

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. MD-20-0344A

3 **MARGARET L. KUNES, M.D.**

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

4 Holder of License No. 25565
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

7 Margaret L. Kunes, M.D. ("Respondent"), elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for License Reactivation 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 25565 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-20-0344A after receiving Respondent's
17 request for license reactivation.

18 4. Respondent participated in the Board's Physician Health Program ("PHP")
19 from October 26, 1999 through October 15, 2004 pursuant to a Stipulated Rehabilitation
20 Agreement ("SRA"). Respondent successfully completed the terms and conditions of the
21 SRA and the SRA was terminated.

22 5. On March 9, 2020, Respondent self-reported a relapse, and requested that
23 her license be placed on "Inactive with Cause" status, which the Board's Executive
24 Director approved effective March 18, 2020.

25 6. Respondent completed residential treatment at a Board-approved facility
("Facility") and was discharged on April 24, 2020. Respondent subsequently enrolled in an

1 intensive outpatient treatment program (“IOP”). Respondent met with the Board’s PHP
2 Contractor who determined that Respondent is safe to return to the practice of medicine
3 subject to Respondent’s participation in PHP for a period of five years.

4 7. On June 24, 2020 Respondent completed her IOP and was discharged with
5 staff approval. Respondent has voluntarily enrolled in a private monitoring agreement with
6 one of the Board’s PHP Contractors.

7 8. On April 25, 2020, Respondent requested reactivation of her medical license.

8 9. **Board staff stated that according to the Board’s three-strike policy, this**
9 **is Respondent’s “second strike.”**

10 **CONCLUSIONS OF LAW**

11 1. The Arizona Medical Board possesses jurisdiction over the subject matter
12 hereof and over Respondent.

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

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

1 **ORDER**

2 IT IS HEREBY ORDERED:

3 Respondent's license is reactivated upon payment of the renewal fee. Respondent is
4 placed on Probation with the following terms and conditions:

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

7 2. Respondent shall not consume alcohol or any food or other substance
8 containing poppy seeds or alcohol.

9 3. Respondent shall not take any illegal drugs or mood altering medications
10 unless prescribed for a legitimate therapeutic purpose.

11 4. Respondent shall continue to participate in any personalized aftercare
12 programs or activities as recommended by the Facility and the Assessor in her post-
13 treatment assessment report. Respondent shall report on those activities as requested by
14 the PHP, including executing any releases necessary to allow the PHP to monitor
15 her participation and communicate directly with and obtain records from the treating
16 providers for those aftercare activities. Respondent shall be responsible for all costs of
17 aftercare, including costs associated with compliance of this Board Order.

18 5. Respondent shall enter treatment with a PHP Contractor approved addiction
19 medicine specialist or psychiatrist ("treatment specialist") and shall comply with any and all
20 treatment recommendations, including taking any and all prescribed medications.
21 Respondent shall instruct the treating treatment specialist to submit quarterly written
22 reports to the PHP regarding diagnosis, prognosis, current medications, recommendation
23 for continuing care and treatment, and ability to safely practice medicine. The reports shall
24 be submitted quarterly to the PHP, the commencement of which to be determined by the
25 PHP Contractor. Respondent shall provide the treatment specialist with a copy of this

1 Order. Respondent shall pay the expenses for treatment and be responsible for paying for
2 the preparation of the quarterly reports. At the expiration of one year or anytime
3 thereafter, Respondent may submit a written request to the PHP Contractor requesting
4 termination of the requirement that Respondent remain in treatment with a treatment
5 specialist. The decision to terminate will be based in part upon the treatment specialist's
6 recommendation for continued care and treatment.

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

15 7. All prescriptions for controlled substances shall be approved by the PHP
16 Contractor prior to being filled except in an Emergency. Controlled substances prescribed
17 and filled in an emergency shall be reported to the PHP within 48 hours. Respondent shall
18 take no Medication unless the PCP or other health care provider to whom the PCP refers
19 Respondent prescribes and the PHP Contractor approves the Medication. Respondent
20 shall not self-prescribe any Medication. "Medication" means a prescription-only drug,
21 controlled substance, and over-the counter preparation, other than plain aspirin, plain
22 ibuprofen, and plain acetaminophen.

