BEFORE THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

In the Matter of **MINDI J. MIRGELER, P.A.** Holder of License No. **3366** For the Performance of Healthcare Tasks In the State of Arizona.	Board Case No. PA-14-0074A **ORDER FOR LETTER OF REPRIMAND AND PROBATION; AND CONSENT TO THE SAME**

Mindi J. Mirgeler, P.A. ("Respondent"), elects to permanently waive any right to a hearing and appeal with respect to this Order for Letter of Reprimand and Probation; admits the jurisdiction of the Arizona Regulatory Board of Physician Assistants ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

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

2. Respondent is the holder of License No. 3366 for the performance of health care tasks in the State of Arizona.

3. The Board initiated case number PA-14-0074A after receiving a complaint regarding Respondent's care and treatment of a 47 year-old male patient ("DW") alleging failure to diagnose coronary artery disease in DW, who subsequently died.

4. On January 30, 2012, Respondent saw DW, who complained of upper back pain radiating into the right scapula, neck and right chest. DW rated his pain as 2 out of 10. Respondent's physical examination of DW was significant only for tenderness over his paraspinal muscles, spasm in his lower cervical and upper thoracic paraspinal muscles, and a neck exam which showed full range of motion with pain with flexion. There were no neurological findings. DW's cardiac and pulmonary exams were normal.

Respondent's assessment included muscular pain, possibly from recent weight lifting, and Respondent prescribed Flexeril and Ibuprofen.

5. On February 6, 2012, DW returned to Respondent complaining of worsening pain, rated as 10 out of 10. Respondent's physical exam showed DW's blood pressure and heart rate to be slightly elevated, but was otherwise without change. There were no cardiac or neurological features. Respondent changed DW's pain regimen to Robaxin, Vicodin, and Ibuprofen. The following day, DW experienced sudden death and resuscitative efforts were unsuccessful. An autopsy showed cardiomegaly, cardiac artery disease, and an acute myocardial infarction in the posterior left ventricle associated with healing fibrosis.

6. The standard of care requires a PA to consult with their supervising physician concerning a patient's worsening pain. Respondent deviated from the standard of care by failing to consult with her supervising physician regarding the patient's worsening pain.

CONCLUSIONS OF LAW

1. The Arizona Regulatory Board of Physician Assistants possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-2501(18)(j) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.
2. Respondent is placed on probation for **six months** with the following terms and conditions:

a. Continuing Medical Education

Respondent shall within six months of the effective date of this Order complete a minimum of ten (10) hours of Board Staff pre-approved Category I Continuing Medical Education ("CME") in coronary artery disease and atypical chest pain, and 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. Obey All Laws

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

c. Tolling

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

d. Request for Probation Termination

After completion of the CME, Respondent may petition the Board to have the remaining probationary period terminated.

3. This Order is the final disposition of case number PA-14-0074A.

DATED AND EFFECTIVE this 3rd day of September, 2015.

ARIZONA REGULATORY BOARD OF
PHYSICIAN ASSISTANTS

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

CONSENT TO ENTRY OF ORDER

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

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

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

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

5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended

or made for any other use, such as in the context of another state of federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

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

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

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

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

10. Any violation of this Consent Agreement constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-2501(18)(dd) ("[v]iolating a formal order, probation agreement or stipulation issued or entered into by the board or its executive director.") and 32-2551

11. ***Respondent has read and understands the condition of probation.***

_____ DATED: 7/5/2015

MINDI J. MIRGELER, P.A.

EXECUTED COPY of the foregoing mailed
this 3rd day of September, 2015 with:

Mindi J. Mirgeler, P.A.
(Address of Record)

ORIGINAL of the foregoing filed
this 3rd day of September, 2015 with:

Arizona Regulatory Board of Physician Assistants
9545 E Doubletree Ranch Road
Scottsdale, AZ 85258

Mary Baker
Board Staff

BEFORE THE ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

In the Matter of **MINDI J. MERGELER, P.A.** Holder of License No. 3366 For the Practice of Healthcare Tasks In the State of Arizona.	**Case No. PA-14-0074A** **ORDER TERMINATING PROBATION**

At its public meeting on February 24, 2016, the Arizona Regulatory Board of Physician Assistants ("Board") considered the request of Mindi J. Mergeler, P.A. ("Respondent"), to terminate her Probation as previously ordered by the Board in case number PA-14-0074A. After considering all of the evidence, the Board voted to grant Respondent's request to terminate her Board Order for Probation.

ORDER

IT IS HEREBY ORDERED:

1. Respondent's Board Order for Probation dated September 3, 3015 is terminated.

DATED this 4th day of March, 2016

ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing mailed
this 4th day of March, 2016 to:

Mindi J. Mergeler, P.A.
Address of Record

ORIGINAL of the foregoing filed
this 4th day of March, 2016 with:

Arizona Regulatory Board of Physician Assistants
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Mary Bobe
Board Staff