

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **JOSHUA D. HOLLAND, M.D.**

4 Holder of License No. 17551
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-18-0295A

**DECREE FOR CENSURE, PROBATION
WITH PRACTICE RESTRICTION AND
CONSENT TO THE SAME**

7 Joshua D. Holland, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Decree of Censure, and Probation with
9 Practice Restriction; admits the jurisdiction of the Arizona Medical Board ("Board"); and
10 consents to the entry of this Order by the Board.

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 17551 for the practice of
15 allopathic medicine in the State of Arizona and Dispensing Registration No. D00306.

16 3. The Board initiated case number MD-18-0295A after receiving a complaint
17 from a 36 year-old female patient ("KK") alleging that she had been provided a
18 prescription for weight loss medication without being seen by Respondent, and that she
19 subsequently suffered an adverse reaction.

20 4. Respondent reported to the board in his response submitted May 21, 2018,
21 that he provides hands-on supervision and meets and evaluates all new patients,
22 including KK. He further stated that a history was taken and reviewed by him and that he
23 performed a physical exam and reviewed KK's EKG.

24 5. Based on the complaint, Board staff requested Medical Consultant ("MC")
25 review of Respondent's care and treatment of KK and five other patients. The MC
identified deviations from the standard of care with regard to all six patients.

1 6. With regard to KK, the patient was noted on February 21, 2018 to have a
2 body mass index ("BMI") of 25 and a history of cardiac disease. An EKG taken by
3 Respondent's medical assistant ("MA") on that day was noted by the computer as
4 "markedly abnormal." Respondent documented that the EKG was normal. The MC found
5 that Respondent deviated from the standard of care by prescribing KK weight loss
6 medication that was contraindicated for her cardiovascular condition without an
7 appropriate diagnosis and without examining the patient or requesting a cardiac
8 consultation.

9 7. Actual harm was identified regarding Patient KK in that she suffered an
10 adverse reaction to the medication prescribed by Respondent.

11 8. Patient HW was an established patient for Respondent with a normal BMI
12 for whom Respondent prescribed phendimetrazine 105SR through September, 2018.
13 The MC found that Respondent deviated from the standard of care by prescribing a
14 controlled substance to a patient when it was not indicated.

15 9. Patient EB/BB established care with Respondent on September 15, 2014.
16 Respondent initially prescribed the patient phentermine 30 mg/day, which Respondent
17 later increased to 37.5 mg/day. EB/BB's BMI reduced from 35 to 33 within the first two
18 years of treatment, but the patient did not experience any additional significant
19 improvement. Respondent continued to prescribe EB/BB phentermine and in 2018 added
20 phendimetrazine. The MC found that Respondent deviated from the standard of care by
21 continuing to prescribe controlled substance medications to the patient without significant
22 improvement in EB/BB's weight status. The MC also stated that Respondent deviated
23 from the standard of care by prescribing weight loss medications in combination with each
24 other without adequate justification, exposing the patient to increased risk of
25 cardiovascular side effects without any additional benefits.

1 10. Patient AS was an established patient of Respondent to whom Respondent
2 prescribed phentermine. As of September 28, 2018 Respondent prescribed AS 15 mg
3 per day of phentermine, when her weight was 196 lbs. The MC determined that
4 Respondent deviated from the standard of care by prescribing phentermine on a long
5 term basis without adequate justification and by failing to consider alternative weight loss
6 options.

7 11. Respondent's prolonged prescribing of phentermine may have exacerbated
8 AS's hypertension.

9 12. Patient CC established care at Respondent's weight loss clinic for weight
10 control on April 29, 2014 with a BMI of 39. Respondent initially prescribed CC
11 phentermine 30 mg once a day. By December 16, 2014, CC's BMI was 29.3.
12 Respondent continued to prescribe patient CC with phentermine and phendimetrazine
13 through March 13, 2018. The MC found that Respondent deviated from the standard of
14 care by prescribing CC weight loss medications without an adequate physical
15 examination including an EKG and by not timely reexamining the patient despite BMI
16 stabilization.

