BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **STEVE FANTO, M.D.** Holder of License No. **21415** For the Practice of Allopathic Medicine In the State of Arizona.	**Case No. MD-16-1012A MD-16-1248A MD-17-0092A MD-17-0388A** **INTERIM CONSENT AGREEMENT FOR PRACTICE RESTRICTION**

INTERIM CONSENT AGREEMENT

Steve Fanto, M.D. ("Respondent"), elects to permanently waive any right to a hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction and consents to the entry of this Order by the Arizona Medical Board ("Board").

INTERIM 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 No. 21415 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-16-1012A after receiving a complaint from a Health Insurer's Special Investigations Unit, stating that Respondent had been identified as excessively prescribing controlled substances and prescribing inappropriate combinations of controlled substances.

4. The Board initiated case number MD-16-1248A after receiving a complaint from a second Health Insurer's Special Investigations Unit, stating that Respondent had been identified as improperly prescribing Subsys, an immediate release Fentanyl spray indicated for breakthrough pain of adult cancer patients, for two patients without cancer diagnoses.

5. The Board initiated case number MD-17-0092A after receiving notification of a malpractice settlement arising out of Respondent's care and treatment of a 41 year-old female patient and alleging improper prescribing of pain medications with poly-drug toxicity resulting in patient death.

6. The Board initiated case number MD-17-0388A after receiving information from the Pharmacy Board indicating that Respondent's Controlled Substance Prescription Monitoring Program ("CSPMP") profile was concerning for volume and type of controlled substances prescribed by Respondent.

7. A Medical Consultant ("MC") reviewed all cases and identified significant deviations from the standard of care for all cases reviewed.

MD-16-1012A

8. In case MD-16-1012A, the MC reviewed Respondent's care and treatment of a 38 year-old female patient ("MS"), a 53 year-old male patient ("GH"), and a 56 year-old female patient ("SL") for treatment beginning in 2011 through 2016.

9. Respondent prescribed long-term high dose opioid medications to all three patients, including methadone to all three patients for their chronic pain complaints. The MC identified deviations from the standard of care for opioid methadone prescribing for all patients.

10. With regard to patient MS, the MC found deviations from the standard of care for benzodiazepines, in that Respondent prescribed benzodiazepines for long term use in combination with opioids including methadone, without appropriate rationale.

11. The MC found actual harm to Patient MS, who was hospitalized subsequent to an accidental overdose of opioid medications (at up to 2270 mg Morphine Equivalent Daily dosage ("MED") prescribed by Respondent for MS's chronic pain complaints and underwent a lengthy detoxification and rehabilitation with a diagnosis of opioid abuse.

Respondent subsequently prescribed Soma to and performed trigger point injections on MS without appropriate rationale.

12. The MC found unreasonable potential harm to all three patients in that MS, GH and SL were all at risk for potentially fatal arrhythmias from Respondent's manner of methadone prescribing, and at risk for the potential harms associated with long term opioid use including abuse, addiction, diversion and accidental overdose.

MD-16-1248A

13. In case MD-16-1248A, the MC reviewed Respondent's care and treatment of a 69 year-old female patient ("CC") and a 56 year-old female patient ("DK") for treatment beginning 2011 through 2016.

14. Both CC and DK were seen by Respondent for medication management of chronic pain complaints and treated with high-dose opioids, including Subsys. The MC identified deviations from the standard of care for opioid prescribing including that for both patients, Respondent deviated from the standard of care by initiating off-label Subsys treatment at the highest available dose of 800 mcg spray in contravention of manufacturer instructions to initiate treatment at 100 mcg strength.

15. For patient DK, the MC noted that Respondent prescribed 120 units of Subsys 800 mcg spray monthly for six months, during which time DK reported only using about 30 such units monthly.

16. For patient CC, the MC found that Respondent deviated from the standard of care by prescribing opioids, benzodiazepines and other central nervous system ("CNS") depressants to a patient with sleep apnea, and by failing to take into account an opinion of a pulmonologist who examined CC and expressed concerns regarding Respondent's treatment. The MC identified actual harm to CC, in that Respondent's treatment exacerbated her sleep apnea.

