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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
MICHAEL W. CARLTON, M.D.
Holder of License No. 21360
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-17-0545A

**ORDER FOR DECREE OF CENSURE,
PROBATION AND CIVIL PENALTY;
AND CONSENT TO THE SAME**

Michael W. Carlton, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for a Decree of Censure, Probation and Civil Penalty; 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 21360 for the practice of allopathic medicine in the State of Arizona.
3. The Board initiated case number MD-17-0545A after receiving a complaint alleging that Respondent issued controlled substance prescriptions without an established doctor-patient relationship.
4. Respondent is employed as a Medical Director and is the only employed physician for an addiction treatment facility ("the Facility"). Respondent was out of the country from July 24 through August 8, 2015.
5. Based on the allegation of inappropriate prescribing, 11 patients' charts were selected and forwarded to the Board's Medical Consultant ("MC") for quality of care review. The MC found deviations from the standard of care in 9 of the 11 charts reviewed. The MC found medical recordkeeping deficiencies in all cases reviewed.

1 6. Patient DP was admitted to the Facility on May 12, 2015 for cocaine and
2 alcohol use. Medication, including diazepam, was initiated on the date of admission.
3 Respondent documented a physical examination on May 16, 2015. DP was discharged on
4 July 15, 2015.

5 7. Patient AC was admitted to the Facility on June 27, 2015. Medication,
6 including diazepam, was initiated on the date of admission. Respondent documented two
7 progress notes during AC's treatment at the facility, dated July 8 and July 16, 2015.

8 8. Patient JL was admitted to the Facility on July 5, 2015 and discharged on
9 August 13, 2015. Medication, including dextroamphetamine 20mg #30 and diazepam
10 10mg #20, was initiated the day after admission. Respondent signed a progress note
11 dated July 31, 2015.

12 9. Patient CS was admitted to the Facility on August 1, 2015 and discharged on
13 September 29, 2015. CS received treatment including controlled substance medication on
14 the date of admission. Respondent documented three progress notes during CS's
15 admission on August 5, 28 and September 18, 2015.

16 10. Patient KM was admitted to the Facility on September 8, 2015. Respondent's
17 first progress note was dated September 12, 2015.

18 11. Patient TK was admitted to the Facility on September 11, 2015 and
19 discharged on November 13, 2015. Controlled substance medication was initiated on the
20 date of admission. Respondent's first progress note for TK was dated September 18,
21 2015.

22 12. Patient EF was admitted to the Facility on September 12, 2015 and
23 discharged on September 21, 2015. Respondent's first documented progress note for EF
24 was dated September 23, 2015.

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1 13. Patient BB was admitted to the Facility on September 13, 2015 and
2 discharged on January 4, 2016. Respondent documented a history and progress note for
3 BB dated January 1, 2016, with a correction to February 1, 2016.

4 14. The standard of care prior to initiation of treatment requires a physician to
5 see and examine the patient within 72 hours of admission and all notes should be clearly
6 labeled with the patient name, date of birth, date and signature of provider as well as
7 careful records of medications prescribed with documentation of dose, route, frequency
8 and documentation as to whether the patient took the medication. Respondent deviated
9 from the standard of care in regards to patients DP, AC, JL, CS, KM, TK, EF, and BB by
10 prescribing controlled substances without first seeing and examining the patient, by failing
11 to document complete progress notes, and by failing to see and examine the patient within
12 72 hours of admission.

13 15. There was potential for patient in that Patients DP, AC, JL, CS, KM, TK, EF,
14 and BB were started on a controlled substance medications without a history and physical
15 being performed by a medical provider (without any documentation that a medical provider
16 saw the patient until days later) – it is possible that the patients could have had an allergy
17 to the medication, a medical diagnosis that may make the medication contraindicated, on
18 other medications that are contraindicated with the controlled substance or a physical
19 exam finding that may render the controlled substance dangerous to the patients.

20 **CONCLUSIONS OF LAW**

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

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

1 c. The conduct and circumstances described above constitute unprofessional
2 conduct pursuant to A.R.S. § 32-1401(27)(r) (“Committing any conduct or practice that is or
3 might be harmful or dangerous to the health of the patient or the public.”).

4 d. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(tt) (“Prescribing, dispensing or furnishing a
6 prescription medication or a prescription-only device as defined in section 32-1901 to a
7 person unless the licensee first conducts a physical examination of that person or has
8 previously established a doctor-patient relationship. The physical or mental health status
9 examination may be conducted during a real-time telemedicine encounter with audio and
10 video capability, unless the examination is for the purpose of obtaining a written
11 certification from the physician for the purposes of title 36, chapter 28.1 . . .”).

