BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
DONOVAN J. ANDERSON, M.D.
Holder of License No. 13491
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-15-0691A
ORDER FOR DECREE OF CENSURE AND PROBATION;
AND CONSENT TO THE SAME

Donovan J. Anderson, M.D. ("Respondent"), elects to permanently waive any right
to a hearing and appeal with respect to this Order for a Decree of Censure and Probation;
adopts 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 13491 for the practice of
allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-15-0691A after Respondent disclosed
on his 2015 license renewal application that the California Medical Board ("CMB") took
action against his California medical license.

4. On January 10, 2014, after a hearing on the merits, the CMB issued an
Order for five years of stayed revocation probation arising out of Respondent's care and
treatment of three patients. With regard to patient D.T., the CMB sustained findings that
Respondent wrote progress notes on days when Respondent did not see D.T., entered
vital signs that were not current and otherwise failed to accurately document his care and
treatment of the patient. With regard to patient S.M., the CMB sustained findings that
Respondent treated S.M.'s chronic pain by prescribing opiates over an extended period of
time, without obtaining past medical records, seeking out specific diagnoses for claimed
symptoms, performing appropriate additional testing and laboratory work, considering non-opioid treatment alternatives, and failing to take action to address concerns of opioid abuse or diversion. With regard to patient R.R., the CMB sustained findings that Respondent failed to comply with CMB guidelines for prescribing controlled substances in that Respondent failed to include a detailed history and physical assessment, failed to obtain prior medical records, failed to document the goals of treatment, failed to discuss the risks, benefits and side effects of prescribing controlled substances, prescribing controlled substances after concerns about possible addiction, failed to obtain appropriate tests and imaging, and failed to conduct appropriate drug screens.

5. The CMB issued Respondent an Order for Stayed Revocation and placed his California medical license on probation for 5 years, the terms of which included practice monitoring or taking the professional enhancement program offered by the Physician Assessment and Clinical Education ("PACE") Program, University of California, San Diego School of Medicine, as well as taking the PACE medical record keeping course.

6. Based on the CMB Order, on December 10, 2015, the Board entered into an Interim Consent Agreement for Practice Restriction with Respondent pursuant to which Respondent was required to complete a competency evaluation. On May 16-20, 2016, Respondent underwent a competency evaluation through PACE. The PACE evaluators found deficiencies in Respondent's current knowledge base, his medical decision making and clinical judgment. Respondent's PACE evaluators made several recommendations for Respondent to remediate the deficiencies, which included the following:

a. Practice monitoring to help Respondent improve his medical recordkeeping, medical knowledge of current guidelines, and physical examination skills;
b. Take twice the amount of required annual continuing medical education ("CME");

c. Attend a medical recordkeeping course;

d. Undergo a comprehensive fitness for duty neuropsychological evaluation; and

e. Follow up with his primary care physician and/or cardiologist to address some health concerns and follow through with any treatment or recommendations;

7. On October 12, 2016, Respondent underwent a neuropsychological examination. The evaluating physician opined that it was within a reasonable degree of neuropsychological certainty that Respondent has the ability to safely and effectively practice medicine provided that he engages in further healthcare assessment and treatment to address some weaknesses identified in the evaluation and complies with the PACE recommendations and the terms of the CMB Probation. The evaluating physician also recommended that Respondent undergo a comprehensive medical examination and comply with any treatment recommendations and engage in psychotherapy.

8. Respondent’s prior disciplinary history with the Board includes a Letter of Reprimand and Civil Penalty in MD-03-0319A for, in part, failure to conduct a complete physical exam, a Letter of Reprimand in MD-08-0900A for failure to perform an accurate history and physical examination during a patient’s initial emergency department visit and for inadequate medical records, and a Letter of Reprimand with One Year Probation in MD-09-1540A for failure to properly assess and monitor a diabetic patient. The Probation included a requirement that Respondent obtain CME in medical recordkeeping and an intensive course for the management of diabetes.
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)(o) ("Action that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine or the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Decree of Censure.

