

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **DUANE L. MILLER, M.D**

4 Holder of License No. 54412
5 For the Practice of Medicine
6 In the State of Arizona.

Case No. MD-17-0572A

**ORDER FOR SURRENDER OF
LICENSE AND CONSENT TO THE
SAME**

7 Duane L. Miller, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Surrender of License; admits the
9 jurisdiction of the Arizona Medical Board ("Board") as well as the facts stated herein; and
10 consents to the entry of 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 54412 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. Respondents license is subject to terms and conditions of probation pursuant
17 to the Board's Order Granting Probationary License and Consent to the Same, effective
18 September 15, 2017 ("Probationary License Order").

19 4. The Probationary License Order requires Respondent to participate in the
20 Board's Physician Health Program ("PHP"), which is administered by a Board-approved
21 Contractor.

22 5. On or about October 8, 2020 Respondent notified the PHP Contractor that
23 he was unilaterally withdrawing from the PHP based on his decision to retire from the
24 practice of medicine. Respondent requested surrender of his license due to a health
25 condition.

1 **CONCLUSIONS OF LAW**

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

4 2. The Board possesses statutory authority to enter into a consent agreement
5 with a physician and accept the surrender of an active license from a physician who
6 admits to being unable to safely engage in the practice of medicine. A.R.S. § 32-
7 1451(T)(1).

8 **ORDER**

9 IT IS HEREBY ORDERED THAT Respondent immediately surrender License
10 Number 54412, issued to Duane L. Miller, M.D., for the practice of allopathic medicine in
11 the State of Arizona, and return his certificate of licensure to the Board.

12 DATED and effective this 12th day of February, 2021.

13 ARIZONA MEDICAL BOARD

14 By: Patricia E. McSorley
15 Patricia E. McSorley
16 Executive Director
17

18 **CONSENT TO ENTRY OF ORDER**

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

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

24 3. By consenting to this Order, Respondent voluntarily relinquishes any rights
25 to a hearing or judicial review in state or federal court on the matters alleged, or to

1 challenge this Order in its entirety as issued by the Board, and waives any other cause of
2 action related thereto or arising from said Order.

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

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

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

20 7. Upon signing this agreement, and returning this document (or a copy
21 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
22 entry of the Order. Respondent may not make any modifications to the document. Any
23 modifications to this original document are ineffective and void unless mutually approved
24 by the parties.
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8. This Order is a public record that will be publicly disseminated as a formal disciplinary action of the Board and will be reported to the National Practitioner's Data Bank and on the Board's web site as a disciplinary action.

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

10. Respondent has read and understands the terms of this agreement.

Duane L. Miller, M.D.
DUANE L. MILLER, M.D.

Dated: 1-29-21

EXECUTED COPY of the foregoing mailed by US Mail this 12th day of February, 2021 to:

Duane L. Miller, M.D.
Address of Record

ORIGINAL of the foregoing filed this 12th day of February, 2021 with:

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

Michelle Robles
Board staff

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 Case No. MD-17-0572A

4 **DUANE L. MILLER, M.D.**

5 Applicant for Licensure # 54412
6 For the Practice of Allopathic Medicine
7 In the State of Arizona.

**ORDER GRANTING PROBATIONARY
LICENSE AND CONSENT TO THE
SAME**

8 Duane L. Miller, M.D. ("Respondent"), elects to permanently waive any right to a
9 hearing and appeal with respect to this Order granting his application for licensure subject
10 to terms and conditions for probation; admits the jurisdiction of the Arizona Medical Board
11 ("Board"); and consents to the entry of this Order by the Board.

12 **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 an applicant for licensure for the practice of allopathic
16 medicine in the State of Arizona.

17 3. The Board initiated case number MD-17-0572A after receiving Respondent's
18 license application wherein he disclosed action taken by another state board.

19 4. On October 20, 2013, Respondent was referred to the Indiana State Medical
20 Association Physician Program ("ISMA PAP") based on concerns regarding Respondent's
21 use of alcohol. Respondent subsequently voluntarily ceased practice, obtained an
22 assessment, and successfully completed residential treatment for alcohol dependency.
23 After Respondent was discharged, he entered into a continuing care contract with the
24 ISMA PAP prior to returning to practice.

25 5. Respondent experienced a relapse on August 1, 2015, after which
Respondent requested inactivation of his license with the Medical Licensing Board of
Indiana ("Indiana Board").

