiotics without seeing her. JL was only seen by
2 the Respondent one to two times per year.

3 **Patient KP**

4 5. KP was a 24 year-old female patient with a history of dysautonomia,
5 gastroparesis, posterior orthostatic tachycardia syndrome ("POTS"), Sjogren's antibody,
6 inoperable intracranial neoplasms and a history of hypercoagulability. KP was under the
7 Respondent's care for several years. Respondent assumed treatment of POTS by
8 ordering and maintaining KP on total parenteral nutrition ("TPN") at home and in the
9 hospital. Respondent prescribed IVIG therapy for treatment of KP's gastroparesis.

10 **Patient AA**

11 6. AA was a 14 year-old female patient with a history of pediatric autoimmune
12 neuropsychiatric disorders associated with streptococcal infections (PANDAS).
13 Respondent prescribed IVIG and rituximab for the treatment of KP's PANDAS.

14 7. During the course of the Board's investigation, Respondent reported that he
15 prescribed the rituximab as a technician for the pediatric neurologist who was also treating
16 AA. The Medical Consultant ("MC") who reviewed Respondent's care and treatment of AA
17 and other patients during the Board's investigation opined that Respondent's records did
18 not reflect that he was acting at the direction of the pediatric neurologist.

19 **Patient JM**

20 8. JM was a 36 year-old male with a history of autism, Ehlers-Danlos
21 syndrome, homozygous mutation for MTHFR (a "mitochondrial disorder") myocardial
22 infarction at the age of 30 years, obsessive-compulsive disorder, alleged mercury
23 poisoning, and alleged chronic brucellosis. JM was referred to Respondent by a pediatric
24 neurologist in October 2017 for initiation of plasmapheresis therapy.

1 9. During the course of the standard of care, Respondent reported that he was
2 arranging for the plasmapheresis treatment at a Dialysis Center at the direction of a
3 neurologist. The MC opined that Respondent's records did not adequately reflect
4 coordination with the neurologist.

5 10. The standard of care requires a physician to examine an immunosuppressed
6 patient prior to initiating treatment and to frequently evaluate a patient receiving Neupogen
7 and IVIG. Respondent deviated from this standard of care by failing to examine JL, an
8 immunosuppressed patient, prior to prescribing antibiotics and by failing to frequently
9 evaluate patient JL who was receiving Neupogen and IVIG.

10 11. The standard of care prohibits a physician from practicing outside his scope
11 of training. Respondent deviated from this standard of care by practicing outside his scope
12 of training by treating KP's gastroparesis.

13 12. There was the potential for patient harm for Patient JL in that the
14 management of a patient with severe neutropenia and hypogammaglobulinemia requires
15 aggressive and timely follow up with appropriate medical providers. Serious bacterial
16 infections and/or death could have resulted if JL was not assessed in person in a timely
17 manner. There was the potential for patient harm in that Respondent assumed primary
18 care of KP's multiple medical issues that required constant consultation and input from
19 multiple medical subspecialists, which could have resulted in a delay of care.

20 **CONCLUSIONS OF LAW**

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

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

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 **ORDER**

5 IT IS HEREBY ORDERED THAT:

- 6 1. Respondent is issued a Letter of Reprimand.
7 2. Respondent is placed on Probation for a period of six (6) months with the
8 following terms and conditions:

9 **a. Continuing Medical Education**

10 Respondent shall within six (6) months of the effective date of this Order obtain no
11 less than 10 hours of Board staff pre-approved Category I Continuing Medical Education
12 ("CME") in an intensive, in-person course regarding medical recordkeeping. Respondent
13 shall within thirty (30) days of the effective date of this Order submit his request for CME to
14 the Board for pre-approval. Upon completion of the CME, Respondent shall provide Board
15 staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours
16 required for the biennial renewal of medical licensure.

17 **b. 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 **c. Probation Termination**

22 Prior to the termination of Probation, Respondent must submit a written request to
23 the Board for release from the terms of this Order. Respondent's request for release will
24 be placed on the next pending Board agenda, provided a complete submission is received
25 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for

1 release must provide the Board with evidence establishing that he has successfully
2 satisfied all of the terms and conditions of this Order and shall be accompanied by proof of
3 successful completion of the CME. The Board has the sole discretion to determine
4 whether all of the terms and conditions of this Order have been met or whether to take any
5 other action that is consistent with its statutory and regulatory authority.

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

8 DATED AND EFFECTIVE this 10th day of June, 2021.

9
10 ARIZONA MEDICAL BOARD

11 By Patricia E. McSorley
12 Patricia E. McSorley
13 Executive Director

14 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

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

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

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

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

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

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

9
10 Michael L. Graham
11 MICHAEL L. GRAHAM, M.D.

DATED: 5/10/21

12 EXECUTED COPY of the foregoing mailed
13 this 11th day of June, 2021 to:

14 Michael L. Graham, M.D.
Address of Record
15
16 Paul J. Giancola
Snell & Wilmer, LLP
One Arizona Center
17 400 E. Van Buren #1900
Phoenix, AZ 85004
18 Attorney for Respondent

19 ORIGINAL of the foregoing filed
20 this 11th day of June, 2021 with:

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

23 Michelle Robles
24 Board staff

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