

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. MD-22-0959A

3 **MARIA E. GONZALEZ BERLARI, M.D.**

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

4 Holder of License No. 41464  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

7 Maria E. Gonzalez Berlari, M.D. ("Respondent") elects to permanently waive any  
8 right to a hearing and appeal with respect to this Order for Letter of Reprimand and  
9 Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to  
10 the entry of this Order by the Board.

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of license number 41464 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-22-0959A after receiving a complaint  
17 alleging diversion of controlled substances and inappropriate workplace behavior.

18 4. Respondent prescribed medications including Phentermine, alprazolam,  
19 testosterone CYP, clonazepam, oxycodone/APAP, lorazepam, and codeine/guaifenesin to  
20 Immediate Family Member ("IMF") 1<sup>1</sup> between August, 2018 and April, 2021. Respondent  
21 did not maintain medical records with regard to the prescriptions provided to IMF1.

22 5. Respondent prescribed alprazolam to IMF 2 between April, 2021 through  
23 February, 2022. Respondent did not maintain medical records regarding the prescriptions  
24 provided to IMF 2.

25 \_\_\_\_\_  
<sup>1</sup> As defined in A.R.S. § 32-1401(13).

1           6.     The standard of care requires a physician to perform a physical examination  
2 prior to prescribing controlled substances. Respondent deviated from the standard of care  
3 by failing to perform a physical examination on IMF 1 or 2 prior to prescribing controlled  
4 substances.

5           7.     The standard of care prohibits a physician from prescribing controlled  
6 substances without clinical justification. Respondent deviated from the standard of care by  
7 prescribing controlled substances to IMF 1 and 2 without clinical justification.

8           8.     There was potential for patient harm in that both patients were at risk of  
9 medication interactions, respiratory depression, diversion, and overdose.

10          9.     Respondent issued prescriptions for Testosterone and Monistat 7 to IMF 1  
11 for her own use. Respondent additionally issued prescriptions in the name of IMF 2 and  
12 IMF 3 for use by IMF 1. Respondent additionally prescribed herself controlled substance  
13 medications on five occasions.

14          10.    In a written response to the Board, Respondent denied writing prescriptions  
15 to IMF 1 for her own use.

16          11.    Respondent was referred for an assessment with the Board's Physician  
17 Health Program ("PHP") Contractor which was completed on December 1, 2022. Based on  
18 the assessment results, the PHP Contractor recommended that Respondent undergo an  
19 intensive evaluation at a Board-approved evaluation center ("Facility").

20          12.    Respondent presented for an evaluation on February 22-24, 2023. The  
21 Facility concurred with the Assessor's recommendations for monitoring, and  
22 recommended completion of continuing medical education ("CME") course in controlled  
23 substance prescribing.

24          13.    On April 18, 2023, Respondent entered into an Interim Consent Agreement  
25 for PHP participation. The Interim Consent Agreement also required Respondent to

1 complete CME in controlled substance prescribing as well as a PHP approved 36 hour  
2 alcohol/drug awareness education class.

3 14. On May 6-7, 2023, Respondent completed an intensive, virtual course in  
4 controlled substance prescribing with PBI Education, Inc., a Board approved provider and  
5 received 21 CME credit hours. PBI furnished an AIR letter regarding Respondent's  
6 participation and noted that she demonstrated active participation and clear insight, and  
7 developed an appropriate protection plan to avoid future boundary issues related to  
8 prescribing.

9 15. Respondent completed the alcohol/drug awareness education course on June  
10 6, 2023.

11 16. Respondent is in compliance with the terms of her PHP monitoring.

12 **CONCLUSIONS OF LAW**

13 a. The Board possesses jurisdiction over the subject matter hereof and over  
14 Respondent.