12 **ORDER**

13 IT IS HEREBY ORDERED THAT:

- 14 1. Respondent is issued a Decree of Censure.
- 15 2. Respondent is assessed a \$2,000.00 Civil Penalty. The Civil Penalty shall be
16 paid, by certified funds, within 90 days of the effective date of this Order.
- 17 3. Respondent is placed on Probation for a period of six months with the
18 following terms and conditions:

19 a. **Continuing Medical Education**

20 Respondent shall within 6 months of the effective date of this Order obtain no less
21 than 15 hours of Board staff pre-approved Category I Continuing Medical Education
22 (“CME”) in an intensive, in-person course regarding medical recordkeeping. Respondent
23 shall within **thirty days** of the effective date of this Order submit his request for CME to the
24 Board for pre-approval. Upon completion of the CME, Respondent shall provide Board
25

1 staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours
2 required for the biennial renewal of medical licensure.

3 **b. ProBE**

4 Within six months of the effective date of this Order, Respondent shall complete the
5 Professional/Problem-Based Ethics ("ProBE") program offered by the Center for
6 Personalized Education for Physicians ("CPEP") for Ethics and Boundaries. The CME
7 hours shall be in addition to the hours required for the renewal of licensure. Respondent
8 shall obtain an unconditional or conditionally passing grade.

9 In the event that Respondent does not receive an unconditional or conditionally
10 passing grade, Respondent shall follow any and all recommendations made for further
11 education and/or remediation, subject to approval by the Board or its staff.

12 Respondent shall sign any and all consents or releases necessary to allow CPEP to
13 communicate to the Board directly. Respondent shall not revoke any releases prior to
14 successful completion of ProBE. Respondent shall be responsible for the expenses of
15 participation in ProBE and shall notify Board staff immediately upon scheduling the ProBE
16 course.

17 **c. Obey All Laws**

18 Respondent shall obey all state, federal and local laws, all rules governing the
19 practice of medicine in Arizona, and remain in full compliance with any court ordered
20 criminal probation, payments and other orders.

21 **d. Probation Termination**

22 Prior to the termination of Probation, Respondent must submit a written request to
23 the Board for release from the terms of this Order. Respondent's request for release will
24 be placed on the next pending Board agenda, provided a complete submission is received
25 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for

1 release must provide the Board with evidence establishing that he has successfully
2 satisfied all of the terms and conditions of this Order. The Board has the sole discretion to
3 determine whether all of the terms and conditions of this Order have been met or whether
4 to take any other action that is consistent with its statutory and regulatory authority.

5 4. The Board retains jurisdiction and may initiate new action against
6 Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(s).

7 DATED AND EFFECTIVE this 14th day of June, 2018.

9 ARIZONA MEDICAL BOARD
10 By Patricia E. McSorley
11 Patricia E. McSorley
12 Executive Director

13 **CONSENT TO ENTRY OF ORDER**

14 1. Respondent has read and understands this Consent Agreement and the
15 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
16 acknowledges he has the right to consult with legal counsel regarding this matter.

17 2. Respondent acknowledges and agrees that this Order is entered into freely
18 and voluntarily and that no promise was made or coercion used to induce such entry.

19 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
20 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
21 this Order in its entirety as issued by the Board, and waives any other cause of action
22 related thereto or arising from said Order.

23 4. The Order is not effective until approved by the Board and signed by its
24 Executive Director.

25 5. All admissions made by Respondent are solely for final disposition of this
matter and any subsequent related administrative proceedings or civil litigation involving

1 the Board and Respondent. Therefore, said admissions by Respondent are not intended
2 or made for any other use, such as in the context of another state or federal government
3 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
4 any other state or federal court.

5 6. Upon signing this agreement, and returning this document (or a copy thereof)
6 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
7 the Order. Respondent may not make any modifications to the document. Any
8 modifications to this original document are ineffective and void unless mutually approved
9 by the parties.

10 7. This Order is a public record that will be publicly disseminated as a formal
11 disciplinary action of the Board and will be reported to the National Practitioner's Data
12 Bank and on the Board's web site as a disciplinary action.

13 8. If any part of the Order is later declared void or otherwise unenforceable, the
14 remainder of the Order in its entirety shall remain in force and effect.

15 9. If the Board does not adopt this Order, Respondent will not assert as a
16 defense that the Board's consideration of the Order constitutes bias, prejudice,
17 prejudgment or other similar defense.

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

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

23 
24 MICHAEL W. CARLTON, M.D.

DATED: 05/23/2018

25

1 EXECUTED COPY of the foregoing mailed
2 this 14th day of June, 2018 to:

3 Gordon Bueler
4 Bueler Jones Attys
5 1300 N McClintock Dr, Suite 134
6 Chandler, AZ 85266-7205
7 Attorney for Respondent

8 ORIGINAL of the foregoing filed
9 this 14th day of June, 2018 with:

10 Arizona Medical Board
11 1740 West Adams, Suite 4000
12 Phoenix, Arizona 85007

13 Mary Baker
14 Board staff

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