17 13. The use of two noradrenergic drugs in combination exposed CC to
18 additional potential cardiovascular side effects while not providing any additional weight
19 loss benefit.

20 14. Patient RB was an established patient of Respondent's clinic for whom
21 Respondent prescribed weight loss medication. The MC found that Respondent deviated
22 from the standard of care by failing to perform appropriate physical examinations prior to
23 prescribing medications and by continuing to prescribe weight loss medications to the
24 patient when no longer indicated thereby exposing her to potential adverse effects from
25 the medication.

1 15. A Second MC reviewed Respondent's care and treatment of six patients for
2 whom Respondent was providing treatment for chronic pain. The Second MC identified
3 deviations from the standard of care with regard to two of the patients.

4 16. Patient RJ was an established patient of Respondent with a history of back
5 pain and headache, to whom Respondent prescribed Soma and opioid medication.
6 Between July, 2015 and January, 2016 RJ was prescribed Hydromorphone by another
7 provider, despite ongoing prescriptions for both Soma and Oxycodone by Respondent.
8 The Second MC found that Respondent deviated from the standard of care by failing to
9 review RJ's CSPMP on a regular basis and by failing to perform UDSs in order to ensure
10 compliance with the medication regimen.

11 17. Patient KP was an established patient of Respondent with complaints of soft
12 tissue injury from a car accident, fibromyalgia, and anxiety that Respondent was treating
13 with opioids, benzodiazepines and Soma. A note on March 2, 2016 indicates that a pain
14 management provider took over KP's chronic pain treatment, and would prescribe
15 medications except Soma. Respondent called in a prescription for Soma for KP. The
16 Second MC noted instances of refills for medications allowed by Respondent based on
17 phone consultations, early refills of controlled substance medications, and attempted
18 consultations by KP's pain management provider with regard to CDC guidelines for opioid
19 and benzodiazepine prescriptions. The Second MC found that Respondent deviated from
20 the standard of care by prescribing high doses of clonazepam solely for anxiety.

21 18. A physician is required to maintain adequate legible medical records
22 containing, at a minimum, sufficient information to identify the patient, support the
23 diagnosis, justify the treatment, accurately document the results, indicate advice and
24 cautionary warnings provided to the patient and provide sufficient information for another
25 practitioner to assume continuity of the patient's care at any point in the course of

1 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate in that they were
2 inaccurate and/or incomplete, often failing to document exams, reasoning and a plan
3 regarding controlled substance prescribing.

4 19. During a site inspection at Respondent's clinic on November 20, 2018, Board
5 staff determined that patients were being seen by Respondent's staff for treatment on a
6 date that Respondent was absent from his office. At that time, 3 medical assistants and
7 the office manager were present. Respondent's staff reported that he was in California.
8 The CSPMP revealed that patient DW was prescribed and dispensed phentermine on the
9 date in question, attributed to Respondent. Additionally, the patient log indicated that 10
10 patients were seen for follow-up, testosterone injections, and labs. The MAs were not
11 providing authorized procedures under the direct supervision of a physician or physician
12 assistant as required by A.R.S. § 32-1456(A) and R4-16-402, as Respondent was out of
13 state.

14 20. During the Board's consideration of the above captioned matter on June 7,
15 2019, Board staff presented the foregoing, and the Board members considered the
16 Investigation Report. Additionally, Board members noted Respondent's previous Decree
17 of Censure from 2009 for inappropriate prescribing. Based on the evidence presented, the
18 Board found that the public health, safety or welfare imperatively required emergency
19 action and voted to summarily restrict Respondent's license.

20 **CONCLUSIONS OF LAW**

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

23 2. The conduct and circumstances described above constitute unprofessional conduct
24 pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws, rules or
25 regulations applicable to the practice of medicine."), i.e., A.R.S. § 32-1491(E) ("A doctor

1 shall dispense only to the doctor's own patient and only for conditions being treated by that
2 doctor. The doctor shall provide direct supervision of a medical assistant, nurse or
3 attendant involved in the dispensing process. For purposes of this subsection, 'direct
4 supervision' means that a doctor is present and makes the determination as to the
5 legitimacy or the advisability of the drugs or devices to be dispensed.”).