15 b. The conduct and circumstances described above constitute unprofessional  
16 conduct pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws or rules  
17 and regulations applicable to the practice of medicine."). Specifically, Respondent's  
18 conduct violated A.R.S. § 36-2606(F) ("Beginning the later of October 1, 2017 or sixty days  
19 after the statewide health information exchange has integrated the controlled substances  
20 prescription monitoring program data into the exchange, a medical practitioner, before  
21 prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule  
22 II, III or IV for a patient, shall obtain a patient utilization report regarding the patient for the  
23 preceding twelve months from the controlled substances prescription monitoring program's  
24 central database tracking system at the beginning of each new course of treatment and at  
25 least quarterly while that prescription remains a part of the treatment . . .").

1 c. The conduct and circumstances described above constitute unprofessional  
2 conduct pursuant to A.R.S. § 32-1401(27)(e) ("Failing or refusing to maintain adequate  
3 records on a patient.").

4 d. The conduct and circumstances described above constitute unprofessional  
5 conduct pursuant to A.R.S. § 32-1401(27)(g) ("Using controlled substances except if  
6 prescribed by another physician for use during a prescribed course of treatment.").

7 e. The conduct and circumstances described above constitute unprofessional  
8 conduct pursuant to A.R.S. § 32-1401(27)(h) ("Prescribing or dispensing controlled  
9 substances to members of the physician's immediate family.").

10 f. The conduct and circumstances described above constitute unprofessional  
11 conduct pursuant to A.R.S. § 32-1401(27)(j) ("Prescribing, dispensing or administering any  
12 controlled substance or prescription-only drug for other than accepted therapeutic  
13 purposes.").

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

17 h. The conduct and circumstances described above constitute unprofessional  
18 conduct pursuant to A.R.S. § 32-1401(27)(kk) ("Knowingly making a false or misleading  
19 statement to the board or on a form required by the board or in a written correspondence,  
20 including attachments, with the board.").

21 i. The conduct and circumstances described above constitute unprofessional  
22 conduct pursuant to A.R.S. § 32-1401(27)(tt) ("Prescribing, dispensing or furnishing a  
23 prescription medication or a prescription-only device as defined in section 32-1901 to a  
24 person unless the licensee first conducts a physical examination of that person or has  
25 previously established a doctor-patient relationship. The physical or mental health status

1 examination may be conducted through telehealth as defined in section 36-3601 with a  
2 clinical evaluation that is appropriate for the patient and the condition with which the  
3 patient presents, unless the examination is for the purpose of obtaining a written  
4 certification from the physician for the purposes of title 36, chapter 28.1.”).

5 **ORDER**

6 IT IS HEREBY ORDERED THAT:

- 7 1. Respondent is issued a Letter of Reprimand.  
8 2. Respondent’s license is placed under Probation for two (2) years<sup>2</sup> with the following  
9 terms and conditions:

10 a. Respondent shall not consume alcohol or any food or other substance  
11 containing poppy seeds or alcohol.

12 b. Respondent shall not take any illegal drugs or mood altering medications.

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

24  
25 \_\_\_\_\_  
<sup>2</sup> Respondent’s participation shall be retroactive to Aril 18, 2023.

1           d. Respondent shall enter treatment with a PHP Contractor approved  
2 psychiatrist as recommended by the Assessor and shall comply with any and all  
3 treatment recommendations, including taking any and all prescribed medications.  
4 Respondent shall instruct the psychiatrist to submit quarterly written reports to the  
5 PHP regarding diagnosis, prognosis, current medications, recommendation for  
6 continuing care and treatment, and ability to safely practice medicine. The reports  
7 shall be submitted quarterly to the PHP, the commencement of which to be  
8 determined by the PHP Contractor. Respondent shall provide the psychiatrist with a  
9 copy of this Interim Consent Agreement. Respondent shall pay the expenses for  
10 treatment and be responsible for paying for the preparation of the quarterly reports.  
11

