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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

ANDREW G. MALCOLM, M.D.

Holder of License No. 10932
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-21-0183A

**INTERIM CONSENT AGREEMENT
FOR PRACTICE RESTRICTION**

INTERIM CONSENT AGREEMENT

Andrew G. Malcolm, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction and consents to the entry of this Order by the Arizona Medical Board ("Board").

INTERIM FINDINGS OF FACT

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

2. Respondent is the holder of License No. 10932 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-21-0183A after receiving a notification that on or about February 24, 2021, Respondent was prohibited from practicing medicine in the State of California as a condition of bail pending the final disposition of criminal charges pending against him or as a condition of probation.

4. On August 17, 2020, in Case No. CD285357 Superior Court of the State of California, County of San Diego, Central Division, a complaint was filed against Respondent alleging sixteen felony charges of obtaining prescriptions of controlled substances namely hydrocodone and/or oxycodone, by fraud, deceit or misrepresentation.

5. Respondent failed to report the charges within 10 days as required by statute.

1 6. On February 24, 2021, Respondent pled guilty to three counts of the
2 complaint, and was sentenced to two years of probation with terms and conditions
3 including a prohibition on the practice of medicine.

4 7. The aforementioned information was presented to the investigative staff, the
5 medical consultant and the lead Board member. All reviewed the information and concur
6 that the interim consent agreement to restrict Respondent's practice is appropriate.

7 8. The investigation into this matter is pending and will be forwarded to the
8 Board promptly upon completion for review and action.

9 **INTERIM CONCLUSIONS OF LAW**

10 1. The Board possesses jurisdiction over the subject matter hereof and over
11 Respondent.

12 2. Pursuant to A.R.S. § 32-1405(C)(25) the Executive Director has authority to
13 enter into a consent agreement when there is evidence of danger to the public health and
14 safety.

15 3. Pursuant to A.A.C. R4-16-504, the Executive Director may enter into an
16 interim consent agreement when there is evidence that a restriction is needed to mitigate
17 imminent danger to the public's health and safety. Investigative staff, the Board's medical
18 consultant and the lead Board member have reviewed the case and concur that an interim
19 consent agreement is appropriate.

20 **INTERIM ORDER**

21 IT IS HEREBY ORDERED THAT:

22 1. Respondent is prohibited from engaging in the practice of medicine in the
23 State of Arizona as set forth in A.R.S. § 32-1401(22) until Respondent applies to the
24 Executive Director and receives permission to do so.

25 2. Respondent may request, in writing, release and/or modification of this

1 Interim Consent Agreement. Respondent's request must be accompanied by information
2 demonstrating that Respondent is safe to practice medicine. The Executive Director, in
3 consultation with and agreement of the lead Board member and the Chief Medical
4 Consultant, has the discretion to determine whether it is appropriate to release
5 Respondent from this Interim Consent Agreement.

6 3. The Board retains jurisdiction and may initiate new action based upon any
7 violation of this Interim Consent Agreement, including, but not limited to, summarily
8 suspending Respondent's license.

9 4. Because this is an Interim Consent Agreement and not a final decision by
10 the Board regarding the pending investigation, it is subject to further consideration by the
11 Board. Once the investigation is complete, it will be promptly provided to the Board for its
12 review and appropriate action.

13 5. This Interim Consent Agreement shall be effective on the date signed by the
14 Board's Executive Director.

15
16 DATED this 27th day of August, 2021.

17 ARIZONA MEDICAL BOARD
18 By Patricia E. McSorley
19 Patricia E. McSorley
20 Executive Director

21 **RECITALS**

22 Respondent understands and agrees that:

23 1. The Board, through its Executive Director, may adopt this Interim Consent
24 Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-
25 504.

1 2. Respondent has read and understands this Interim Consent Agreement as
2 set forth herein, and has had the opportunity to discuss this Interim Consent Agreement
3 with an attorney or has waived the opportunity to discuss this Interim Consent Agreement
4 with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and
5 by doing so agrees to abide by all of its terms and conditions.

