

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **JACK L. POTTS, M.D.**

4 Holder of License No. 12185  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Case No. MD-14-0607A

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

7 Jack L. Potts, 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 12185 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-14-0607A after receiving notification  
17 from a hospital reporting that Respondent had presented to work on May 2, 2014 and  
18 treated a patient while intoxicated.

19 4. A Medical Consultant ("MC") reviewed Respondent's psychiatric care of  
20 patient E.H. The MC found that Respondent's conduct during his encounter with E.H.  
21 deviated from the standard of care. The MC also found that Respondent failed to  
22 document a face-to-face assessment of E.H. while she was in physical restraints.

23 5. Respondent entered into an Interim Consent Agreement for Practice  
24 Restriction, effective May 21, 2014, which prohibited Respondent from practicing medicine  
25

1 in Arizona until the Board granted him permission to do so after completing as assessment  
2 with the Board's Physician Health Program ("PHP") Contractor.

3 6. Respondent prescribed medications to two patients while he was restricted  
4 from practicing medicine.

5 7. Respondent completed inpatient residential treatment and was discharged  
6 with staff approval. Respondent's discharge recommendations included long-term  
7 monitoring.

8 8. Respondent met with the PHP Contractor on September 29, 2015 for a post-  
9 treatment assessment. The PHP Contractor concurred with Respondent's discharge  
10 recommendations and recommended that Respondent be monitored by the PHP  
11 Contractor for a period of five (5) years.

#### 12 **CONCLUSIONS OF LAW**

13 1. The Board possesses jurisdiction over the subject matter hereof and over  
14 Respondent.

15 2. The conduct and circumstances described above constitute unprofessional  
16 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[A]ny conduct or practice that is or might be  
17 harmful or dangerous to the health of the patient or the public.").

18 3. The conduct and circumstances described above constitute unprofessional  
19 conduct pursuant to A.R.S. § 32-1401(27)(r) ("[V]iolating a formal order, probation, consent  
20 agreement or stipulation issued or entered into by the board or its executive director under  
21 this chapter.").

#### 22 **ORDER**

23  
24 IT IS HEREBY ORDERED THAT:

25 1. Respondent is issued a Letter of Reprimand.

1           2.       Respondent's license is placed on Probation for **five years** and is subject to  
2 his continued participation<sup>1</sup> in the Board's Physician Health Program ("PHP") and  
3 compliance with the following terms and conditions

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

6           4.       Respondent shall not take any illegal drugs or mood altering medications.

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

13          6.       If requested by the PHP, Respondent shall attend ninety 12-step meetings or  
14 other self-help group meetings appropriate for substance abuse and approved by the  
15 PHP, for a period of ninety days. Upon completion of the ninety meetings in ninety days,  
16 Respondent shall participate in a 12-step recovery program or other self-help program  
17 appropriate for substance abuse as recommended by the PHP. Respondent shall attend a  
18 minimum of three 12-step or other self-help program meetings per week. Two meetings  
19 per month must be Caduceus meetings. Respondent must maintain a log of all self-help  
20 meetings.

21          7.       Respondent shall promptly obtain a primary care physician ("PCP") and shall  
22 submit the name of the physician to the PHP in writing for approval. The approved PCP  
23 shall be in charge of providing and coordinating Respondent's medical care and treatment.

24 \_\_\_\_\_

25 <sup>1</sup> Respondent's PHP participation is retroactive to November 19, 2015.

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

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

15 9. Respondent shall submit to random biological fluid, hair, and/or nail testing  
16 for five years from the date of this Order (as specifically directed below) to ensure  
17 compliance with PHP.

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

1 testing.

2 11. Respondent shall provide the PHP with written notice of any plans to travel  
3 out of state.

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

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

9 14. The relationship between the Respondent and the PHP is a direct  
10 relationship. Respondent shall not use an attorney or other intermediary to communicate  
11 with the PHP on participation and compliance issues.

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

18 16. Respondent shall immediately provide a copy of this Order to all employers,  
19 hospitals and free standing surgery centers where Respondent currently has or in the  
20 future gains or applies for employment or privileges. Within 30 days of the date of this  
21 Order, Respondent shall provide the PHP with a signed statement of compliance with this  
22 notification requirement. Respondent is further required to notify, in writing, 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, of a chemical dependency relapse or  
25 violation of this Order.

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

8           18. The PHP shall immediately notify the Board if Respondent is non-compliant  
9 with any aspect of the monitoring requirements or this Order.

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

22          20. Respondent shall obey all federal, state and local laws, and all rules  
23 governing the practice of medicine in the State of Arizona.

24          21. Respondent shall appear in person before the Board and/or its staff and PHP  
25 for interviews upon request, with reasonable notice.

1           22. This Order supersedes all previous consent agreements and stipulations  
2 between the Board and/or the Executive Director and Respondent.

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

13           DATED AND EFFECTIVE this 11<sup>th</sup> day of October, 2016.

14           ARIZONA MEDICAL BOARD

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

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

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

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

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

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

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

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

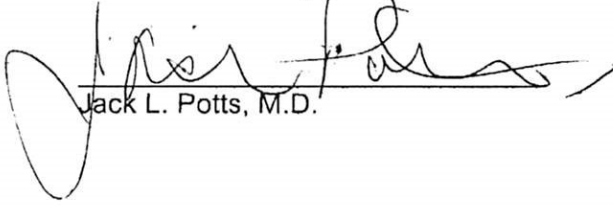
21 9. If the Board does not adopt this Order, Respondent will not assert as a  
22 defense that the Board's consideration of the Order constitutes bias, prejudice,  
23 prejudgment or other similar defense.

24 10. Any violation of this Order constitutes unprofessional conduct and may result  
25 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation,



1 consent agreement or stipulation issued or entered into by the board or its executive  
2 director under this chapter”) and 32-1451.

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

4   
5 Jack L. Potts, M.D.


DATED: 10.8.16

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7  
8 EXECUTED COPY of the foregoing mailed  
9 this 11<sup>th</sup> day of October, 2016 to:

10 Holly Gieszl, Esq.  
11 3200 North Central Avenue, Suite 1500  
12 Phoenix, AZ 85012  
13 Attorney for Respondent

14 ORIGINAL of the foregoing filed  
15 this 11<sup>th</sup> day of October, 2016 with:

16 Arizona Medical Board  
17 9545 E. Doubletree Ranch Road  
18 Scottsdale, AZ 85258

19   
20 Board Staff