2. Respondent is placed on Probation for a period of five (5) years with the following terms and conditions:

   a. Continuing 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 medical recordkeeping. Respondent shall within thirty days of the effective date of this Order submit his request for CME to the Board for pre-approval. The medical recordkeeping CME ordered herein shall be different from the CME course(s) Respondent previously completed pursuant to prior orders.
imposed by the California and Arizona Medical Boards. 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.

b. **Continuing Medical Education Required for Biennial License Renewal**

   Respondent shall obtain no less than 40 CME hours per year for the duration of Probation as a requirement for the biennial renewal of Respondent's medical license. At least five of the 40 CME hours shall involve the evaluation and management of diabetes.

c. **Board-Approved Psychotherapist**

   Respondent shall immediately enter treatment with a Board-approved psychotherapist as recommended by his neuropsychological evaluator and shall comply with any and all treatment recommendations. The psychotherapist shall be experienced in the assessment and treatment of individuals with behavioral health conditions. Respondent shall meet with the psychotherapist at least weekly for four consecutive weeks following the effective date of this Order and then twice a month for eleven months to address any behavioral health concerns. Respondent shall instruct the treating psychotherapist to submit written reports to Board staff regarding Respondent's diagnosis, prognosis, current medications, recommendation for continuing care and treatment, and ability to safely practice medicine. The first report shall be submitted within 30 days following the completion of the first four consecutive weeks of psychotherapy and thereafter, the reports shall be submitted quarterly to Board staff for the duration of the psychotherapy. Respondent shall pay the expenses of the psychotherapy and is responsible for paying for the preparation of the reports. Respondent shall authorize the psychotherapist to communicate with Board staff regarding Respondent's compliance with
treatment, and if at any time the psychotherapist finds evidence that Respondent is a safety threat to patients.

d. Medical Examination and Treatment

Within 60 days from the effective date of this Order, Respondent shall undergo a comprehensive medical examination by a Board-approved physician and follow any treatment recommended by the physician. Respondent shall sign all necessary releases authorizing the physician to provide all medical records and information relating to the examination and treatment to the Board. Respondent shall instruct the physician to submit a report to the Board of the findings of the medical examination and any recommended treatment for Respondent.

e. Chart Reviews

During the term of Probation, Respondent shall be subject to chart reviews, on a quarterly basis, conducted by the Center for Personalized Education for Physicians ("CPEP") in Denver, Colorado. Respondent shall bear all costs associated with the chart reviews. Based upon the chart reviews, the Board retains jurisdiction to take additional disciplinary or remedial action. The chart reviews shall commence upon proof of Respondent's successful completion of the Board ordered CME in recordkeeping, and shall involve current patients' charts. The Board retains the right to conduct random chart reviews of Respondent's patients in addition to those conducted by CPEP.

f. Practice Monitor

Within 30 days of the effective date of this Order, Respondent shall submit the name of a practice monitor who is a physician licensed and in good standing with the Board. The practice monitor shall be responsible for ensuring that Respondent's treatment is in accordance with current guidelines and that Respondent is demonstrating appropriate physical examination skills. Respondent shall agree to allow the monitor to view his
interactions with any and all patients as deemed appropriate by the monitor. The
monitor shall provide written reports to the Board on a monthly basis or at any time the
monitor has concerns regarding Respondent's safety to practice. Respondent shall be
responsible for all expenses relating to the practice monitor and preparation of the monthly
reports to the Board. After 12 consecutive favorable reports from the monitor, Respondent
may petition the Board in writing for termination of this requirement. Respondent's request
for termination must be accompanied by a report from the practice monitor that
Respondent's fund of knowledge regarding current treatment guidelines is adequate and
his physical examinations meet the standard of care.

g. **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.

h. **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.

i. **Probation Termination**

After the expiration of three years of the Probation period, Respondent may
petition the Board to terminate the Probation. Respondent's request to terminate the
Probation shall be accompanied by correspondent from Respondent's psychotherapist regarding Respondent's ability to safely practice. The request shall also include at least three consecutive satisfactory reviews from the CPEP Practice Monitoring Program. Respondent's request for release will be placed on an upcoming Board agenda, provided a complete submission is received by Board staff no less than 14 days prior to the scheduled Board meeting. Respondent's request for termination 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.

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).

4. This Order supersedes all previous consent agreements and stipulations between the Board and/or the Executive Director and Respondent in case MD-15-0691A, and is the final resolution of this matter.

DATED AND EFFECTIVE this 6th day of April, 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 32-1461.

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

DONOVAN J. ANDERSON, M.D.

DATED: 3/1/17

EXECUTED COPY of the foregoing mailed this 26th day of April, 2017 to:

Scott Holden
Holden & Amner, P.C.
4505 E Chandler Blvd Ste 210
Phoenix, Arizona 85048-7688
Attorney for Respondent

ORIGINAL of the foregoing filed this 26th day of April, 2017 with:

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

Board staff