6 3. By entering into this Interim Consent Agreement, Respondent freely and
7 voluntarily relinquishes all rights to an administrative hearing on the matters set forth
8 herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or
9 any other administrative and/or judicial action, concerning the matters related to the
10 Interim Consent Agreement.

11 4. Respondent understands that this Interim Consent Agreement does not
12 constitute a dismissal or resolution of this matter or any matters that may be currently
13 pending before the Board and does not constitute any waiver, express or implied, of the
14 Board's statutory authority or jurisdiction regarding this or any other pending or future
15 investigations, actions, or proceedings. Respondent also understands that acceptance of
16 this Interim Consent Agreement does not preclude any other agency, subdivision, or
17 officer of this State from instituting civil or criminal proceedings with respect to the conduct
18 that is the subject of this Interim Consent Agreement. Respondent further does not
19 relinquish Respondent's rights to an administrative hearing, rehearing, review,
20 reconsideration, judicial review or any other administrative and/or judicial action,
21 concerning the matters related to a final disposition of this matter, unless Respondent
22 affirmatively does so as part of the final resolution of this matter.
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1 5. Respondent acknowledges and agrees that upon signing this Interim
2 Consent Agreement and returning it to the Board's Executive Director, Respondent may
3 not revoke Respondent's acceptance of this Interim Consent Agreement or make any
4 modifications to it. Any modification of this original document is ineffective and void unless
5 mutually approved by the parties in writing.

6 6. Respondent understands that this Interim Consent Agreement shall not
7 become effective unless and until it is signed by the Board's Executive Director.

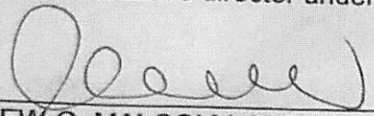
8 7. Respondent understands and agrees that if the Board's Executive Director
9 does not adopt this Interim Consent Agreement, Respondent will not assert in any future
10 proceedings that the Board's consideration of this Interim Consent Agreement constitutes
11 bias, prejudice, prejudgment, or other similar defense.

12 8. Respondent understands that this Interim Consent Agreement is a public
13 record that may be publicly disseminated as a formal action of the Board, and that it shall
14 be reported as required by law to the National Practitioner Data Bank.

15 9. Respondent understands that this Interim Consent Agreement does not
16 alleviate Respondent's responsibility to comply with the applicable license-renewal
17 statutes and rules. If this Interim Consent Agreement remains in effect at the time
18 Respondent's allopathic medical license comes up for renewal, Respondent must renew
19 the license if Respondent wishes to retain the license. If Respondent elects not to renew
20 the license as prescribed by statute and rule, Respondent's license will not expire but
21 rather, by operation of law (A.R.S. § 32-3202), become suspended until the Board takes
22 final action in this matter. Once the Board takes final action, in order for Respondent to be
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1 licensed in the future, Respondent must submit a new application for licensure and meet
2 all of the requirements set forth in the statutes and rules at that time.

3 10. Respondent understands that any violation of this Interim Consent
4 Agreement constitutes unprofessional conduct under A.R.S. § 32-1401(27)(s) ("[v]iolating
5 a formal order, probation, consent agreement or stipulation issued or entered into by the
6 board or its executive director under this chapter.").

7 
8 ANDREW G. MALCOLM, M.D.

DATED: 8.25.21

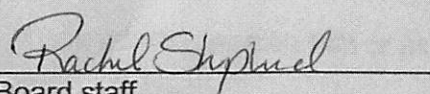
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EXECUTED COPY of the foregoing e-mailed
this 27th day of August, 2021 to:

Andrew G. Malcolm, M.D.
Address of Record

ORIGINAL of the foregoing filed
this 27th day of August, 2021 with:

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

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20 Board staff