

1 5. During an interview with Board staff, Patient 1 alleged that Respondent
2 engaged in multiple verbally abusive and sexually explicit conversations with her, both
3 during appointments and by phone. Respondent denied the allegations made by Patient
4 1.

5 6. Respondent initially saw Patient 1 on September 25, 2019 for a
6 comprehensive new patient visit. Respondent documented a principal treating diagnosis
7 of PTSD, borderline personality disorder, alcohol dependence, and problems related to the
8 social environment. Respondent additionally identified a target symptom of mood lability.
9 Patient 1 requested to restart Vyvanse that had previously been prescribed by another
10 provider, but Respondent declined to prescribe it at that time due to the recency of Patient
11 1's sobriety.

12 7. Respondent saw Patient 1 again on October 2, 2019. Respondent
13 prescribed Vyvanse 30 mg daily for depression, concentration and eating concerns.
14 Respondent identified concentration and depressed mood as target symptoms.

15 8. Patient 1 was discharged from BHC 1's residential program on October 15,
16 2019 and returned for an outpatient visit with Respondent on October 30, 2019.
17 Respondent increased Patient 1's Vyvanse prescription to 40 mg daily for periods of
18 inattention.

19 9. Respondent again increased Patient 1's dose of Vyvanse on November 27,
20 2019 by giving Patient 1 prescriptions for both 40 mg and 10 mg to address inattention. In
21 the November 27, 2019 progress note, Respondent identified Patient 1's target symptoms
22 as anxiety, concentration, and depressed mood liability.

23 10. Respondent saw Patient 1 again on December 18, 2019, maintained the
24 current dose of Vyvanse, and identified a target symptom of concentration.

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1 11. On January 15, 2020, Respondent documented that Patient 1 was smoking
2 marijuana and had over four sexual partners since her last visit. Respondent increased
3 her Vyvanse to 50 mg daily. Respondent refilled Patient 1's prescription for Vyvanse 50
4 mg on February 19, 2020.

5 12. On March 11, 2020, Respondent documented a plan to transfer Patient 1 to
6 a female provider, noting that Patient 1 had demonstrated sexual forwardness and had
7 asked him "again" for sex. Respondent emailed BHC 1 with the transfer request.
8 Respondent subsequently documented a call to Patient 1 for a medication question.

9 13. On March 20, 2020 Respondent issued a prescription to Patient 1 for
10 Vyvanse 60 mg daily.

11 14. During an interview with Board staff, Respondent asserted that he contacted
12 Patient 1 after becoming aware of a recent suicide attempt and called to check on her.
13 Respondent denied the allegations of sexual misconduct made by Patient 1 during her
14 interview.

15 15. The standard of care for a physician assistant treating patients for psychiatric
16 illness is to prescribe medications considered safe and effective for the conditions with
17 which a patient has been diagnosed. Respondent deviated from this standard of care by
18 continuing to prescribe Vyvanse to Patient 1 despite her decreasing impulse control.

19 16. There was actual patient harm in that Patient 1's condition deteriorated.
20 There was potential for patient harm in that Patient 1 was at risk of overdose and death.

21 17. Respondent's employee file for BHC 1 included complaints from co-workers
22 regarding alleged use of inappropriate workplace language.

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1 **PA-20-0022A**

2 18. The Board initiated case number PA-20-0022A after receiving a complaint
3 from a second Behavioral Health Center ("BHC 2") reporting that three patients reported
4 concerns of sexual misconduct regarding Respondent.

5 19. Based on the allegations in the complaint, Board staff requested MC review
6 of Respondent's care and treatment of Patients 2, 3 and 4. The MC identified quality of
7 care concerns regarding Patients 3 and 4, and documentation deficiencies regarding all
8 three patients reviewed under this case number.

9 20. Patient 2 established care in the methadone program of the Behavioral
10 Health Center in 2016 to treat opioid use disorder. On August 2, 2018, Patient 2 saw
11 Respondent for a psychiatric evaluation. Respondent documented that Patient 2
12 requested benzodiazepines for anxiety. Respondent documented that Patient 2 left
13 abruptly after he declined to issue her a prescription. On August 8, 2018, a BHC 2
14 employee filed an incident report indicating that Patient 2 complained that Respondent
15 made inappropriate physical contact during the evaluation.

16 21. Patient 3 established care with Respondent in December 2018 for treatment
17 of anxiety, depression and opioid dependence. Respondent prescribed Patient 3
18 medications including hydroxyzine to 100mg four times a day, alprazolam 0.25mg daily,
19 clonidine 0.3mg twice daily, and methadone 55mg daily.

20 22. Patient 4 established care with Respondent in January, 2018 to address
21 depression, anxiety and opioid abuse. Respondent prescribed Patient 4 medications
22 including lamotrigine 50mg daily, methadone 130mg daily, gabapentin 30mg three times
23 daily, clonidine 0.3mg four times daily, and venlafaxine 150mg daily. On February 26,
24 2019, Respondent documented that Patient 4 reported four seizures in the previous two
25 weeks and noted that she had a history of seizures.

