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-17-0235A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR DECREE OF CENSURE, PRACTICE RESTRICTION AND PROBATION**

The Arizona Medical Board ("Board") considered this matter at its public meeting on October 3, 2017. Donovan J. Anderson, M.D. ("Respondent"), appeared with legal counsel, Michael J. Ryan, Esq., before the Board for a Formal Interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue Findings of Fact, Conclusions of Law and Order after due consideration of the facts and law applicable to this matter.

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-17-0235A after receiving a complaint regarding Respondent's care and treatment of a 36 year-old male patient ("CH") alleging inappropriate prescribing and failure to properly treat the patient.

4. Respondent provided primary care services to CH to address chronic pain, anxiety and sleep disruption. During the course of treating CH, Respondent prescribed opiates, benzodiazepines, zolpidem and Carisoprodol.

5. According to the Controlled Substance Prescription Monitoring Program ("CSPMP"), Respondent first prescribed alprazolam 1mg #90 on April 18, 2016. CH had recently obtained and filled prescriptions for hydrocodone and zolpidem from other

prescribers. Two other prescriptions for alprazolam written by Respondent on April 18, 2016 were filled by CH in May and June, 2016.

6. On July 1, 2016, Respondent prescribed CH alprazolam 1mg #100 with one refill that CH filled on July 6, 2016. On June 13, 2016, CH filled a prescription for alprazolam #20 that had been written by Respondent on April 18, 2016. On July 18, 2016, CH filled a #90 prescription for alprazolam that had been prescribed by Respondent on June 6, 2016.

7. On August 9 and September 14, 2016, Respondent prescribed CH hydrocodone 10mg #120 and Carisoprodol 350mg #100. Respondent subsequently referred CH to a pain specialist who continued the prescriptions. Respondent continued to prescribe CH alprazolam.

8. The standard of care required Respondent to document all prescribers of controlled substances, have the patient enter into a pain contract, perform urine drug screen monitoring, review the CSPMP database, utilize non-controlled substance therapies, and obtain informed consent from the patient regarding the single use and interacting dangers of agents being prescribed. Respondent deviated from this standard of care by failing to document all prescribers of controlled substances, by failing to have CH enter into a pain agreement, by failing to perform urine drug screen monitoring, by failing to review the CSPMP database, by failing to utilize non-controlled substance therapies, and by failing to obtain informed consent with the patient regarding the single use and interacting dangers of agents being prescribed.

9. Actual harm occurred to the patient in that CH experienced progressive habituation to opiates and sedative hypnotics.

10. There was the potential for patient harm in that CH was at risk for worsening of sleep disturbances identified by the pain specialist rather than pursuit of the underlying sleep problem.

11. During a Formal Interview on this matter, Respondent testified that when CH first presented to Respondent's office, he was a new patient. Respondent initially concluded that CH had an acute, self-limiting problem that would resolve.

12. Respondent also testified regarding the actions he had taken to comply with the Board's Order in case MD-15-0691A, including completion of continuing medical education ("CME") in medical recordkeeping and obtaining a practice monitor. Respondent presented a letter from the practice monitor regarding Respondent's progress while under monitoring, and requesting that he be allowed to continue to work with Respondent to improve his documentation and prescribing practices.

13. During that same Formal Interview, Board members commented that Respondent has had previous Board investigations that have resulted in discipline, but that the remediation ordered by the Board in case MD-15-0691A seems to have caused changes in practice that may alleviate concerns regarding Respondent's medical recordkeeping. Board members agreed that Respondent has been in compliance with that Order. Board members further commented that concerns remained regarding Respondent's controlled substance prescribing and discussed limiting Respondent's prescribing to inpatient hospital and hospice settings, for a period of ten years.

CONCLUSIONS OF LAW

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

2. 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.").

3. 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's practice is restricted in that he shall not prescribe controlled substances except as stated herein for the duration of this Probation. Respondent may prescribe controlled substances only in an inpatient hospital or hospice setting, including prescribing discharge controlled substance medications to a patient for up to five days. Respondent shall provide a copy of this Order to the Practice Monitor in case MD-15-0691A and cause the Practice Monitor to provide the Board with written notification that the Practice Monitor has received this Order. On a monthly basis, Respondent shall provide the Practice Monitor with a copy of his CSPMP report for the Practice Monitor's review.

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

Respondent may not request termination of this Order no sooner than five years from its effective date. Prior to the termination of Probation, Respondent must submit a written request to the Board for release from the terms 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 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).

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED AND EFFECTIVE this 7th day of December, 2017.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing mailed
this 7th day of December, 2017 to:

Michael J. Ryan, Esq.
Ensign Services Inc
2024 S Marble St
Gilbert, AZ 85295-5584
Attorney for Respondent

ORIGINAL of the foregoing filed
this 7th day of December, 2017 with:

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

Mary Bailey
Board staff