

1 **BEFORE THE ARIZONA REGULATORY BOARD**
2 **OF PHYSICIAN ASSISTANTS**

3 In the Matter of:

4 **MICHAEL M. ABRAHAM, P.A.**

5 Holder of License No. 5934
6 For the Performance of Healthcare Tasks
7 In the State of Arizona

Case No. PA-20-0006A

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR DECREE
OF CENSURE AND PROBATION;
AND CONSENT TO SAME**

8 The Arizona Regulatory Board of Physician Assistants (“Board”) considered this
9 matter at its public meeting on November 29, 2023. Michael M. Abraham, P.A.
10 (“Respondent”), appeared with legal counsel, Flynn Carey, Esq., before the Board for a
11 Formal Interview pursuant to the authority vested in the Board by A.R.S. § 32-2551(G).
12 The Board voted to issue Findings of Fact, Conclusions of Law and Order for Decree of
13 Censure and Probation after due consideration of the facts and law applicable to this
14 matter.

14 **FINDINGS OF FACT**

15 1. The Board is the duly constituted authority for the regulation and control of
16 physician assistants in the State of Arizona.

17 2. Respondent is the holder of license number 5934 for the performance of
18 health care tasks in the State of Arizona.

19 3. The Board initiated case number PA-20-0006A after receiving a report from
20 the Board’s Physician Health Program (“PHP”) that Respondent was non-compliant with
21 the terms and conditions of his Board Order requiring PHP monitoring.

22 4. In PA-18-0038A, the Board issued an Order for Decree of Censure and
23 Probation with Practice Restriction; and Consent to the Same with terms and conditions
24 including a requirement for Respondent to participate in the Board’s PHP (“Previous
25 Order”). The Previous Order also included a Practice Restriction prohibiting Respondent

1 from prescribing or having access to controlled substances in the workplace. Additionally,
2 the Previous Order required Respondent's Supervising Physician to provide quarterly
3 reports regarding Respondent's compliance with the Practice Restriction.

4 5. The Previous Order was based in part on Respondent's non-compliance with
5 a prior Board order requiring PHP participation issued in PA-17-0009A.

6 6. On January 30, 2020, Respondent's employer contacted the PHP Contractor
7 and expressed a concern that Respondent may have reported to work intoxicated. Based
8 on the employer's report, the PHP Contractor requested that Respondent complete a urine
9 drug screen on January 31, 2020. Respondent failed to timely report for his urine drug
10 screen as required by the PHP Contractor. During a phone call with the PHP Contractor,
11 Respondent admitted to taking controlled substances not prescribed to him by a Physician
12 as required by the Board's Previous Order. Based on Respondent's non-compliance, the
13 PHP Contractor opined that Respondent was not safe to perform health care tasks.

14 7. Effective February 4, 2020, Respondent entered into an Interim Consent
15 Agreement for Practice Restriction ("Interim Practice Restriction") prohibiting him from
16 performing healthcare tasks.

17 8. Effective May 4, 2020, Respondent surrendered his controlled substance
18 prescribing registration with the DEA.

19 9. Effective May 6, 2020, Respondent entered into a Consent Agreement for
20 Voluntary Surrender of License with the Arizona State Board of Pharmacy for his
21 Pharmacist License Number S012799.

22 10. On January 22, 2021, Respondent entered into a guilty plea to one count of
23 Driving or Actual Physical Control While Under the Influence of Drug or Metabolite (Class
24 1 Misdemeanor) arising out of an incident that occurred on January 31, 2020. Respondent
25 failed to timely report the charge to the Board. Respondent was subsequently sentenced

1 to terms and conditions of probation including the requirement to complete a DUI
2 Education Program, which was completed on February 28, 2021.

3 11. Respondent entered inpatient treatment at a PHP-approved facility
4 (“Facility”) and was discharged with staff approval November 3, 2022. Upon discharge,
5 the Facility recommended completion of an intensive, outpatient treatment program
6 (“IOP”). Respondent completed the IOP and was discharged with staff approval on
7 February 3, 2023.

8 12. Respondent subsequently underwent a post-treatment assessment with the
9 Board’s PHP Contractor. Based on Respondent’s treatment and prognosis, the Contractor
10 opined that Respondent was safe to return to the performance of health care tasks,
11 provided he comply with recommendations for aftercare and monitoring.

12 13. Effective April 25, 2023, Respondent entered into an Interim Order to
13 Participate in the Physician Health Program with Amended Interim Practice Restriction and
14 Consent to Same (“Interim Consent Agreement”). The Interim Consent Agreement
15 requires Respondent to comply with requirements for monitoring and aftercare, and
16 prohibits Respondent from prescribing or having access to controlled substances in the
17 workplace. Respondent is in compliance with the terms of the Interim Consent
18 Agreement.

19 14. Respondent has provided Board staff with evidence of 230.75 credit hours of
20 Continuing Medical Education (“CME”) that he completed from February 2020 to February
21 2023.

