

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **TIMOTHY M. MARSHALL, M.D.**

4 Holder of License No. 22934
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-20-0241A

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

7 Timothy M. Marshal, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Probation; admits the jurisdiction of the
9 Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

10 **FINDINGS OF FACT**

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

13 2. Respondent is the holder of license number 22934 for the practice of
14 allopathic medicine in the State of Arizona.

15 3. The Board initiated case number MD-20-0241A after receiving Respondent's
16 self-report on that he had been convicted of disorderly conduct, a class 1 misdemeanor.

17 4. Respondent was referred for an assessment with the Board's Physician
18 Health Program ("PHP") Assessor which was completed on June 19, 2020 and an
19 evaluation with a Board approved neuropsychological evaluator on August 17-18, 2020.
20 Both evaluators opined that Respondent was safe to practice with participation in PHP and
21 participation in therapy. The PHP Assessor reported that Respondent attended the
22 assessment on May 19, 2020, but failed to report to the lab for testing until May 26, 2020.

23 5. On September 14, 2020, Respondent entered into an Interim Consent
24 Agreement for PHP participation. Respondent is in compliance with the terms of his PHP
25 monitoring including completion of an intensive outpatient treatment program on
December 4, 2020.

1 2. Respondent is placed on Probation for a period of five years¹ with the
2 following terms and conditions:

3 3. Respondent shall not consume alcohol or any food or other substance
4 containing poppy seeds or alcohol.

5 4. Respondent shall not take any illegal drugs or mood altering medications
6 unless prescribed for a legitimate therapeutic purpose.

7 5. Respondent shall continue to participate in any personalized aftercare
8 programs or activities as recommended by the Board's PHP Assessor and
9 Neuropsychological Evaluator. Respondent shall report on those activities as requested
10 by the PHP, including executing any releases necessary to allow the PHP to monitor his
11 participation and communicate directly with and obtain records from the treating providers
12 for those aftercare activities. Respondent shall be responsible for all costs of aftercare,
13 including costs associated with compliance of this Board Order.

14 6. If recommended by the PHP, Respondent shall enter treatment with a PHP
15 Contractor approved addiction psychiatrist or addiction medicine specialist as
16 recommended by the Assessor in his Assessment report and shall comply with any and all
17 treatment recommendations, including taking any and all prescribed medications.
18 Respondent shall instruct the treating professional to submit quarterly written reports to the
19 PHP regarding diagnosis, prognosis, current medications, recommendation for continuing
20 care and treatment, and ability to safely practice medicine. The reports shall be submitted
21 quarterly to the PHP, the commencement of which to be determined by the PHP
22 Contractor. Respondent shall provide the psychiatrist with a copy of this Consent
23 Agreement. Respondent shall pay the expenses for treatment and be responsible for
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¹ Respondent's probation shall be retroactive to September 14, 2020.

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

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

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

22 9. If recommended by the PHP Contractor, Respondent shall attend a relapse
23 prevention outpatient program for a duration and frequency recommended by the PHP
24 Contractor, unless Respondent is excused by the relapse program facilitator for good
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1 cause. The relapse prevention group facilitators shall submit monthly reports to the PHP
2 regarding Respondent's attendance and progress.

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

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

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

17 13. Respondent shall successfully complete a PHP approved 36 hour
18 alcohol/drug awareness education class.

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

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

24 16. The relationship between the Respondent and the PHP Contractor is a direct
25 relationship. Respondent shall not use an attorney or other intermediary to communicate

1 with the PHP Contractor on participation and compliance issues. All inquiries must be
2 directed to Board staff.

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

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

11 19. Respondent shall immediately provide a copy of this Order to all employers,
12 hospitals and free standing surgery centers where Respondent currently has or in the
13 future gains or applies for employment or privileges. Within 30 days of the date of this
14 Order, Respondent shall provide the PHP with a signed statement of compliance with this
15 notification requirement. Respondent is further required to notify, in writing, all employers,
16 hospitals and free standing surgery centers where Respondent currently has or in the
17 future gains or applies for employment or privileges of a violation of this Order.

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

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

3 22. In the event of a chemical dependency relapse by Respondent or
4 Respondent's use of controlled substances or alcohol in violation of this Order,
5 Respondent shall promptly enter into an Interim Consent Agreement for Practice
6 Restriction that requires, among other things, that Respondent not practice medicine until
7 such time as Respondent successfully completes long-term inpatient treatment designated
8 by the PHP Contractor and obtains affirmative approval from the Executive Director, in
9 consultation with the Lead Board Member and Chief Medical Consultant, to return to the
10 practice of medicine. Prior to approving Respondent's request to return to the practice of
11 medicine, Respondent may be required to undergo any combination of physical
12 examinations, psychiatric or psychological evaluations. In no respect shall the terms of this
13 paragraph restrict the Board's authority to initiate and taken disciplinary action for any
14 violation of this Order.

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

18 24. Prior to the termination of Probation, Respondent must submit a written
19 request to the Board for release from the terms of this Order. Respondent's request for
20 release will be placed on the next pending Board agenda, provided a complete submission
21 is received by Board staff no less than 30 days prior to the Board meeting. Respondent's
22 request for release must provide the Board with evidence establishing that he/she has
23 successfully satisfied all of the terms and conditions of this Order. The Board has the sole
24 discretion to determine whether all of the terms and conditions of this Order have been
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1 met or whether to take any other action that is consistent with its statutory and regulatory
2 authority.

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

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

7 DATED AND EFFECTIVE this 14th day of September, 2021.

8 ARIZONA MEDICAL BOARD

9
10 By Patricia E. McSorley
11 Patricia E. McSorley
12 Executive Director

13 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

25 5. All admissions made by Respondent in this Order are solely for final
disposition of this matter and any subsequent related administrative proceedings or civil

1 litigation involving the Board and Respondent. Therefore, said admissions by Respondent
2 are not intended or made for any other use, such as in the context of another state or
3 federal government regulatory agency proceeding, civil or criminal court proceeding, in the
4 State of Arizona or any other state or federal court.

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

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

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

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

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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 prejudice 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 acknowledges that, pursuant to A.R.S. § 32-2501(16),
9 Respondent cannot act as a supervising physician for a physician assistant while
10 Respondent's license is on probation.

11 13. ***Respondent has read and understands the conditions of Probation.***

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DATED: Sept. 7th, 2021

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TIMOTHY M. MARSHALL, M.D.

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EXECUTED COPY of the foregoing mailed
16 this 14th day of September, 2021 to:

17

Timothy Michael Marshall, M.D.
Address of Record

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Stephen M. Dichter, Esq.
19 Christian, Dichter & Sluga, P.C.
2800 North Central Avenue, Suite 860
20 Phoenix, Arizona 85004
Attorney for Respondent

21

Physician Health Program
22 Address on File

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ORIGINAL of the foregoing filed
24 this 14th day of September, 2021 with:

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

3 Michelle Rosdes
4 Board staff

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