1 Professionalism course with a Board approved provider, and additional CME In
2 boundaries, ethics, as well as controlled substance and opioid prescribing. Respondent
3 also completed sexual harassment prevention training.

4 29. Respondent additionally engaged in treatment with a Board approved
5 provider to address medical conditions as recommended by the Facility in its report, and
6 provided Board staff with a copy of his relapse prevention plan.

7 30. Effective December 22, 2021, the Practice Restriction was amended to allow
8 Respondent to treat female patients with the presence of a chaperone ("Amended Practice
9 Restriction").

10 31. On March 26, 2022, Respondent underwent a psychosexual re-evaluation
11 with the Facility. The Facility opined that Respondent was able to demonstrate the
12 knowledge he had gained through therapy and education, and had provided an adequate
13 relapse prevention plan that should assist him in maintaining proper boundaries with
14 patients and co-workers. The Facility further recommended ongoing treatment with
15 appropriate medical providers, and recommended that Respondent should be otherwise
16 safe to return to the performance of healthcare tasks.

17 32. Respondent is in compliance with the terms of the Amended Practice
18 Restriction; however, Respondent's practice has not included treatment of adult female
19 patients and Respondent's license lapsed on January 17, 2021 due to non-renewal.

20 **CONCLUSIONS OF LAW**

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

23 2. The conduct and circumstances described above constitute unprofessional
24 conduct pursuant to A.R.S. § 32-2501(18)(j) ("Committing any conduct or practice that is
25 or might be harmful or dangerous to the health of a patient or the public.").

1 ("CME") in an intensive, in-person course in medical recordkeeping. Respondent shall
2 within thirty days of the effective date of this Order submit his request for CME to the
3 Board for pre-approval. Upon completion of the CME, Respondent shall provide Board
4 staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours
5 required for the biennial renewal of licensure.

6 **c. Treatment**

7 Respondent shall continue treatment with his current Treating Provider as
8 recommended by the Facility and shall comply with any and all treatment
9 recommendations, including taking any and all prescribed medications. Respondent shall
10 instruct the Treating Provider to submit quarterly written reports to the Board regarding
11 diagnosis, prognosis, current medications, recommendations for continuing care and
12 treatment, and ability to safely perform healthcare tasks. The reports shall be submitted
13 quarterly to the Board. Respondent shall provide the Treating Provider with a copy of this
14 Order. Respondent shall pay the expenses for treatment and be responsible for paying for
15 the preparation of the quarterly reports.

16 **d. Probation Termination**

17 Prior to the termination of Probation, Respondent must submit a written request to
18 the Board for release from the terms of this Order. Respondent's request for release will
19 be placed on the next pending Board agenda, provided a complete submission is received
20 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for
21 release must provide the Board with evidence establishing that he has successfully
22 satisfied all of the terms and conditions of this Order. The Board has the sole discretion to
23 determine whether all of the terms and conditions of this Order have been met or whether
24 to take any other action that is consistent with its statutory and regulatory authority.
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1 e. Obey All Laws

2 Respondent shall obey all state, federal and local laws, and all rules governing the
3 performance of healthcare tasks in Arizona.

4 3. The Board retains jurisdiction and may initiate new action against
5 Respondent based upon any violation of this Order. A.R.S. § 32-2501(18)(ee).

6 DATED AND EFFECTIVE this 22 day of February, 2023.

7
8 ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

9
10 By Patricia E. McSorley
11 Patricia E. McSorley
Executive Director

12 CONSENT TO ENTRY OF ORDER

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

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

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

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

24 5. All admissions made by Respondent in this Order are solely for final
25 disposition of this matter and any subsequent related administrative proceedings or civil

1 litigation involving the Board and Respondent. Therefore, said admissions by Respondent
2 are not intended or made for any other use, such as in the context of another state or
3 federal government regulatory agency proceeding, civil or criminal court proceeding, in the
4 State of Arizona or any other state or federal court.

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

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

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

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

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

4 11. Any violation of this Order constitutes unprofessional conduct and may result
5 in disciplinary action. A.R.S. § § 32-2501(18)(ee) ("Violating a formal order, probation
6 agreement or stipulation issued or entered into by the board or its executive director.") and
7 32-2551.

8 12. Respondent has read and understands the terms of this Agreement.

9 

10 DATED: 2/20/23

11

NOLAN W. MARCOS, PA-C

12
13 EXECUTED COPY of the foregoing mailed
this 22nd day of February 2023 to:

14 Nolan W. Marcos
15 Address of Record

16 Sara Stark, Esq.
17 Chelle Law
18 11811 North Tatum Boulevard, Suite 3031
19 Phoenix, Arizona 85028
20 Attorney for Respondent

21 ORIGINAL of the foregoing filed
22 this 22nd day of February 2023 with:

23 Arizona Regulatory Board of Physician Assistants
24 1740 West Adams, Suite 4000
25 Phoenix, Arizona 85007



Board staff