17. The MC found unreasonable potential harm to both patients, in that CC and DK were both at risk for potentially fatal arrhythmias from Respondent's manner of methadone prescribing, and at risk for the potential harms associated with long term opioid use including abuse, addiction, diversion and accidental overdose.

MD-17-0092A

18. In case MD-17-0092A, the MC reviewed Respondent's care and treatment of a 40 year-old female patient ("AS") who established care with Respondent on January 17, 2012 for a chief complaint of "diffuse pain." Respondent's treatment for AS included prescribing of Demerol, doxepin, oxycodone, promethazine, Soma and Zanaflex. AS continued seeing Respondent through January 22, 2013. Two days after her last visit, AS died, and the Medical Examiner determined the cause of death to be poly-drug toxicity involving the combined effects of prescription medications, including those prescribed by Respondent.

19. The MC found that Respondent deviated from the standard of care for his treatment of AS, including that he initiated treatment with injectable Demerol for unsupervised self-administration, despite evidence available to him at the time that the patient had a history of requesting early refills of opioid medications, and abnormal urine drug screens, and an abnormal urine drug screen at the time of AS's initial visit. The MC additionally found that the Respondent deviated from the standard of care by failing to address non-compliant drug use during his treatment of AS and by providing trigger point injections without appropriate indication or appropriate follow-up evaluation. The MC found actual harm in that AS died of acute poly-drug toxicity including oxycodone doxepin and Demerol, all of which were prescribed by Respondent.

MD-17-0388A

20. In case MD-17-0388A, the MC reviewed Respondent's care and treatment of a 50 year-old male patient ("KV"), who initiated treatment with Respondent in 2012, for care beginning in 2014 through 2016. KV had a prior treatment history with another provider with medications in dosages up to 60 mg MED. Respondent initiated opioid treatment at 420 mg MED, and within two weeks, increased KV's dosage to 510 mg MED.

21. As of KV's May 15, 2014 visit, KV's listed medications included Dilaudid, Opana ER, tramadol, and Subsys 800 mcg, twice a day. However, the CSPMP records were negative for tramadol and Dilaudid, but did include Oxycodone 30 mg prescribed by Respondent. As dispensed, KV's medications were 1170 mg MED. On that date, KV's medications also included two benzodiazepines prescribed by a different provider and Nuvigil, a CNS stimulant, prescribed by Respondent.

22. The MC identified deviations from the standard of care with regard to Respondent's treatment of KV including that Respondent deviated from the standard of care by initiating off-label Subsys treatment at the highest available dose of 800 mcg spray in contravention of manufacturer instructions to initiate treatment at 100 mcg strength. Respondent also deviated from the standard of care by subsequently increasing KV's dosage of Subsys without proper indication. The MC identified other deviations including that Respondent initiated and escalated opioid medication management for chronic pain without appropriate indication or justification; by failing to appropriately address KV's non-compliant medication usage or sleep apnea; and by prescribing a CNS stimulant without an appropriate diagnosis.

23. The MC identified actual harm to KV, in that Respondent's treatment perpetuated ongoing iatrogenic physical and emotional dependence on ultra-high dose

opioid medication. The MC stated that KV was at risk for the potential harms associated with long term opioid use including abuse, addiction, diversion and accidental overdose.

24. For all files reviewed, the MC noted that the records were often verbatim from visit to visit, with almost no new information for significant periods of time, and medications were adjusted and increased with little documented rationale regarding the medical necessity.

25. Respondent disputes the findings and conclusions of the MC.

26. The aforementioned information was presented to the investigative staff, the medical consultant and the lead Board member. All reviewed the information and concur that the interim consent agreement to restrict Respondent's practice is appropriate.

27. The investigation into this matter is pending and will be provided to the Board promptly upon completion for review and action.

INTERIM CONCLUSIONS OF LAW

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

2. Pursuant to A.R.S. § 32-1405(C)(25) the Executive Director has authority to enter into a consent agreement when there is evidence of danger to the public health and safety.

3. Pursuant to A.A.C. R4-16-504, the Executive Director may enter into an interim consent agreement when there is evidence that a restriction is needed to mitigate imminent danger to the public's health and safety. Investigative staff, the Board's medical consultant and the lead Board member have reviewed the case and concur that an interim consent agreement is appropriate.

