BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of:
PATRICIA SULLIVAN, M.D.

Holder of License No. 40062
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-15-0639A
MD-16-0783A

ORDER FOR DECREES OF CENSURE AND PROBATION WITH PRACTICE RESTRICTION AND CONSENT TO THE SAME

Patricia Sullivan, MD. ("Respondent"), elects to permanently waive any right to a hearing and appeal with respect to this Order for a Decree of Censure and Probation with Practice Restriction, admits the jurisdiction of the Arizona Medical Board ("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 the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 40062 for the practice of allopathic medicine in the State of Arizona.

MD-15-0639A

3. The Board initiate case number MD-16-0639A after receiving a complaint regarding Dr. Sullivan's care and treatment of patient HH, alleging inappropriate prescribing of opiate medications without maintaining patient medical records.

4. On April 1, 2015, Respondent saw HH in primary care for acute low back pain. A physical exam showed no positive findings with the exception of straight leg raise on the right. Respondent prescribed HH Flexeril, Naprosyn and Oxycodone 5 mg.
5. The standard of care required Respondent to obtain a complete CSPMP report on the patient prior to prescribing opioids. Respondent deviated from the standard of care by failing to obtain a complete Controlled Substance Prescription Monitoring Program ("CSPMP") report on the patient prior to prescribing opioids.

6. The standard of care when prescribing opioids for the patient's complaint of pain required Respondent to obtain objective evidence to support the patient's pain complaints from either physical examination or diagnostic imaging. Respondent deviated from this standard of care by failing to obtain objective evidence to support the patient's; complaint of pain from either physical exam or diagnostic imaging.

7. HH had a history of opioid addiction. There was the potential for patient harm in that HH was at risk for a chemical dependency relapse.

**MD-15-0783A**

8. The board initiated case number MD-16-0783A after receiving a complaint alleging that patients who were being treated by Respondent with opioid medication were also testing positive for herein. The complainant was also concerned that Respondent's patients were diverting the medication and not being appropriately monitored by Respondent.

**Patient MC**

9. Respondent initially saw this 25 year-old male with complaints of low back pain from a motor vehicle accident in 2010 on April 10, 2014 for medication refills. Respondent prescribed MC oxycodone IR 30 mg twice a day and a prescription for physical therapy. Respondent diagnosed MC with low back pain, sciatica, lumbar disc disease with myelopathy, thoracic back pain, right lower extremity pain, and bilateral neck pain.
10. Respondent saw MC on July 30 and September 29, 2015; however, the visits were not documented in MC's chart.

11. On November 24, 2015, Respondent ordered an MRI for MC and increased MC's pain medications to Oxycodone IR 30 mg four times a day and Oxycodone MS ER 15 mg twice a day.

12. MC’s CSPMP report showed a pattern of early refills of opioid medications. Additionally, urine drug screens completed by MC were positive for oxycodone and/or opioids.

Patient DB

13. Respondent initially saw this 54 year-old female on February 11, 2016 for complaints of back and left leg pain. Respondent prescribed DB oxycodone and Soma.

14. On March 10, 2016, DB was seen by Respondent for a complaint of pelvic pain. Respondent ordered an ultrasound and MRI, and refilled DB’s medications.

15. On June 1, 2016, Respondent escalated DB’s dosages to Oxymorphone 15 mg #30 and Oxycodone 10/325 #140 and added Alprazolam 2.5 mg #30.

16. During Respondent’s treatment of DB, several urine drug screens were performed with multiple abnormalities including March, April, and June drug screens which were negative for all medications; the May screening was positive for benzodiazepines, but negative for others; and, a test dated June 6, 2016 was positive for oxycodone, but negative for benzodiazepines. It appears that none of the abnormal screens were confirmed and/or any changes occurred in the patient’s care.

Patient JC

17. Respondent first saw this 57 year-old male on January 5, 2016 for severe muscle spasms and low back pain. The limited physical exam was noted as abnormal and
“LB spasms” was documented. Respondent’s plan was to refer JC to physical therapy and neurosurgery. No medications were documented.

