

1 denied inappropriately touching Patient #1. Respondent failed to properly document the
2 liposuction consultation in the patient's chart.

3 5. On February 2 through February 4, 2015, Respondent attended a
4 psychosexual evaluation at Pine Grove Behavioral Health Center ("Pine Grove"). Based
5 on the evaluation, Pine Grove staff opined that Respondent was unsafe to practice without
6 completing an intensive, residential-level treatment program that will address professional
7 boundary issues including a professional boundaries course that may be completed during
8 the treatment process.

9 6. On February 17, 2015, Respondent entered into an Interim Consent
10 Agreement with the Board for a Practice Restriction, to remain in effect until Respondent
11 successfully completed the evaluator's recommendations and receives the Board's
12 permission to return to practice.

13 7. On March 6 through March 11, 2015, Respondent completed a professional
14 boundaries course at the University of California, Irvine School of Medicine. On March 11,
15 2015, Respondent presented to Behavioral Medicine Institute of Atlanta ("BMI") to
16 complete the recommended treatment program.

17 8. On April 9, 2015, Respondent submitted his request that the Board terminate
18 the Interim Practice Restriction.

19 9. On April 23, 2015, the Board received a letter from the Medical Director of
20 BMI indicating that after treatment, Respondent would be safe to practice and does not
21 pose a safety threat to patients or staff. The Medical Director recommended that
22 Respondent follow up with a cognitive behaviorally oriented therapist, utilize Staff
23 Surveillance Forms, Patient Satisfaction Forms and disperse the Principals of Medical
24 Practice in his office. It was further recommended that Respondent have a chaperone
25

1 present when seeing all female patients, and that he seek a new physician for treatment of
2 various medical conditions.

3 **CONCLUSIONS OF LAW**

4 a. The Board possesses jurisdiction over the subject matter hereof and over
5 Respondent.

6 b. The conduct and circumstances described above constitute unprofessional
7 conduct pursuant to A.R.S. § 32-1401(27)(e) (“[f]ailing or refusing to maintain adequate
8 records on a patient.”).

9 c. The conduct and circumstances described above constitute unprofessional
10 conduct pursuant to A.R.S. § 32-1401(27)(z) (“[e]ngaging in sexual conduct with a current
11 patient or with a former patient within six months after the last medical consultation unless
12 the patient was the licensee’s spouse at the time of the contact or, immediately preceding
13 the physician-patient relationship, was in a dating or engagement relationship with the
14 licensee. For the purposes of this subdivision, “sexual conduct” includes: i. Engaging in or
15 soliciting sexual relationships, whether consensual or nonconsensual. ii. Making sexual
16 advances, requesting sexual favors, or engaging in any other verbal conduct or physical
17 contact of a sexual nature. iii. Intentionally viewing a completely or partially disrobed
18 patient in the course of treatment if the viewing is not related to patient diagnosis or
19 treatment under current practice standards.”).

20
21 **ORDER**

22 IT IS HEREBY ORDERED THAT:

- 23 1. Respondent is issued a Letter of Reprimand.
24 2. Respondent is placed on Probation for a period of ten (10) years with the
25 following terms and conditions:

1 **b. Practice Restriction**

2 Respondent is prohibited from practicing any form of medicine until
3 Respondent's cognitive behavioral therapist, as identified in paragraph 2(b) below, sends a
4 letter to Board staff affirming that the therapist has reviewed the information in the case,
5 including the records from BMI, that Respondent has "engaged" in therapy as identified in
6 the BMI report and that Respondent has agreed to the terms of treatment as
7 recommended by the therapist and BMI.¹

8 Respondent shall implement the recommendations provided by BMI
9 including the following: Respondent shall immediately retain the services of a female
10 chaperone, who shall be a licensed healthcare provider (i.e. registered nurse, licensed
11 practical nurse or physician assistant) employed by the Respondent, hospital or clinic and
12 may not be a representative or relative who accompanied the patient, and shall be present
13 in the treatment room with Respondent at all times when Respondent is treating female
14 patients. The chaperone shall sign off on all charts for patients that the chaperone
15 observed. Respondent shall authorize the chaperone to communicate with Board staff
16 regarding Respondent's compliance with this portion of the Order. Additionally,
17 Respondent shall use the forms provided to him by BMI, including but not limited to the
18 Staff Surveillance Forms, Patient Satisfaction Forms and dispersion of Principles of
19 Medical Practice.

