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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MICHAEL S. YASINSKI, M.D.

Holder of License No. 44236
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-18-0483A, MD-18-0737A

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

Michael S. Yasinski, M.D. (“Respondent”) elects to permanently waive any right to a hearing and appeal with respect to this Order for Letter of Reprimand/Decree of Censure and Probation; admits the jurisdiction of the Arizona Medical Board (“Board”); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

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

2. Respondent is the holder of license number 44236 for the practice of allopathic medicine in the State of Arizona.

MD-18-0483A

3. The Board initiated case number MD-18-0483A after receiving a complaint regarding Respondent’s care and treatment of a 50 year-old female patient (“MA”) alleging failure to release medical records.

4. On May 22, 2018 the Board received a complaint from patient MA alleging that she had been attempting to obtain her medical records, and records relating to her husband’s (“JA”) care since January 8, 2018.

5. Board staff sent notice letters requesting a response to Respondent’s address of record on May 30, 2018, August 2, 2018, and August 28, 2018.

6. Respondent provided MA’s medical records to MA on September 19, 2018.

1 7. On December 3, 2018, Board staff sent Respondent an email requesting that
2 he provide JA's records. Respondent acknowledged receipt of the email.

3 8. On May 8, 2019, Respondent provided a written response to the Board
4 stating that he saw JA twice during MA's scheduled appointments and provided him with
5 prescriptions for Prozac on both occasions. Respondent stated that he did not maintain
6 medical records related to his treatment of JA.

7 **MD-18-0737A**

8 9. The Board initiated case MD-18-0737A on August 3, 2018 after receiving
9 Respondent's self-report of a DUI arrest on February 2, 2018, as well as an arrest for
10 assault, criminal damage and disorderly conduct on March 9, 2018.

11 10. On February 2, 2018, Respondent was arrested for DUI. Respondent's
12 blood tested positive for controlled substances. Respondent subsequently pled guilty to a
13 class I misdemeanor of driving under the influence.

14 11. On March 9, 2018, Respondent was arrested for assault, criminal damage,
15 and two counts of disorderly conduct arising out of an altercation that occurred in a
16 residence Respondent shared with HH. The charges against Respondent were
17 subsequently dismissed.

18 12. Between January 26, 2017 and May 16, 2018, Respondent prescribed 38
19 prescriptions for controlled substances for HH including Vyvanse, clonazepam, lorazepam,
20 Adderall and oxycodone-acetaminophen. During the course of the Board's investigation,
21 Respondent admitted that he failed to maintain medical records for his treatment of HH.

22 13. On September 17, 2018, Respondent underwent a Physician Health
23 Program ("PHP") Assessment with a Board approved Assessor. Based on the
24 assessment findings and conclusions, the Assessor opined that Respondent was not safe
25 to practice medicine, and recommended completion of an inpatient evaluation.

1 14. Effective September 27, 2018, Respondent entered into an Interim Consent
2 Agreement for Practice Restriction ("Practice Restriction").

3 15. Respondent subsequently completed an inpatient evaluation at a Board-
4 approved facility ("Facility"). Based on the evaluation findings and conclusions, the Facility
5 opined that Respondent complete inpatient treatment, comply with recommendations for
6 aftercare and enroll in post-treatment monitoring with the Board's PHP.

7 16. Respondent entered into inpatient treatment at a Board-approved treatment
8 center ("Treatment Center") and was discharged with staff approval on May 2, 2019. The
9 Treatment Center opined that Respondent would be safe to return to the practice of
10 medicine with PHP monitoring and compliance with aftercare recommendations.

11 17. Effective May 29, 2019 Respondent entered into an Interim Consent
12 Agreement for PHP Participation with terms and conditions of PHP monitoring and
13 aftercare which also vacated the Practice Restriction ("Interim Consent Agreement").

14 18. Respondent is currently in compliance with the terms and conditions of the
15 Interim Consent Agreement.

16 **CONCLUSIONS OF LAW**

17 a. The Board possesses jurisdiction over the subject matter hereof and over
18 Respondent.

19 b. The conduct and circumstances described above constitute unprofessional
20 conduct pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws or rules
21 and regulations applicable to the practice of medicine.") Specifically:

22 i. Respondent's conduct described in MD-18-0483A violated A.R.S.
23 §12-2293(A) ("Except as provided in subsections B and C of this
24 section, on the written request of a patient or the patient's health care
25 decision maker for access to or copies of the patient's medical records

1 and payment records, the health care provider in possession of the
2 record shall provide access to or copies of the records to the patient
3 or the patient's health care decision maker.”).