- 1 a. Respondent shall not consume alcohol or any food or other substance
2 containing poppy seeds or alcohol.
- 3 b. Respondent shall not take any illegal drugs or mood altering medications unless
4 prescribed for a legitimate therapeutic purpose.
- 5 c. Respondent shall attend the PHP's Contractor's relapse prevention group
6 therapy sessions one time per week for the duration of this Order, unless
7 excused by the relapse prevention group facilitator for good cause. Individual
8 relapse therapy may be substituted for one or more of the group therapy
9 sessions, if the PHP Contractor pre-approves substitution. The relapse
10 prevention group facilitators or individual relapse prevention therapist shall
11 submit monthly reports to the PHP Contractor regarding attendance and
12 progress.
- 13
- 14 d. If requested by the PHP Contractor, Respondent shall attend ninety 12-step
15 meetings or other self-help group meetings appropriate for substance abuse and
16 approved by the PHP Contractor, for a period of ninety days. Upon completion
17 of the ninety meetings in ninety days, Respondent shall participate in a 12-step
18 recovery program or other self-help program appropriate for substance abuse as
19 recommended by the PHP Contractor. Respondent shall attend a minimum of
20 three 12-step or other self-help program meetings per week. Two meetings per
21 month must be Caduceus meetings. Respondent must maintain a log of all self-
22 help meetings.
- 23
- 24 e. Respondent shall promptly obtain a Primary Care Physician ("PCP") and shall
25 submit the name of the physician to the PHP Contractor in writing for approval.
Except in an Emergency, Respondent shall obtain medical care and treatment
only from the PCP and from health care providers to whom the PCP refers

1 Respondent. Respondent shall promptly provide a copy of this Order to the
2 PCP. Respondent shall also inform all other health care providers who provide
3 medical care or treatment that Respondent is participating in the PHP.
4 "Emergency" means a serious accident or sudden illness that, if not treated
5 immediately, may result in a long-term medical problem or loss of life.

6
7 f. Respondent shall enter treatment with a PHP Contractor approved psychiatrist
8 and shall comply with any and all treatment recommendations, including taking
9 any and all prescribed medications. Respondent shall instruct the treating
10 psychiatrist to submit quarterly written reports to the PHP regarding diagnosis,
11 prognosis, current medications, recommendation for continuing care and
12 treatment, and ability to safely practice medicine. The reports shall be submitted
13 quarterly to the PHP, the commencement of which to be determined by the PHP
14 Contractor. Respondent shall provide the psychiatrist with a copy of this
15 Stipulated Rehabilitation Agreement. Respondent shall pay the expenses for
16 treatment and be responsible for paying for the preparation of the quarterly
17 reports. Respondent may submit a written request to the PHP Contractor
18 requesting termination of the requirement that Respondent remain in treatment
19 with a psychiatrist. The decision to terminate will be based in part upon the
20 treating psychiatrist's recommendation for continued care and treatment.

21
22 g. All prescriptions for controlled substances shall be approved by the PHP
23 Contractor prior to being filled except in an Emergency. Controlled substances
24 prescribed and filled in an emergency shall be reported to the PHP within 48
25 hours. Respondent shall take no Medication unless the PCP or other health care
provider to whom the PCP refers Respondent prescribes and the PHP
Contractor approves the Medication. Respondent shall not self-prescribe any

1 Medication. "Medication" means a prescription-only drug, controlled substance,
2 and over-the counter preparation, other than plain aspirin, plain ibuprofen, and
3 plain acetaminophen.

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

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

17 j. Respondent shall provide the PHP Contractor with written notice of any plans to
18 travel out of state.

19 k. 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 l. 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
23 providers to ensure compliance with the PHP.
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- 1 m. The relationship between the Respondent and the PHP Contractor is a direct
2 relationship. Respondent shall not use an attorney or other intermediary to
3 communicate with the PHP Contractor on participation and compliance issues.
- 4 n. Respondent shall be responsible for all costs, including costs associated with
5 participating in the PHP, at the time service is rendered or within 30 days of
6 each invoice sent to the Respondent. An initial deposit of two (2) months PHP
7 fees is due upon entering the program. Failure to pay either the initial PHP
8 deposit or monthly fees 60 days after invoicing will be reported to the Board by
9 the PHP Contractor and may result in disciplinary action.
- 10 o. Respondent shall appear in person before with the PHP Contractor for
11 interviews upon request, upon reasonable notice.
- 12 p. Respondent shall immediately provide a copy of this Order to all employers,
13 hospitals and free standing surgery centers where Respondent currently has or
14 in the future gains or applies for employment or privileges. Within 30 days of the
15 date of this Order, Respondent shall provide the PHP with a signed statement of
16 compliance with this notification requirement. Respondent is further required to
17 notify, in writing, all employers, hospitals and free standing surgery centers
18 where Respondent currently has or in the future gains or applies for employment
19 or privileges of a violation of this Order.
- 20 q. In the event Respondent resides or practices as a physician in a state other than
21 Arizona, Respondent shall participate in the rehabilitation program sponsored by
22 that state's medical licensing authority or medical society. Respondent shall
23 cause the monitoring state's program to provide written quarterly reports to the
24 PHP Contractor regarding Respondent's attendance, participation, and
25 monitoring. The monitoring state's program and Respondent shall immediately