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

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

12 5. The conduct and circumstances described above constitute unprofessional conduct
13 pursuant to A.R.S. § 32-1401(27)(jj) (“Exhibiting a lack of or inappropriate direction,
14 collaboration or direct supervision of a medical assistant or a licensed, certified or
15 registered health care provider employed by or assigned to the physician.”).

16 6. The conduct and circumstances described above constitute unprofessional conduct
17 pursuant to A.R.S. § 32-1401(27)(kk) (“Knowingly making a false or misleading statement
18 to the board or on a form required by the board or in a written correspondence, including
19 attachments, with the board.”).

20 7. The conduct and circumstances described above constitute unprofessional conduct
21 pursuant to A.R.S. § 32-1401(27)(ll) (“Failing to dispense drugs and devices in compliance
22 with article 6 of this chapter.”).

23 8. The conduct and circumstances described above constitute unprofessional conduct
24 pursuant to A.R.S. § 32-1401(27)(tt) (“Prescribing, dispensing or furnishing a prescription
25 medication or a prescription-only device as defined in section 32-1901 to a person unless

1 the licensee first conducts a physical or mental health status examination of that person or
2 has previously established a doctor-patient relationship.”).

3 **ORDER**

4 IT IS HEREBY ORDERED THAT:

5 1. Respondent is issued a Decree of Censure.

6 2. Respondent is placed on Probation for a *minimum* period of ten years with
7 the following terms and conditions:

8 **a. Practice Restriction**

9 Respondent’s practice is restricted in that he shall be prohibited from prescribing
10 controlled substances or weight loss medications for the duration of this Probation.

11 **b. Continuing Medical Education**

12 Respondent shall within 6 months of the effective date of this Order obtain no less
13 than 10 hours of Board Staff pre-approved Category I Continuing Medical Education
14 (“CME”) in an intensive, virtual participation course regarding medical recordkeeping.
15 Respondent shall within **thirty days** of the effective date of this Order submit his request
16 for CME to the Board for pre-approval. Upon completion of the CME, Respondent shall
17 provide Board staff with satisfactory proof of attendance. The CME hours shall be in
18 addition to the hours required for the biennial renewal of medical licensure.

19 **c. Chart Reviews**

20 Board staff or its agents shall conduct periodic chart reviews to monitor
21 Respondent’s compliance with this Board Order.

22 **d. Obey All Laws**

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

1 **e. Tolling**

2 In the event Respondent should leave Arizona to reside or practice outside the
3 State or for any reason should Respondent stop practicing medicine in Arizona,
4 Respondent shall notify the Executive Director in writing within ten days of departure and
5 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
6 time exceeding thirty days during which Respondent is not engaging in the practice of
7 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
8 non-practice within Arizona, will not apply to the reduction of the probationary period

9 **f. Probation Termination**

10 Prior to any Board consideration for termination of Probation, Respondent must
11 submit a written request to the Board for release from the terms of this Order.
12 Respondent's request for release will be placed on the next pending Board agenda,
13 provided a complete submission is received by Board staff no less than 30 days prior to
14 the Board meeting. Respondent's request for release must provide the Board with
15 evidence establishing that he has successfully satisfied all of the terms and conditions of
16 this Order.

17 The Probation shall not terminate except upon affirmative request of Respondent
18 and approval by the Board. The Board may require any combination of examinations
19 and/or evaluations in order to determine whether or not Respondent is safe to prescribe
20 controlled substances and the Board may continue the Practice Restriction or take any
21 other action consistent with its authority.

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1 EXECUTED COPY of the foregoing mailed
this 8th day of May, 2020 to:

2
3 Carol M. Romano, Esq.
4 Resnick & Louis, P.C.
5 Attorney for Respondent
6 8111 East Indian Bend Road,
7 Scottsdale, AZ 85250
8 Attorney for Respondent

9 ORIGINAL of the foregoing filed
10 this 8th day of May, 2020 with:

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

14 Michelle Robles

15 Board staff
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