4 ii. Respondent’s conduct described in MD-18-0737A violated A.R.S. §
5 32-3208(A) (“A health professional who has been charged with a
6 misdemeanor involving conduct that may affect patient safety or a
7 felony after receiving or renewing a license or certificate must notify
8 the health professional's regulatory board in writing within ten working
9 days after the charge is filed.”).

10 c. The conduct and circumstances described above constitute unprofessional
11 conduct pursuant to A.R.S. § 32-1401(27)(e) (“Failing or refusing to maintain adequate
12 records on a patient.”).

13 d. The conduct and circumstances described in MD-18-0737A constitute
14 unprofessional conduct pursuant to A.R.S. § 32-1401(27)(f) (“A pattern of using or being
15 under the influence of alcohol or drugs or a similar substance while practicing medicine or
16 to the extent that judgment may be impaired and the practice of medicine detrimentally
17 affected.”).

18 e. The conduct and circumstances described in MD-18-0737A constitute
19 unprofessional conduct pursuant to A.R.S. § 32-1401(27)(g) (“Using controlled substances
20 except if prescribed by another physician for use during a prescribed course of
21 treatment.”).

22 f. The conduct and circumstances described in MD-18-0737A constitute
23 unprofessional conduct pursuant to A.R.S. § 32-1401(27)(j) (“Prescribing, dispensing or
24 administering any controlled substance or prescription-only drug for other than accepted
25 therapeutic purposes.”).

1 g. The conduct and circumstances described above constitute unprofessional
2 conduct pursuant to A.R.S. § 32-1401(27)(r) (“Committing any conduct or practice that is
3 or might be harmful or dangerous to the health of the patient or the public.”).

4 h. The conduct and circumstances described in MD-18-0483A constitute
5 unprofessional conduct pursuant to A.R.S. § 32-1401(27)(ee) (“Failing to furnish
6 information in a timely manner to the board or the board’s investigators or representatives
7 if legally requested by the board.”).

8 i. The conduct and circumstances described above constitute unprofessional
9 conduct pursuant to A.R.S. § 32-1401(27)(tt) (“Prescribing, dispensing or furnishing a
10 prescription medication or a prescription-only device as defined in section 32-1901 to a
11 person unless the licensee first conducts a physical examination of that person or has
12 previously established a doctor-patient relationship. The physical or mental health status
13 examination may be conducted during a real-time telemedicine encounter with audio and
14 video capability, unless the examination is for the purpose of obtaining a written
15 certification from the physician for the purposes of title 36, chapter 28.1.”).

16 **ORDER**

17 IT IS HEREBY ORDERED THAT:

- 18 1. Respondent is issued a Letter of Reprimand.
19 2. Respondent is placed on Probation for a period of 5 years¹ with the following
20 terms and conditions:

21 a. **Continuing Medical Education**

22 Respondent shall within 12 months of the effective date of this Order obtain no less
23 than 10 hours of Board staff pre-approved Category I Continuing Medical Education
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¹ Respondent’s probation shall be retroactive to May 29, 2019.

1 ("CME") in an intensive, in-person course regarding medical recordkeeping, no less than
2 10 hours of Board staff pre-approved Category I CME in an intensive, in-person CME in
3 prescribing controlled substances, and no less than 15 hours of Board staff pre-approved
4 Category I CME in an intensive, in-person course regarding ethics/boundaries.
5 Respondent shall within thirty days of the effective date of this Order submit his request for
6 CME to the Board for pre-approval. Upon completion of the CME, Respondent shall
7 provide Board staff with satisfactory proof of attendance. The CME hours shall be in
8 addition to the hours required for the biennial renewal of medical licensure.

9 **b. Physician Health Program**

10 Respondent shall continue enrollment with the PHP and comply with the following
11 terms and conditions:

12 1. Respondent shall not consume alcohol or any food or other substance
13 containing poppy seeds or alcohol.

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

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

24 4. Respondent shall continue to participate in any personalized aftercare
25 programs or activities as recommended by the Facility in its post-treatment

1 discharge summary. Respondent shall report on those activities as
2 requested by the PHP, including executing any releases necessary to allow
3 the PHP to monitor his participation and communicate directly with and
4 obtain records from the treating providers for those aftercare activities.
5 Respondent shall be responsible for all costs of aftercare, including costs
6 associated with compliance of this Interim Consent Agreement.

7 5. Respondent shall attend ninety 12-step meetings or other self-help
8 group meetings appropriate for substance abuse and approved by the PHP,
9 for a period of ninety days. Upon completion of the ninety meetings in ninety
10 days, Respondent shall participate in a 12-step recovery program or other
11 self-help program appropriate for substance abuse as recommended by the
12 PHP. Respondent shall attend a minimum of three 12-step or other self-help
13 program meetings per week. Two meetings per month must be Caduceus
14 meetings. Respondent must maintain a log of all self-help meetings.

