

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **BRIAN D. MARTIN, M.D.**

4 Holder of License No. 44574
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-20-0787A

**INTERIM CONSENT AGREEMENT
FOR PRACTICE LIMITATION**

(Non-Disciplinary)

7 **INTERIM CONSENT AGREEMENT**

8 Brian D. Martin, M.D. ("Respondent") elects to permanently waive any right to a
9 hearing and appeal with respect to this Interim Consent Agreement for Practice Limitation;
10 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
11 this Order by the Board.

12 **INTERIM FINDINGS OF FACT**

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

15 2. Respondent is the holder of License No. 44574 for the practice of allopathic
16 medicine in the State of Arizona.

17 3. The Board initiated case number MD-20-0787A after receiving notification
18 that Respondent may have a health condition that impacts Respondent's ability to safely
19 practice medicine.

20 4. The aforementioned information was presented to the investigative staff, the
21 medical consultant and the lead Board member. All reviewed the information and concur
22 that an interim consent agreement to limit Respondent's practice is appropriate.
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1 **INTERIM CONCLUSIONS OF LAW**

2 1. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

4 2. Pursuant to A.A.C. R4-16-509, the executive director has the authority to
5 enter into consent agreements to limit a physician's practice if there is evidence that he is
6 mentally or physically unable to safely engage in the practice of medicine and the
7 investigative staff, the medical consultant and the lead Board member concur after a
8 review of the case that a consent agreement is appropriate.

9 3. In addition, pursuant to A.R.S. §§ 32-1405(C)(25) and 32-1451(F), the
10 Executive Director, on behalf of the Board, has the authority to enter into consent
11 agreements if there is evidence of danger to the public health and safety.

12 **INTERIM ORDER**

13 IT IS HEREBY ORDERED THAT:

14 1. Respondent is prohibited from engaging in the practice of medicine in the
15 State of Arizona as set forth in A.R.S. § 32-1401(22) until he applies to the Board and
16 receives its affirmative permission to do so.

17 2. Respondent may request, in writing, release and/or modification from this
18 Interim Consent Agreement. The Executive Director, in consultation with the medical
19 consultant, has the sole discretion to determine whether it is appropriate to release
20 Respondent from this Interim Consent Agreement or take any other action that is
21 consistent with her statutory and regulatory authority. In making the determination
22 regarding whether Respondent is safe to practice medicine, the Executive Director may
23 order any combination of examinations or evaluations she deems appropriate.

24 3. This Interim Consent Agreement is not a final decision by the Board
25 regarding the pending investigative file and as such is subject to further consideration by

1 the Board. In addition, the Board retains jurisdiction and may initiate a separate
2 disciplinary action based on the facts and circumstances that form the basis for this
3 practice limitation or any violation of this Interim Consent Agreement.

4 DATED this 28th day of September, 2020.

5 ARIZONA MEDICAL BOARD

6
7 By *Kristina Fredericksen* for
8 Patricia E. McSorley
Executive Director

9 **CONSENT TO ENTRY OF ORDER**

10 1. Respondent agrees and understands that the Board, through its Executive
11 Director, may adopt this Interim Consent Agreement, or any part thereof, pursuant to
12 A.R.S. §§ 32-1405(C)(25) and 32-1451(F) and A.A.C. R4-16-509.

13 2. Respondent has read and understands this Interim Consent Agreement for
14 Practice Limitation, and has had the opportunity to discuss this Interim Consent
15 Agreement with an attorney or has waived the opportunity to discuss this Interim Consent
16 Agreement with an attorney.

17 3. Respondent acknowledges and agrees that this Interim Consent Agreement
18 is entered into freely and voluntarily and that no promise was made or coercion used to
19 induce such entry, and by doing so agrees to abide by all of its terms and conditions.

20 4. By consenting to this Interim Consent Agreement, Respondent voluntarily
21 relinquishes any rights to a hearing or judicial review in state or federal court on the
22 matters alleged, or to challenge this Interim Consent Agreement in its entirety as issued,
23 and waives any other cause of action related thereto or arising from said Interim Consent
24 Agreement.
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1 5. The Interim Consent Agreement is not effective unless and until it is
2 approved and signed by the Executive Director.

3 6. 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 7. Respondent understands that this Interim Consent Agreement does not
10 constitute a dismissal or resolution of this matter or any matters that may be currently
11 pending before the Board and does not constitute any waiver, express or implied, of the
12 Board's statutory authority or jurisdiction regarding any other pending or future
13 investigations, actions, or proceedings. Respondent also understands that acceptance of
14 this Interim Consent Agreement does not preclude any other agency, subdivision, or
15 officer of this State from instituting civil or criminal proceedings with respect to the conduct
16 that is the subject of this Interim Consent Agreement. Respondent further does not
17 relinquish his rights to an administrative hearing, rehearing, review, reconsideration,
18 judicial review of any other administrative and/or judicial action, concerning the matters
19 related to a final disposition of this matter, unless he affirmatively does so as part of the
20 final resolution of this matter.

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

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

5 10. This Interim Consent Agreement is a public record that will be publicly
6 disseminated as a formal *non-disciplinary* action of the Board.

7 11. If any part of the Interim Consent Agreement is later declared void or
8 otherwise unenforceable, the remainder of the Interim Consent Agreement in its entirety
9 shall remain in force and effect.

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

20 13. Any violation of this Interim Consent Agreement constitutes unprofessional
21 conduct and may result in disciplinary action. A.R.S. §§ 32-1401(27)(s) ("[v]iolating a
22 formal order, probation, consent agreement or stipulation issued or entered into by the
23 board or its executive director under this chapter.") and 32-1451.

1 14. **Respondent has read and understands the terms of this agreement.**

2
3 Brian Martin
4 BRIAN D. MARTIN, M.D.

DATED: 9/26/2020

5 EXECUTED COPY of the foregoing e-mailed
6 this 29th day of September, 2020 to:

7 Brian D. Martin, M.D.
8 Address of Record

9 ORIGINAL of the foregoing filed
10 this 29th day of September, 2020 with:

11 Arizona Medical Board
12 1740 West Adams, Suite 4000
13 Phoenix, Arizona 85007

14 Michelle Kibbles
15 Board staff