1 notify the PHP Contractor if Respondent is non-compliant with any aspect of the
2 monitoring requirements or is required to undergo any additional treatment.

3 r. The PHP Contractor shall immediately notify the Board if Respondent is non-
4 compliant with any aspect of this Order or is required to undergo any additional
5 treatment.

6 s. In the event of a chemical dependency relapse by Respondent or Respondent's
7 use of controlled substances or alcohol in violation of this Order, Respondent
8 shall promptly enter into an Interim Consent Agreement for Practice Restriction
9 that requires, among other things, that Respondent not practice medicine until
10 such time as Respondent successfully completes long-term inpatient treatment
11 designated by the PHP Contractor and obtains affirmative approval from the
12 Executive Director, in consultation with the Lead Board Member and Chief
13 Medical Consultant, to return to the practice of medicine. Prior to approving
14 Respondent's request to return to the practice of medicine, Respondent may be
15 required to undergo any combination of physical examinations, psychiatric or
16 psychological evaluations. In no respect shall the terms of this paragraph restrict
17 the Board's authority to initiate and taken disciplinary action for any violation of
18 this Order.
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20 t. Respondent shall obey all state, federal and local laws, all rules governing the
21 practice of medicine in Arizona, and remain in full compliance with any court
22 ordered criminal probation, payments and other orders.

23 u. In the event Respondent should leave Arizona to reside or practice outside the
24 State or for any reason should Respondent stop practicing medicine in Arizona,
25 Respondent shall notify the Executive Director in writing within ten days of
departure and return or the dates of non-practice within Arizona. Non-practice is

1 defined as any period of time exceeding thirty days during which Respondent is
2 not engaging in the practice of medicine. Periods of temporary or permanent
3 residence or practice outside Arizona or of non-practice within Arizona, will not
4 apply to the reduction of the probationary period.

5 v. Prior to the termination of Probation, Respondent must submit a written request
6 to the Board for release from the terms of this Order. Respondent's request for
7 release will be placed on the next pending Board agenda, provided a complete
8 submission is received by Board staff no less than 30 days prior to the Board
9 meeting. Respondent's request for release must provide the Board with
10 evidence establishing that she has successfully satisfied all of the terms and
11 conditions of this Order. The Board has the sole discretion to determine
12 whether all of the terms and conditions of this Order have been met or whether
13 to take any other action that is consistent with its statutory and regulatory
14 authority.

15 2. The Board retains jurisdiction and may initiate new action against Respondent
16 based upon any violation of this Order. A.R.S. § 32-1401(27)(r).

17 DATED AND EFFECTIVE this 15th day of September, 2017.

19 ARIZONA MEDICAL BOARD

20 By Patricia E. McSorley
21 Patricia E. McSorley
22 Executive Director

23 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

1 10. Any violation of this Order constitutes unprofessional conduct and may result
 2 in disciplinary action. A.R.S. § § 32-1401(27)(r) (“[v]iolating a formal order, probation,
 3 consent agreement or stipulation issued or entered into by the board or its executive
 4 director under this chapter.”) and 32-1451.

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

6 *Duane L. Miller, M.D.*
 7 DUANE L. MILLER, M.D.

DATED: 8-29-17

9 EXECUTED COPY of the foregoing mailed
 10 this 15th day of September, 2017 to:

11 Duane L. Miller, M.D.
 12 Address of Record

13 ORIGINAL of the foregoing filed
 this 15th day of September, 2017 with:

14 Arizona Medical Board
 15 9545 E. Doubletree Ranch Road
 Scottsdale, AZ 85258

16 *Mary Barber*
 17 Board staff

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