15 6. Respondent shall promptly obtain a Primary Care Physician ("PCP")
16 and shall submit the name of the physician to the PHP in writing for approval.
17 The approved PCP shall be in charge of providing and coordinating
18 Respondent's medical care and treatment. Except in an *Emergency*,
19 Respondent shall obtain medical care and treatment only from the PCP and
20 from health care providers to whom the PCP refers Respondent. Respondent
21 shall promptly provide a copy of this Interim Consent Agreement to the PCP.
22 Respondent shall also inform all other health care providers who provide
23 medical care or treatment that Respondent is participating in PHP.
24 "Emergency" means a serious accident or sudden illness that, if not treated
25 immediately, may result in a long-term medical problem or loss of life.

1 7. Respondent shall enter treatment with a PHP Contractor approved
2 addiction psychiatrist as recommended by the Facility in its post-treatment
3 discharge summary and shall comply with any and all treatment
4 recommendations, including taking any and all prescribed medications.
5 Respondent shall instruct the treating professional to submit quarterly written
6 reports to the PHP regarding diagnosis, prognosis, current medications,
7 recommendation for continuing care and treatment, and ability to safely
8 practice medicine. The reports shall be submitted quarterly to the PHP, the
9 commencement of which to be determined by the PHP Contractor.
10 Respondent shall provide the psychiatrist with a copy of this Order.
11 Respondent shall pay the expenses for treatment and be responsible for
12 paying for the preparation of the quarterly reports. At the expiration of one
13 year or anytime thereafter, Respondent may submit a written request to the
14 PHP Contractor requesting termination of the requirement that Respondent
15 remain in treatment with a psychiatrist. The decision to terminate will be
16 based in part upon the treating psychiatrist's recommendation for continued
17 care and treatment.

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

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

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

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

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

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

23 14. The relationship between the Respondent and the PHP is a direct
24 relationship. Respondent shall not use an attorney or other intermediary to
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1 communicate with the PHP on participation and compliance issues. Any such
2 questions should be directed to Board staff.

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

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

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

1 with any aspect of the monitoring requirements or is required to undergo any
2 additional treatment.

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

6 **c. Obey All Laws**

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

10 **d. Tolling**

11 In the event Respondent should leave Arizona to reside or practice outside the
12 State or for any reason should Respondent stop practicing medicine in Arizona,
13 Respondent shall notify the Executive Director in writing within ten days of departure and
14 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
15 time exceeding thirty days during which Respondent is not engaging in the practice of
16 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
17 non-practice within Arizona, will not apply to the reduction of the probationary period.

18 **e. Probation Termination**

19 Prior to the termination of Probation, Respondent must submit a written request to
20 the Board for release from the terms of this Order. Respondent's request for release will
21 be placed on the next pending Board agenda, provided a complete submission is received
22 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for
23 release must provide the Board with evidence establishing that he has successfully
24 satisfied all of the terms and conditions of this Order, and be supported by a
25 recommendation from his PHP Contractor that monitoring is no longer required. The

1 Board has the sole discretion to determine whether all of the terms and conditions of this
2 Order have been met or whether to take any other action that is consistent with its
3 statutory and regulatory authority.

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

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

8 DATED AND EFFECTIVE this 8th day of November, 2019.

9
10 ARIZONA MEDICAL BOARD

11
12 By 
13 Patricia E. McSorley
14 Executive Director

15 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

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

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

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

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

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1 11. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), he
2 cannot act as a supervising physician for a physician assistant while her/his license is on
3 probation.

4 12. *Respondent has read and understands the conditions of probation.*

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7 _____
MICHAEL S. YASINSKI, M.D.

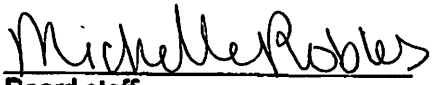
DATED: 10/9/19

8 EXECUTED COPY of the foregoing mailed
9 this 5th day of November, 2019 to:

10 Steve Myers, Esq.
11 Mitchell Stein Carey Chapman, PC
12 One Renaissance Square
13 2 North Central Avenue, Suite 1450
14 Phoenix, AZ 85004
15 Counsel for Respondent

16 ORIGINAL of the foregoing filed
17 this 5th day of November, 2019 with:

18 Arizona Medical Board
19 1740 West Adams, Suite 4000
20 Phoenix, Arizona 85007

21 
22 _____
23 Board staff
24
25