23 8. If recommended by the PHP Contractor, Respondent shall attend a relapse
24 prevention outpatient program for a duration and frequency recommended by the PHP
25 Contractor, unless Respondent is excused by the relapse program facilitator for good

1 cause. The relapse prevention group facilitators shall submit monthly reports to the PHP
2 regarding Respondent's attendance and progress.

3 9. If requested by the PHP and not already completed, Respondent shall attend
4 ninety 12-step meetings or other self-help group meetings appropriate for substance
5 abuse and approved by the PHP, for a period of ninety days. Upon completion of the
6 ninety meetings in ninety days, Respondent shall participate in a 12-step recovery
7 program or other self-help program appropriate for substance abuse as recommended by
8 the PHP. Respondent shall attend a minimum of three 12-step or other self-help program
9 meetings per week. Two meetings per month must be Caduceus meetings. Respondent
10 must maintain a log of all self-help meetings.

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

14 11. Respondent shall provide the PHP Contractor in writing with one telephone
15 number that shall be used to contact Respondent on a 24 hour per day/seven day per
16 week basis to submit to biological fluid, hair, and/or nail testing to ensure compliance with
17 the PHP. For the purposes of this section, telephonic notice shall be deemed given at the
18 time a message to appear is left at the contact telephone number provided by
19 Respondent. Respondent authorizes any person or organization conducting tests on the
20 collected samples to provide testing results to the PHP Contractor. Respondent shall
21 comply with all requirements for biological fluid, hair, and/or nail collection. Respondent
22 shall pay for all costs for the testing.

23 12. Respondent shall provide the PHP Contractor with written notice of any
24 plans to travel out of state.

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1 13. If requested by PHP, Respondent shall successfully complete a PHP
2 approved 36 hour alcohol/drug awareness education class.

3 14. Respondent shall immediately notify the Board and the PHP Contractor in
4 writing of any change in office or home addresses and telephone numbers.

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

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

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

18 18. Respondent shall appear in person before with the PHP Contractor for
19 interviews upon request, upon reasonable notice.

20 19. Respondent shall immediately provide a copy of this Order to all employers,
21 hospitals and free standing surgery centers where Respondent currently has or in the
22 future gains or applies for employment or privileges. Within 30 days of the date of this
23 Order, Respondent shall provide the PHP with a signed statement of compliance with this
24 notification requirement. Respondent is further required to notify, in writing, all employers,
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1 hospitals and free standing surgery centers where Respondent currently has or in the
2 future gains or applies for employment or privileges of a violation of this Order.

3 20. In the event Respondent resides or practices as a physician in a state other
4 than Arizona, Respondent shall participate in the rehabilitation program sponsored by that
5 state's medical licensing authority or medical society. Respondent shall cause the
6 monitoring state's program to provide written quarterly reports to the PHP Contractor
7 regarding Respondent's attendance, participation, and monitoring. The monitoring state's
8 program and Respondent shall immediately notify the PHP Contractor if Respondent is
9 non-compliant with any aspect of the monitoring requirements or is required to undergo
10 any additional treatment.

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

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

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

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

1 successfully satisfied all of the terms and conditions of this Order. The Board has the sole
2 discretion to determine whether all of the terms and conditions of this Order have been
3 met or whether to take any other action that is consistent with its statutory and regulatory
4 authority.

5 25. This Order supersedes any and all Consent Agreements previously entered
6 into by Respondent and the Board regarding this matter.

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

9 DATED AND EFFECTIVE this 6th day of August, 2020.

10 ARIZONA MEDICAL BOARD

11 By Patricia E. McSorley

12 Patricia E. McSorley
13 Executive Director

14
15 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

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

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

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

22 10. Any violation of this Order constitutes unprofessional conduct and may result
23 in disciplinary action. A.R.S. § § 32-1401(27)(s) ("Violating a formal order, probation,
24 consent agreement or stipulation issued or entered into by the board or its executive
25 director under this chapter") and 32-1451.

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11. Respondent has read and understands the conditions of probation.



MARGARET L. KUNES, M.D.

DATED: 7/27/2020

EXECUTED COPY of the foregoing mailed
this 16th day of August, 2020 to:

Margaret L. Kunes, M.D.
Address of Record

PHP Contractor
Address of Record

ORIGINAL of the foregoing filed
this 16th day of August, 2020 with:

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

Michelle Robles
Board staff