18. On February 2, 2016, Respondent saw JC for complaints of “UBP,” back spasms, and chronic back pain. Respondent prescribed Oxycodone 15 mg #120 and Oxymorphone 15 mg #90 and noted “pt c/o not sleeping per pt ‘soma’”

19. On March 1, 2016, JC complained of neck and upper low back pain. Respondent documented that JC had found out two weeks prior that he had prostate cancer. Respondent changed JC’s medications to Oxycodone and morphine sulfate extended release (“MSER”) 60 mg #90. An additional note on this date stated “Prostate refer to urology.”

20. On April 1, 2016, Respondent again saw JC in the office. A physical exam was checked off as abnormal for the neck and back, and “pain” and “LBP” were written by hand. Respondent decreased JC’s Oxycodone and continued JC at the same dose of MSER.

21. On April 29, 2016, Respondent changed JC’s medications back to the previous doses and added Soma. There was no physical exam documented on this date.

22. On June 2, 2016, Respondent saw JC in the office. There was no plan or medications documented. The documented physical exam was significantly limited with “abn” circled and “LBP” and “neck” written in (which obviously is not a physical exam).

23. On July 1, 2016, Respondent refilled JC’s medications and a limited physical exam was documented. “Abn” was circled in the abdomen section and “pain” was written in.

24. During Respondent’s course of treatment of JC, several urine drug screens were performed with multiple abnormalities seen, including tests in February, June, Jul and August
which were all negative for all medications. It appears that none of the abnormal screens were confirmed and/or any changes occurred in JC's care.

**Patient CE**

25. Respondent first saw this 53 year-old female on April 7, 2016 for complaints: of low back pain and fibromyalgia. A limited physical exam was documented as abnormal, and "Fibro/LBP" was written in. Respondent prescribed CE a Fentanyl 75 mcg patch, Oxycodone 30 mg, Lyrica 75 mg, and levothyroxine.

26. On May 11, 2016, Respondent saw CE in the office and Respondent prescribed Oxycodone 30 mg #120 and Lidocaine 5%. "Refer to pain" was written on the note for this date.

27. Another undated note in Respondent's record stated that CE was taking and/or prescribed fentanyl, oxycodone, lorazepam, Adderall, and Ambien. Medications prescribed by Respondent totaled up to 405 mg Morphine Equivalents Daily ("MED")

28. Urine drug screen performed on April 7, 2016 was positive for oxycodone, opiates, benzodiazepines, and amphetamines. Previous urine toxicology tests from another provider appear to have been abnormal as well.

**Patient PH**

29. Respondent first saw this 52 year-old female on August 8, 2014 for complaints of low back and abdominal pain. Respondent documented a limited physical examination with "abdomen" and "rebound" circled, which would typically indicate peritonitis or an acute surgical abdomen. Respondent prescribed Oxycodone 30 mg #120 as well as gabapentin. PH was marked as "self-pay."
30. On September 5, 2014, Respondent saw PH again and Respondent's office note is essentially the same as the previous note. The physical exam noted "+SLR" without the side being mentioned. Respondent also referred PH to dermatology.

31. On October 14, 2014, Respondent saw PH and the note for this date is the same as previous notes. PH's medications were refilled at the visit.

32. On December 1, 2014, Respondent saw PH for chronic pain syndrome and ileostomy. No physical exam of painful areas was documented. Respondent refilled PH's medications.

33. On January 2, 2015, PH was seen and the note for this date is the same as previous notes. No physical exam was documented of the painful areas. Respondent refilled PH's medications and added a prescription for a 100 mcg Fentanyl patch.

34. On February 2, 2015, Respondent's visit notes for PH are similar to the previous office visit an added notation that PH reported sleep apnea. Respondent refilled PH's medications and referred PH to pulmonology.

35. Respondent continued to treat PH through August 6, 2016 including regularly issuing prescriptions for Oxycodone 30 mg and Fentanyl patches. Respondent's prescriptions for PH totaled between 300 and 420 MED.

**Deviations from the Standard of Care in MD-16-0783A**

36. The standard of care required Respondent to obtain an appropriate history of the problem and review the patient's treatment to that point. For all patients reviewed, Respondent deviated from the standard of care by failing to obtain an appropriate history of the problem and review the patients' treatment to that point.
37. The standard of care required Respondent to perform a standard physical examination of the patient's painful areas, including standard neurological examination. For all patients reviewed, Respondent deviated from this standard of care by failing to perform or document the performance of a standard physical examination of the patients' painful areas including a standard neurological examination.

