

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **NATHAN M. BROOKS, M.D.**

4 Holder of License No. 34307
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-14-1229A

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR LETTER
OF REPRIMAND, CIVIL PENALTY AND
PROBATION**

7 The Arizona Medical Board ("Board") considered this matter at its public meeting on
8 December 2, 2015. Nathan M. Brooks, M.D. ("Respondent"), appeared with legal counsel
9 Jessica Miller, Esq. before the Board for a formal interview pursuant to the authority vested
10 in the Board by A.R.S. § 32-1451(H). The Board voted to issue Findings of Fact,
11 Conclusions of Law and Order after due consideration of the facts and law applicable to
12 this matter.

13 **FINDINGS OF FACT**

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

16 2. Respondent is the holder of license number 34307 for the practice of
17 allopathic medicine in the State of Arizona.

18 3. The Board initiated case number MD-14-1229A after receiving a complaint
19 alleging that Respondent had an inappropriate relationship with a female patient, JG.

20 4. In his initial response to the Board's investigation, Respondent admitted to
21 dating JG, but affirmatively alleged that the relationship started after the termination of the
22 patient/physician relationship. Respondent asserted in his initial response that he had not
23 seen JG as a patient after the last noted chart date of May 23, 2013.

24 5. Board staff subsequently obtained pharmacy records showing that
25 Respondent prescribed Clonazepam to JG in March of 2014 and Phentermine in March,

1 July, and August 2014. Respondent has been unable to produce any medical records
2 relating to these dates of service.

3 6. Board staff also obtained records related to Patient JG identifying
4 Respondent as both her significant other and her physician, and establishing that
5 Respondent paid for JG to have elective plastic surgery in September of 2014.

6 7. In separate investigational interviews with Board staff, JG and Respondent
7 both admitted that a kiss was shared in June or July of 2013. At the time of her
8 investigational interview, JG stated that she and Respondent were in an ongoing
9 relationship. At the time of his investigational interview, Respondent denied having an
10 ongoing sexual relationship with JG.

11 8. On June 16, 2015, Respondent presented for a psychosexual evaluation at
12 Psychological and Consulting Services ("PCS"). During the interview portion of the
13 evaluation, Respondent informed the evaluator that he and JG had been married for
14 approximately one month. Respondent also admitted for the first time to having an
15 inappropriate relationship with JG that began in September of 2013 and became sexual in
16 approximately October of 2013. The PCS evaluator concluded that Respondent would
17 benefit from therapy aimed at helping Respondent understand his personality
18 characteristics and how that led to his sexual involvement with a patient, as well as victim
19 empathy training, sexual harassment training and relapse prevention training. The PCS
20 evaluator further recommended practice modifications such as use of a chaperone/scribe,
21 establishment of a check and balance system, and use of feedback forms for patients and
22 staff.

23 9. During the course of the Board's investigation, this matter was forwarded to a
24 Medical Consultant ("MC") for the performance of a quality of care review into
25 Respondent's care and treatment of JG. The MC opined that Respondent prescribed

1 controlled substances to patient JG while engaging in a personal relationship with her,
2 violating medical ethics and state statutes. A medical recordkeeping concern was also
3 raised in that Respondent failed to maintain a record regarding the controlled substance
4 prescriptions written for JG.

5 10. The standard of care prohibits the prescribing of controlled substances to
6 close personal friends and immediate family. Respondent deviated from the standard of
7 care by prescribing controlled substances to JG while engaging in a personal relationship
8 with the patient.

9 11. Patient JG was at risk for potential harm as prescribing of controlled
10 substances has a high potential for control and manipulation.

11 12. During a Formal Interview on this matter, Respondent testified that he did not
12 fully understand the definition of sexual activity as outlined in the Board's statutes. With
13 regard to the inappropriate prescribing described herein, Respondent testified that he
14 believes that either a physician assistant working in the practice refilled JG's controlled
15 substance prescriptions or that he signed the refill authorizations in a stack of other refills.
16 With regard to his inability to produce records relating to the prescriptions, Respondent
17 testified that he sold his practice to a third party and there has been an error on the
18 computer server on which the records of JG and other patients are located that has not
19 been repaired.

20 13. Respondent married patient JG.

21 CONCLUSIONS OF LAW

22 1. The Board possesses jurisdiction over the subject matter hereof and over
23 Respondent.

1 3. Respondent is placed on Probation for a period of ten (10) years with the
2 following terms and conditions:

3 **a. Continuing Medical Education**

4 Within 6 months of the effective date of this Order, Respondent shall obtain no less
5 than 15 hours of Board staff pre-approved Category I Continuing Medical Education
6 ("CME") in an intensive, in-person course regarding boundaries and ethics. Within thirty
7 days of the effective date of this Order Respondent shall submit his request for CME to the
8 Board for pre-approval. Upon completion of the CME, Respondent shall provide Board
9 staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours
10 required for the renewal of licensure.

11 **b. Chart Reviews**

12 Board staff or its agents shall conduct periodic chart reviews to monitor
13 Respondent's compliance with the terms of this Order. Based upon the chart review, the
14 Board retains jurisdiction to take additional disciplinary or remedial action.

15 **c. Practice Requirements**

16 Respondent shall implement the practice recommendations as stated in the PCS
17 report, including implementation of a check and balance system in accordance with the
18 Principles of Practice and use of Staff Surveillance and Patient Satisfaction forms, with the
19 exclusion of paragraphs 5 and 11 of the PCS report.

20 **d. Board-Approved Psychologist**

21 Respondent shall enter treatment with a Board-approved psychologist as
22 recommended by PCS and shall comply with any and all treatment recommendations. At
23 the initiation of treatment, Respondent shall authorize the psychologist to confirm in writing
24 to Board staff that they have read the PCS evaluation, and that they agree to summarize
25 results of their therapy, of the check and balance system described in the PCS report and

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

10 **e. Obey All Laws**

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

14 **f. Tolling**

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

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

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

5 5. The Board retains jurisdiction and may initiate new action based upon any violation
6 of this Order.

7 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

8 Respondent is hereby notified that he has the right to petition for a rehearing or
9 review. The petition for rehearing or review must be filed with the Board's Executive
10 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
11 petition for rehearing or review must set forth legally sufficient reasons for granting a
12 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after
13 date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed,
14 the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

15 Respondent is further notified that the filing of a motion for rehearing or review is
16 required to preserve any rights of appeal to the Superior Court.

17 DATED AND EFFECTIVE this 26th day of January, 2016.

18 ARIZONA MEDICAL BOARD

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

22 EXECUTED COPY of the foregoing mailed
23 this 26th day of January, 2016 to:

24 Jessica Miller
25 Zoldan Law Group PLLC
8100 E Indian School Rd., Suite 103
Scottsdale, AZ 85251
Attorney for Respondent

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ORIGINAL of the foregoing filed
this 26th day of January, 2016 with:

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

Mary Barber
Board Staff