INTERIM ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is prohibited from engaging in the practice of medicine in the State of Arizona as set forth in A.R.S. § 32-1401(22) until he applies to the Board and receives permission to do.

2. Respondent may request, in writing, release and/or modification of this Interim Consent Agreement. The Board has the discretion to determine whether it is appropriate to release Respondent from this Interim Consent Agreement based on the totality of information available to the Board at the time of the request. The Board may order any combination of assessments or examinations in order to determine whether Respondent is safe to practice medicine in Arizona prior to modification or release of this Interim Consent Agreement. Respondent shall be responsible for all costs associated with any assessments and/or examinations.

3. The Board retains jurisdiction and may initiate new action based upon any violation of this Interim Consent Agreement, including, but not limited to, summarily suspending Respondent's license or forwarding the matter to Formal Hearing for proceedings to revoke Respondent's license.

4. Because this is an Interim Consent Agreement and not a final decision by the Board regarding the pending investigation, it is subject to further consideration by the Board. Once the investigation is complete, it will be promptly provided to the Board for its review and appropriate action.

5. This Interim Consent Agreement shall be effective on the date signed by the Board's Executive Director.

RECITALS

Respondent understands and agrees that:

1. The Board, through its Executive Director, may adopt this Interim Consent Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-504.

2. Respondent has read and understands this Interim Consent Agreement as set forth herein, and has had the opportunity to discuss this Interim Consent Agreement with an attorney or has waived the opportunity to discuss this Interim Consent Agreement with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and by doing so agrees to abide by all of its terms and conditions.

3. By entering into this Interim Consent Agreement, Respondent freely and voluntarily relinquishes all rights to an administrative hearing on the matters set forth herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters related to the Interim Consent Agreement.

4. Respondent understands that this Interim Consent Agreement does not constitute a dismissal or resolution of this matter or any matters that may be currently pending before the Board and does not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding this or any other pending or future investigations, actions, or proceedings. Respondent also understands that acceptance of this Interim Consent Agreement does not preclude any other agency, subdivision, or officer of this State from instituting civil or criminal proceedings with respect to the conduct that is the subject of this Interim Consent Agreement. Respondent further does not

relinquish his rights to an administrative hearing, rehearing, review, reconsideration, judicial review or any other administrative and/or judicial action, concerning the matters related to a final disposition of this matter, unless he affirmatively does so as part of the final resolution of this matter.

5. Respondent acknowledges and agrees that upon signing this Interim Consent Agreement and returning it to the Board's Executive Director, Respondent may not revoke his acceptance of this Interim Consent Agreement or make any modifications to it. Any modification of this original document is ineffective and void unless mutually approved by the parties in writing.

6. Respondent understands that this Interim Consent Agreement shall not become effective unless and until it is signed by the Board's Executive Director.

7. Respondent understands and agrees that if the Board's Executive Director does not adopt this Interim Consent Agreement, he will not assert in any future proceedings that the Board's consideration of this Interim Consent Agreement constitutes bias, prejudice, prejudgment, or other similar defense.

8. Respondent understands that this Interim Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

9. Respondent understands that this Interim Consent Agreement does not alleviate his responsibility to comply with the applicable license-renewal statutes and rules. If this Interim Consent Agreement remains in effect at the time Respondent's allopathic medical license comes up for renewal, he must renew his license if Respondent wishes to retain his license. If Respondent elects not to renew his license as prescribed by statute

and rule, Respondent's license will not expire but rather, by operation of law (A.R.S. § 32-3202), become suspended until the Board takes final action in this matter. Once the Board takes final action, in order for Respondent to be licensed in the future, he must submit a new application for licensure and meet all of the requirements set forth in the statutes and rules at that time.

10. Respondent understands that any violation of this Interim Consent Agreement constitutes unprofessional conduct under 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").

_____ DATED: 7/11/17
STEVE FANTO, M.D.

DATED this 11 day of July, 2017.
12 pm

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing e-mailed
this 12th day of July, 2017 to:

Steve Fanto, M.D.
Address of Record

ORIGINAL of the foregoing filed
this 12th day of July, 2017 with:

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

Mary Bailey
Board staff