12           e. All prescriptions for controlled substances shall be approved by the PHP  
13 prior to being filled except in an Emergency. Controlled substances prescribed and  
14 filled in an emergency shall be reported to the PHP within 48 hours. Respondent shall  
15 take no Medication unless Respondent's Primary Care Physician ("PCP") or other  
16 health care provider to whom the PCP refers Respondent prescribes and the PHP  
17 approves the Medication. Respondent shall not self-prescribe any Medication.  
18 "Medication" means a prescription-only drug, controlled substance, and over-the  
19 counter preparation, other than plain aspirin, plain ibuprofen, and plain  
20 acetaminophen. "Emergency" means a serious accident or sudden illness that, if not  
21 treated immediately, may result in a long-term medical problem or loss of life.  
22

23           f. Respondent shall submit to random biological fluid, hair and nail testing (as  
24 specifically directed below) to ensure compliance with PHP.  
25

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

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

13           i. Respondent shall successfully complete a PHP approved 36 hour  
14 alcohol/drug awareness education class.

15           j. Respondent provides full consent for the PHP to discuss the Respondent's  
16 case with the Respondent's PCP or any other health care providers to ensure  
17 compliance with PHP.

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

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

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

3 m. 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  
7 this notification requirement. Respondent is further required to notify, in writing, all  
8 employers, hospitals and free standing surgery centers where Respondent currently  
9 has or in the future gains or applies for employment or privileges of a violation of this  
10 Order.  
11

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

21 o. The PHP shall immediately notify the Board if Respondent is non-compliant  
22 with any aspect of the monitoring requirements or this Order.

23 p. In the event of the use of drugs or alcohol by Respondent in violation of this  
24 Order, Respondent shall promptly enter into an Interim Consent Agreement for  
25 Treatment at a PHP approved facility. Following the successful conclusion of



1 treatment, Respondent shall enter into an Interim Consent Agreement for full  
2 participation in PHP. In no respect shall the terms of this paragraph restrict the  
3 Board's authority to initiate and take disciplinary action for violation of this Order.

4 q. Prior to the termination of Probation, Respondent must submit a written  
5 request to the Board for release from the terms of this Order. Respondent's request  
6 for release will be placed on the next pending Board agenda, provided a complete  
7 submission is received by Board staff no less than 30 days prior to the Board  
8 meeting. Respondent's request for release must provide the Board with evidence  
9 establishing that he has successfully satisfied all of the terms and conditions of this  
10 Order. The Board has the sole discretion to determine whether all of the terms and  
11 conditions of this Order have been met or whether to take any other action that is  
12 consistent with its statutory and regulatory authority.  
13

14 r. The Board retains jurisdiction and may initiate new action against  
15 Respondent based upon any violation of this Order.

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

18 DATED AND EFFECTIVE this 7<sup>th</sup> day of February, 2024.

19  
20 ARIZONA MEDICAL BOARD

21 By Patricia E. McSorley  
22 Patricia E. McSorley  
23 Executive Director  
24  
25

**CONSENT TO ENTRY OF ORDER**

1  
2           1.     Respondent has read and understands this Consent Agreement and the  
3 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent  
4 acknowledges she has the right to consult with legal counsel regarding this matter.

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

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

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

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

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

1 state agency or officer or political subdivisions of the State relating to this matter or other  
2 matters concerning Respondent.

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

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

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

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

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

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

21   
22 \_\_\_\_\_  
23 MARIA E. GONZALEZ BERLARI, M.D.  
24  
25

DATED: \_\_\_\_\_

01/15/2024

1 EXECUTED COPY of the foregoing mailed  
2 this 7<sup>th</sup> day of February, 2024 to:

3 Cody M. Hall, Esq.  
4 Broening Oberg Woods & Wilson, PC  
5 2800 North Central Avenue, Suite 1600  
6 Phoenix, Arizona 85004  
7 Attorney for Respondent

8 Physician Health Program  
9 Address on File

10 ORIGINAL of the foregoing filed  
11 this 7<sup>th</sup> day of February 2024 with:

12 Arizona Medical Board  
13 1740 West Adams Street, Suite 4000  
14 Phoenix, Arizona 85007

15 Michelle Hobbs

16 Board staff  
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