38. The standard of care required Respondent to have clear rationale for the use of opioids and to document the patient's clinical response to treatment. For all patients reviewed, Respondent deviated from this standard of care by failing to have clear rationale for the use of opioids, including high dose opioids, and by failing to document a positive clinical response to treatment.

39. The standard of care required Respondent to establish goals of therapy and perform proper urine drug testing, including confirmatory testing in high risk patients. For all patients reviewed, Respondent deviated from this standard of care by failing to establish goals of therapy, perform proper urine drug testing and confirmatory testing in high risk patients.

40. The standard of care required Respondent to follow the recommended guidelines for the use of opioids analgesics in the treatment of chronic pain in the office setting. For all patients reviewed, Respondent deviated from this standard of care by failing to follow the recommended guidelines for the use of opioid analgesics in the treatment of chronic pain in the office setting.

41. For all patients reviewed, there was potential for patient harm in that all patients were at risk for opioid addiction, opioid diversion, opioid overdose, and opioid-related death.
CONCLUSIONS OF LAW

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

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

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

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Decree of Censure.

2. Respondent is placed on Probation for a period of 10 years with the following terms and conditions:

   a. **Practice Restriction**

   Respondent shall not prescribe controlled substances in the State of Arizona in any setting for the duration of Probation.

   b. **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.
c. **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.

d. **Probation Termination**

The Probation shall not terminate except upon affirmative request of the physician and approval by the Board. Respondent shall not request termination of probation for a minimum of five years from the date 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 30 days prior to the Board meeting. Respondent's request for release must be in writing, provide the Board with evidence establishing that she has successfully satisfied all of the terms and conditions of this Order, and that she is safe to resume prescribing controlled substances. The Board may require any combination of examinations and/or evaluations in order to determine whether or not Respondent is safe to prescribe controlled substances and the Board may continue the Practice Restriction or take any other action consistent with its authority including requiring Respondent to undergo a period of monitoring including chart reviews with a Board approved monitoring company prior to a full release from Probation.
3. The Board retains jurisdiction and may initiate new action against Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(f).

DATED AND EFFECTIVE this \text{\underline{\textbf{4th}}} day of \textbf{October}, 2017.

ARIZONA MEDICAL BOARD

By \textbf{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 it 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 or federal government regulatory agency proceeding, civil or
criminal court proceeding, in the State of Arizona or any other state or federal court.

6. Although Respondent does not agree that all the Findings of Fact set forth in this
Consent Agreement are supported by the evidence, Respondent acknowledges that it is the Board’s
position that, if this matter proceeded to formal hearing, the Board could establish sufficient evidence
to support a conclusion that certain of Respondent’s conduct constituted unprofessional conduct.
Therefore, Respondent has agreed to enter into this Consent Agreement as an economical and
practical means of resolving the issues associated with the complaint filed against Respondent.
Further, Respondent acknowledges that the Board may use the evidence in its possession relating to
this Consent Agreement for purposes of determining sanctions in any further disciplinary matter.

7. 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 make any modifications to the document. Any modifications to this original
document are ineffective and void unless mutually approved by the parties.

8. This Order is a 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.

9. 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.

10. 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.

11. Any violation of this Order constitutes unprofessional conduct and may result in
disciplinary action. A.R.S. §§ 32-1401(27)(r) ("[v]iolating a formal order, probation, consent
12. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), she cannot act as a supervising physician for a physician assistant while her license is on probation.

13. **Respondent has read and understands the conditions of probation.**

PATRICIA SULLIVAN, M.D.

DATE: 09/07/17

EXECUTED COPY of the foregoing mailed this 14th day of October, 2017 to:

Stephen W. Myers
Mitchell Stein Carey Chapman, PC
One Renaissance Square
2 North Central Avenue, Suite 1450
Phoenix, AZ 85004
Attorney for Respondent

ORIGINAL of the foregoing filed this 14th day of October, 2017, with:

The Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

_Board Staff_