

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **TODD K. MALAN, M.D.**

4 Holder of License No. 34046
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-20-0852A

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

7 Todd K. Malan, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for a Letter of Reprimand; admits the
9 jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order
10 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 34046 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-20-0852A after receiving a complaint
17 regarding Respondent's care and treatment of a 39 year-old female patient ("CS") alleging
18 improper performance of fat transfer with undesirable results; failure to provide follow up
19 care for lipedema surgery; patient abandonment; failure to address patients concerns
20 appropriately; inappropriate use of incorrect compression garment; and improper use of
21 stem cell therapy and stem cell paste injection.

22 4. On June 14, 2016, CS presented to Respondent's office for consultation
23 regarding body jet liposuction ("BJL") to the bilateral thighs and bilateral knees, and fat
24 transfer to the bilateral breasts and face, with a subsequent follow up visit on August 25,
25 2016.

1 5. On October 5, 2016, CS presented for a pre-operative visit, and signed
2 consents related to the procedures, including a consent for participation in a stem cell
3 research program involving autologous adipose derived stem cell treatment.

4 6. On October 6, 2016, Respondent performed a procedure that included
5 several steps meant to enhance the stem cell fraction. The stem cells were then
6 “deployed” by Respondent intravenously in the groin, face, and breast. The procedure also
7 included liposuction of a number of areas. 600cc of fat was extracted from the right lateral
8 thigh and 300cc from the left lateral thigh.

9 7. Subsequently, during the immediate post-operative course CS was
10 dissatisfied with the results. At the six month visit Respondent noted that the patient was
11 “hyper focused” on a number of areas.

12 8. On January 23, 2017, Respondent noted that CS was complaining that her
13 body looked the same after surgery and that her face looked worse.

14 9. On April 19, 2017, Respondent noted that CS was being released from care
15 and suggested that she see someone for a second opinion for body dysmorphic
16 syndrome. CS was given copies of her photographs.

17 10. A Medical Consultant (“MC”) who reviewed Respondent’s care and treatment
18 of CS noted that the stem cell therapy treatments provided by Respondent are not
19 approved by the FDA, and did not appear to be provided in conjunction with any
20 formalized research protocol such as an Institutional Review Board (“IRB”). T The MC
21 also opined that Respondent’s informed consent documentation does not include
22 language consenting to the performance of abdominal liposuction.

23 11. The standard of care requires a physician performing research on stem cell
24 therapy treatments that are not approved by the FDA to have an IRB. Respondent
25

1 deviated from this standard of care by performing stem cell therapy research without an
2 IRB.

3 12. There was the potential for patient harm in that CS was at risk for post-
4 procedure complications from stem cell therapy treatment not approved by the FDA.

5 **CONCLUSIONS OF LAW**

6 a. The Board possesses jurisdiction over the subject matter hereof and over
7 Respondent.

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

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

14 **ORDER**

15 IT IS HEREBY ORDERED THAT:

16 1. Respondent is issued a Letter of Reprimand.

17 DATED AND EFFECTIVE this 2nd day of December, 2021.

18 ARIZONA MEDICAL BOARD

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

23 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

24 7. Upon signing this agreement, and returning this document (or a copy thereof)
25 to the Board's Executive Director, Respondent may not revoke the consent to the entry of

1 the Order. Respondent may not make any modifications to the document. Any
2 modifications to this original document are ineffective and void unless mutually approved
3 by the parties.

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

7 9. If the Board does not adopt this Order, Respondent will not assert as a
8 defense that the Board's consideration of the Order constitutes bias, prejudice,
9 prejudice or other similar defense.

10 10. ***Respondent has read and understands the terms of this agreement.***

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TODD K. MALAN, M.D.

DATED: 11/24/2021

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1 EXECUTED COPY of the foregoing mailed
this 2nd day of December, 2021 to:

2
3 Todd K. Malan, M.D.
Address of Record

4 Paul Giancola, Esq.
5 Snell & Wilmer, LLP
6 One Arizona Center
400 East Van Buren Street, Suite 1900
Phoenix, Arizona 85004-2202

7 ORIGINAL of the foregoing filed
8 this 1st day of December, 2021 with:

9 Arizona Medical Board
10 1740 West Adams, Suite 4000
Phoenix, Arizona 85007

11 
12 Michelle Proby
Board staff

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