

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. MD-20-0787A

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

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

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

7 Brian D. Martin, 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 44574 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-20-0787A after receiving a self-report
17 from Respondent stating that he left the Hospital where he holds privileges, consumed
18 some beer and returned to the Hospital call room to complete patient charts. Respondent
19 reported that a colleague observed him, and he was referred for ER evaluation and given
20 fluids. Additionally, the Board received a report from the Hospital where Respondent held
21 privileges that he had been removed from all patient care after co-workers reported
22 performance and impairment concerns, and Respondent admitted to consuming alcohol
23 during his clinical shift.

24 4. Respondent entered into an Interim Consent Agreement for Practice
25 Limitation, effective September 29, 2020.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

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

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

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

5. If requested by PHP, Respondent shall attend the PHP's relapse prevention group therapy sessions one time per week for the duration of this Interim Consent Agreement, unless excused by the relapse prevention group facilitator for good cause. Individual relapse therapy may be substituted for one or more of the group therapy sessions, if PHP pre-approves substitution. The relapse prevention group facilitators or individual relapse prevention therapist shall submit monthly reports to the PHP regarding attendance and progress.

6. Respondent shall continue to participate in any personalized aftercare programs or activities as recommended by the Assessor in his Assessment report. Respondent shall report on those activities as requested by the PHP, including executing any releases necessary to allow the PHP to monitor his participation and communicate directly with and obtain records from the treating providers for those aftercare activities. Respondent shall be responsible for all costs of aftercare, including costs associated with compliance of this Board Order.

¹ Respondent's probation shall be retroactive to April 15, 2021.

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

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

17 9. Respondent shall enter treatment with a PHP Contractor approved addiction
18 psychiatrist or addiction medicine specialist as recommended by the Assessor in his
19 assessment report, and shall comply with any and all treatment recommendations,
20 including taking any and all prescribed medications. Respondent shall instruct the treating
21 professional to submit quarterly written reports to the PHP regarding diagnosis, prognosis,
22 current medications, recommendation for continuing care and treatment, and ability to
23 safely practice medicine. The reports shall be submitted quarterly to the PHP, the
24 commencement of which to be determined by the PHP Contractor. Respondent shall
25 provide the psychiatrist with a copy of this Order. Respondent shall pay the expenses for

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

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

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

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

1 13. Respondent shall provide the PHP Contractor with written notice of any plans
2 to travel out of state.

3 14. If not already completed, Respondent shall successfully complete a PHP
4 approved 36 hour alcohol/drug awareness education class.

5 15. Respondent shall immediately notify the Board and the PHP Contractor in
6 writing of any change in office or home addresses and telephone numbers.

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

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

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

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

22 20. Respondent shall immediately provide a copy of this Order to all employers,
23 hospitals and free standing surgery centers where Respondent currently has or in the
24 future gains or applies for employment or privileges. Within 30 days of the date of this
25 Order, Respondent shall provide the PHP with a signed statement of compliance with this

1 notification requirement. Respondent is further required to notify, in writing, all employers,
2 hospitals and free standing surgery centers where Respondent currently has or in the
3 future gains or applies for employment or privileges of a violation of this Order.

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

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

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

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

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

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

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

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

24 7. Upon signing this agreement, and returning this document (or a copy thereof)
25 to the Board's Executive Director, Respondent may not revoke the consent to the entry of

1 the Order. Respondent may not make any modifications to the document. Any
2 modifications to this original document are ineffective and void unless mutually approved
3 by the parties.

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

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

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

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

16 12. ***Respondent has read and understands the conditions of Probation.***

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BRIAN D. MARTIN, M.D.

DATED: 12/12/21

1 EXECUTED COPY of the foregoing mailed
2 this 7th day of January, 2021 to:

3 Brian D. Martin, M.D.
4 Address of Record

5 Physician Health Program
6 Address on File

7 ORIGINAL of the foregoing filed
8 this 7th day of January, 2021 with:

9 Arizona Medical Board
10 1740 West Adams, Suite 4000
11 Phoenix, Arizona 85007

12 Michelle Robles
13 Board staff

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