22 15. During a Formal Interview on this matter, Respondent requested that the
23 Board reinstate his ability to prescribe controlled substances. Respondent stated that he
24 took responsibility for his actions and agreed that monitoring was a central part of his
25 recovery process. Respondent testified that his history makes him uniquely qualified to

1 practice in addiction medicine and that the ability to prescribe certain controlled
2 substances would allow him to better assist his patients. Respondent testified regarding
3 his recovery process and his plans for ongoing participation in order to maintain his
4 sobriety. Respondent noted that his Supervising Physician was currently reviewing his
5 charts, and stated that the Supervising Physician would be willing to continue doing so,
6 including signing off on any future controlled substance prescriptions written by
7 Respondent. Additionally, Respondent testified that he was grateful for the opportunity to
8 prove that he was different and that others would assist with accountability.

9 16. Also during the Formal Interview, Board members discussed whether
10 Respondent should be allowed to resume prescribing controlled substances. Board
11 members discussed implementing practice guardrails to ensure that his prescribing meets
12 the standard of care. Board members agreed that the case rose to the level of discipline,
13 and voted to issue Findings of Fact, Conclusions of Law and Order for Decree of Censure
14 and Probation, requiring Respondent to participate in the PHP for an additional five years,
15 with terms and conditions of monitoring. Board members agreed that Respondent should
16 be allowed to resume controlled substance prescribing, provided that his Supervising
17 Physician provide quarterly reports to the Board regarding his practice. Board members
18 further agreed that the Order shall include 'third strike' language requiring Respondent's
19 license to be summarily suspended and either revoked or surrendered in the event of a
20 future relapse.

21 **CONCLUSIONS OF LAW**

22 1. The Board possesses jurisdiction over the subject matter hereof and over
23 Respondent.
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1 2. The conduct and circumstances described above constitute unprofessional
2 conduct pursuant to A.R.S. § 32-2501 (18)(a)¹ (“Violating any federal or state law or rule
3 that applies to the performance of health care tasks as a physician assistant. Conviction in
4 any court of competent jurisdiction is conclusive evidence of a violation.”). Specifically,
5 Respondent’s conduct violated A.R.S. § 32-3208(A) (“A health professional who has been
6 charged with a misdemeanor involving conduct that may affect patient safety or a felony
7 after receiving or renewing a license or certificate must notify the health professional’s
8 regulatory board in writing within ten working days after the charge is filed.”).

9 3. The conduct and circumstances described above constitutes unprofessional
10 conduct pursuant to A.R.S. § 32-2501(18)(d)² (“Exhibiting a pattern of using or being
11 under the influence of alcohol or drugs or a similar substance while performing health care
12 tasks or to the extent that judgment may be impaired and the ability to perform health care
13 tasks detrimentally affected.”).

14 4. The conduct and circumstances described above constitutes unprofessional
15 conduct pursuant to A.R.S. § 32-2501(18)(j)³ (“Committing any conduct or practice that is
16 or might be harmful or dangerous to the health of a patient or the public.”).

17 5. The conduct and circumstances described above constitutes unprofessional
18 conduct pursuant to A.R.S. § 32-2501(18)(q)⁴ (“Using controlled substances that have not
19 been prescribed by a physician, physician assistant, dentist or nurse practitioner for use
20 during a prescribed course of treatment.”).

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24 ¹ Renumbered as A.R.S. § 32-2501(20)(a).

25 ² Renumbered as A.R.S. § 32-2501(20)(d)

³ Renumbered as A.R.S. § 32-2501(20)(j).

⁴ Renumbered as A.R.S. § 32-2501(20)(q).

1 prevention group facilitator for good cause. Individual relapse therapy may be substituted
2 for one or more of the group therapy sessions, if PHP pre-approves substitution. The
3 relapse prevention group facilitators or individual relapse prevention therapist shall submit
4 monthly reports to the PHP regarding attendance and progress.

5 7. Respondent shall continue to participate in any personalized aftercare
6 programs or activities as recommended by the Contractor in his Post-Treatment
7 Assessment Report including individual therapy. Respondent shall report on those
8 activities as requested by the PHP, including executing any releases necessary to allow
9 the PHP to monitor his participation and communicate directly with and obtain records
10 from the treating providers for those aftercare activities. Respondent shall be responsible
11 for all costs of aftercare, including costs associated with compliance of this Board Order.

12 8. Promptly after obtaining employment as a Physician Assistant, Respondent
13 shall provide the PHP Contractor with a signed statement from his Supervising Physician
14 ("SP") that the SP agrees to provide the PHP Contractor with monthly worksite evaluations
15 and perform periodic chart reviews for six months from the date of initial employment.
16 Respondent shall be responsible for all costs of compliance with this term, including the
17 cost of complying with the reporting requirements.

18 9. Respondent shall participate in a 12-step recovery program or other self-help
19 program appropriate for substance abuse as recommended by the PHP. Respondent shall
20 attend a minimum of three 12-step or other self-help program meetings per week. Two
21 meetings per month must be Caduceus meetings. Respondent must maintain a log of all
22 self-help meetings.

