BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

RICHARD A. MELDE, M.D.  

Case No. MD-16-1547A

Holder of License No. 7685

For the Practice of Allopathic Medicine

In the State of Arizona.

ORDER FOR LETTER OF

REPRIMAND AND PROBATION;

AND CONSENT TO THE SAME

Richard A. Melde, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for a Letter of Reprimand and Probation; 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 7685 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-16-1547A after receiving a complaint regarding Respondent's care and treatment of a 30 year-old female patient ("MW") alleging inappropriate prescribing of controlled substances.

4. On June 7, 2016, MW was first seen by Respondent. During this visit, Respondent prescribed MW alprazolam #60 with two refills and no follow-up noted in the chart.

5. On August 29, 2016, MW was seen for follow-up. Respondent increased MW's dose of alprazolam to #90 with three refills.

6. On September 14, 2016, MW was seen by Respondent and he prescribed alprazolam #90 with two refills.
7. On October 11, 2016, Respondent saw MW in follow-up and Respondent wrote a prescription for alprazolam #120 with three refills. Respondent’s records note that MW was on methadone for pain management.

8. On December 7, 2016, Respondent saw MW and provided a prescription for alprazolam #120 with three refills. After the appointment, the office was called noting that the patient had received 600 alprazolam in 60 days from various pharmacies.

9. The standard of care requires a physician to not prescribe a controlled substance on the first visit. Respondent deviated from the standard of care by prescribing MW controlled substances on the first visit with refills.

10. The standard of care requires a physician to review and document that the Controlled Substance Prescription Monitoring Program ("CSPMP") has been queried prior to renewing prescriptions for controlled substances. Respondent deviated from the standard of care by failing to query the CSPMP for MW.

11. The standard of care requires a physician to perform urine drug screens during the patient’s first visit, then randomly throughout the year. Respondent deviated from the standard of care by failing to obtain urine drug screens for MW.

12. There was actual patient harm in that Respondent’s prescribing contributed to addiction, and gave access to dangerous addictive medication to a patient already identified as using narcotics. Additionally, MW complained of sleep issues as both narcotics and benzodiazepines will make the patient very tired. There was potential for patient harm in that MW was at risk for overdose, respiratory depression, diversion, and addiction.

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 Letter of Reprimand.

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

   a. Continuiong Medical Education

   Respondent shall within 6 months of the effective date of this Order obtain no less than 15 hours of Board staff pre-approved Category I Continuing Medical Education ("CME") in an intensive, in-person course regarding controlled substance prescribing. Respondent shall within thirty days of the effective date of this Order 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 biennial renewal of medical licensure. The Probation shall terminate upon Respondent's proof of successful completion of the CME.

   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.
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)(r).

DATED AND EFFECTIVE this 1ST day of February, 2017

ARIZONA MEDICAL BOARD

By 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 he 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 or 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 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 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.

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

11. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), he cannot act as a supervising physician for a physician assistant while his license is on probation.

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

[Signature]

DATED: 12/12/17

RICHARD A. MELDE, M.D.
EXECUTED COPY of the foregoing mailed this 15th day of February, 2018 to:

Melissa Ho
Polsinelli PC
Cityscape One East Washington St, Suite 1200
Phoenix, AZ 85004
Attorney for Respondent

ORIGINAL of the foregoing filed this 15th day of February, 2018 with:

Arizona Medical Board
9645 E. Doubletree Ranch Road
Scottsdale, AZ 85258

[Signature]

Board staff