BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

NATHAN M. BROOKS, M.D.

Holder of License No. 34307
For the Practice of Allopathic Medicine
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

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

FINDINGS OF FACT

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

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

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

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

5. Board staff subsequently obtained pharmacy records showing that Respondent prescribed Clonazepam to JG in March of 2014 and Phentermine in March,
July, and August 2014. Respondent has been unable to produce any medical records relating to these dates of service.

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

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

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

   9. During the course of the Board’s investigation, this matter was forwarded to a Medical Consultant (“MC”) for the performance of a quality of care review into Respondent’s care and treatment of JG. The MC opined that Respondent prescribed
controlled substances to patient JG while engaging in a personal relationship with her, violating medical ethics and state statutes. A medical recordkeeping concern was also raised in that Respondent failed to maintain a record regarding the controlled substance prescriptions written for JG.

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

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

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

13. Respondent married patient JG.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.
2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").

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

4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(jj) ("[k]nowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

2. Respondent is assessed a $5,000 civil penalty. The civil penalty shall be paid, by certified funds, within 120 days of the date this Order. Failure to pay the civil penalty in compliance with this Board Order may result in further Board action against the Respondent.
3. Respondent is placed on Probation for a period of ten (10) years with the following terms and conditions:

   a. **Continuing Medical Education**

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

   b. **Chart Reviews**

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

   c. **Practice Requirements**

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

   d. **Board-Approved Psychologist**

   Respondent shall enter treatment with a Board-approved psychologist as recommended by PCS and shall comply with any and all treatment recommendations. At the initiation of treatment, Respondent shall authorize the psychologist to confirm in writing to Board staff that they have read the PCS evaluation, and that they agree to summarize results of their therapy, of the check and balance system described in the PCS report and
to report back to the Board. Respondent shall instruct the treating psychologist to submit written reports to Board staff regarding diagnosis, prognosis, current medications, recommendation for continuing care and treatment, and ability to safely practice medicine. The reports shall be submitted quarterly to Board staff for the two years and then biannually thereafter, the commencement of which to be determined by Board staff. Respondent shall pay the expenses of treatment and is responsible for paying for the preparation of the periodic reports. Respondent shall authorize the psychologist to communicate with Board staff regarding Respondent’s compliance with treatment, and if at any time the psychologist finds evidence that Respondent is a safety threat to patients.

e. **Obey All Laws**

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

f. **Tolling**

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

4. Prior to the termination of Probation, Respondent must submit a written request to the Board for release from the terms of this Order. Respondent’s request for release will be placed on the next pending Board agenda, provided a complete submission 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 successfully satisfied all of the terms and conditions of this Order. The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether to take any other action that is consistent with its statutory and regulatory authority.

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

RIGHT TO PETITION FOR REHEARING OR REVIEW

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

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

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

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing mailed this 14th day of January, 2016 to:

Jessica Miller
Zoldan Law Group PLLC
8100 E Indian School Rd., Suite 103
Scottsdale, AZ 85251
Attorney for Respondent
ORIGINAL of the foregoing filed
this 16th day of January, 2016 with:

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

Mary Barber
Board Staff