20 **c. Cognitive Behavioral Therapist**

21 Respondent shall enter treatment with one of the cognitive behavioral
22 therapist recommended by BMI and shall comply with any and all treatment
23 recommendations. Respondent shall instruct the treating cognitive behavioral therapist to
24 submit written reports to Board staff regarding diagnosis, prognosis, current medications,
25

1 recommendation for continuing care and treatment, and ability to safely practice medicine.
2 The reports shall be submitted quarterly to Board staff for the two years and then
3 biannually thereafter, the commencement of which to be determined by Board staff.²
4 Respondent shall pay the expenses of treatment and is responsible for paying for the
5 preparation of the periodic reports. Respondent shall authorize the cognitive behavioral
6 therapist to communicate with Board staff regarding Respondent's compliance with
7 treatment, and if at any time the cognitive behavioral therapist finds evidence that
8 Respondent is a safety threat to patients.

9 Respondent may submit a written request to Board staff requesting that the
10 Board terminate the requirement that Respondent remain in treatment with the cognitive
11 behavioral therapist. The request must be accompanied by a final report from the cognitive
12 behavioral therapist affirming that Respondent has completed treatment and is safe to
13 practice. The Board shall have the sole discretion to determine whether to grant
14 Respondent's request for termination of this requirement.

15 **d. Treating Physician(s)**

16 Respondent shall promptly obtain a Primary Care Physician ("PCP") and
17 shall submit the name of the physician to Board staff in writing for approval. The approved
18 PCP shall be in charge of providing and coordinating Respondent's medical care and
19 treatment, specifically treatment for the health conditions identified in the BMI report. In
20 the event that the PCP advises that Respondent's conditions should be treated by a
21 specialty medical provider, Respondent shall also submit the name of the specialty
22 medical provider to Board staff in writing for approval. Respondent shall promptly provide
23 a copy of this Order to the PCP, and any specialty medical providers for these specified
24

25 ¹ Respondent complied with this term on September 1, 2015 by sending correspondence from his therapist
confirming that he had engaged in therapy as of May 28, 2015.

² This term shall be retroactive to May 28, 2015.

1 conditions and authorize those physicians to communicate directly with Board staff and
2 authorize release of any medical records to Board staff by the treating physicians upon
3 request from Board staff.

4 **e. Chart Reviews**

5 Board Staff or its agents shall conduct periodic chart reviews. Based upon
6 the chart review, the Board retains jurisdiction to take additional disciplinary or remedial
7 action.

8 **f. Obey All Laws**

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

12 **g. Tolling**

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

20 **h. Probation Termination**

21
22 Prior to the termination of Probation, Respondent must submit a written
23 request to the Board for release from the terms of this Order. Respondent's request for
24 release will be placed on the next pending Board agenda, provided a complete submission
25 is received by Board staff no less than 14 days prior to the Board meeting. Respondent's
request for release must provide the Board with evidence establishing that he has

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

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

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

9 DATED AND EFFECTIVE this 8th day of October, 2015.

10
11
12 ARIZONA MEDICAL BOARD

13
14 By Patricia E. McSorley
15 Patricia E. McSorley
16 Executive Director

17 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

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

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

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

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

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 his license is on
3 probation.

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

5
6 Redentor T. Espiritu
7 REDENTOR T. ESPIRITU, M.D.

DATED: 9/26/15

8
9 EXECUTED COPY of the foregoing mailed
this 8th day of October, 2015 to:

10 Kathleen Carey
11 Kathleen N. Carey Law Offices
12 637 N Third Ave., Suite 6
13 Phoenix, Arizona 85003
Attorney for Respondent

14 ORIGINAL of the foregoing filed
this 8th day of October, 2015 with:

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

18 Mary Prober
19 Board Staff

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