23 10. Respondent shall promptly obtain a Primary Care Physician ("PCP") and
24 shall submit the name of the physician to the PHP in writing for approval. The approved
25 PCP shall be in charge of providing and coordinating Respondent's medical care and

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

9 11. Respondent shall enter treatment with a PHP Contractor approved addiction
10 psychiatrist or addiction medicine specialist as recommended by the Contractor in his
11 Post-Treatment Assessment Report and shall comply with any and all treatment
12 recommendations, including taking any and all prescribed medications. Respondent shall
13 instruct the treating professional to submit quarterly written reports to the PHP regarding
14 diagnosis, prognosis, current medications, recommendations for continuing care and
15 treatment, and ability to safely perform healthcare tasks. The reports shall be submitted
16 quarterly to the PHP, the commencement of which to be determined by the PHP
17 Contractor. Respondent shall provide the psychiatrist with a copy of this Order.
18 Respondent shall pay the expenses for treatment and be responsible for paying for the
19 preparation of the quarterly reports.

20 12. All prescriptions for controlled substances shall be approved by the PHP
21 prior to being filled except in an Emergency. Controlled substances prescribed and filled
22 in an emergency shall be reported to the PHP within 48 hours. Respondent shall take no
23 Medication unless the PCP or other health care provider to whom the PCP refers
24 Respondent prescribes and the PHP approves the Medication. Respondent shall not self-
25 prescribe any Medication. "Medication" means a prescription-only drug, controlled

1 substance, and over-the counter preparation, other than plain aspirin, plain ibuprofen, and
2 plain acetaminophen.

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

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

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

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

19 17. The relationship between the Respondent and the PHP is a direct
20 relationship. Respondent shall not use an attorney or other intermediary to communicate
21 with the PHP on participation and compliance issues.

22 18. Respondent shall be responsible for all costs, including PHP costs
23 associated with participating in PHP at the time service is rendered, or within 30 days of
24 each invoice sent to the Respondent. An initial deposit of two months PHP fees is due
25 upon entering the program. Failure to pay either the initial PHP deposit or monthly fees 60

1 days after invoicing will be reported to the Board by the PHP and may result in disciplinary
2 action up to and including license revocation.

3 19. Respondent shall immediately provide a copy of this Order to all employers,
4 hospitals and free standing surgery centers where Respondent currently has or in the
5 future gains or applies for employment or privileges. Within 30 days of the date of this
6 Order, Respondent shall provide the PHP with a signed statement of compliance with this
7 notification requirement. Respondent is further required to notify, in writing, all employers,
8 hospitals and free standing surgery centers where Respondent currently has or in the
9 future gains or applies for employment or privileges, of a chemical dependency relapse.

10 20. In the event Respondent resides or practices as a physician assistant in a
11 state other than Arizona, Respondent shall participate in the rehabilitation program
12 sponsored by that state's medical licensing authority or medical society. Respondent shall
13 cause the monitoring state's program to provide written quarterly reports to the PHP
14 regarding Respondent's attendance, participation, and monitoring. The monitoring state's
15 program and Respondent shall immediately notify the PHP if Respondent is noncompliant
16 with any aspect of the Order or is required to undergo any additional treatment.

17 21. The PHP shall immediately notify the Board if Respondent is non-compliant
18 with any aspect of this Order or is required to undergo any additional treatment.

19 **22. In the event of chemical dependency relapse by Respondent or**
20 **Respondent's use of drugs or alcohol in violation of this Order, Respondent's**
21 **license shall be summarily suspended pending a hearing for revocation. In the**
22 **alternative, Respondent may SURRENDER HIS LICENSE if he agrees in writing to be**
23 **impaired by alcohol or drug abuse. A.R.S. § 32-1452(G).**

1 23. Respondent shall obey all state, federal and local laws, all rules governing
2 the performance of health care tasks in Arizona, and remain in full compliance with any
3 court order criminal probation, payments and other orders.

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

6 25. Prior to any Board consideration for termination of Probation, Respondent
7 must submit a written request to the Board for release from the terms of this Order.
8 Respondent's request for release will be placed on the next pending Board agenda,
9 provided a complete submission is received by Board staff no less than 30 days prior to
10 the Board meeting. Respondent's request for release must provide the Board with
11 evidence establishing that he has successfully satisfied all of the terms and conditions of
12 this Order and must be accompanied by a recommendation from the PHP Contractor
13 stating that monitoring is no longer required.

14 The Probation shall not terminate except upon affirmative request of Respondent
15 and approval by the Board, and Respondent is not eligible to request early termination of
16 this Order.

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

19 27. The Board retains jurisdiction and may initiate new action against
20 Respondent based upon any violation of this Order. A.R.S. § 32-2501(20)(ee).
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1 EXECUTED COPY of the foregoing
2 mailed this 29th day of February, 2024 to:

3 Michael M. Abraham, P.A.
4 Address of Record

5 Flynn P. Carey, Esq.
6 Mitchell Stein Carey Chapman, PC
7 2600 North Central Avenue, Suite 1000
8 Phoenix, Arizona 85004
9 Attorney for Respondent

10 ORIGINAL of the foregoing filed
11 this 29th day of February, 2024 with:

12 Arizona Regulatory Board
13 of Physician Assistants
14 1740 West Adams, Suite 4000
15 Phoenix, Arizona 85007

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