

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **MARC A BAUDER, M.D**

4 Holder of License No. 15235  
5 For the Practice of Medicine  
6 In the State of Arizona.

**Case No. MD-18-0457A, MD-18-0909A,  
MD-19-0361A**

**ORDER FOR SURRENDER  
OF LICENSE AND CONSENT  
TO THE SAME**

7 Marc A Bauder, M.D. ("Respondent"), elects to permanently waive any right to a  
8 hearing and appeal with respect to this Order for Surrender of License; admits the  
9 jurisdiction of the Arizona Medical Board ("Board") as well as the facts stated herein; 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 15235 for the practice of  
15 allopathic medicine in the State of Arizona.

16 **MD-18-0457A**

17 3. The Board initiated case number MD-18-0457A after receiving a complaint  
18 alleging that Respondent was advertising cash-only Suboxone treatment online.

19 4. Based on the complaint, Board staff requested Medical Consultant ("MC")  
20 review of Respondent's care and treatment of patients receiving medication assisted  
21 treatment for opioid use disorders.

22 5. Between June, 2017 and October, 2018 Respondent prescribed Patient MG  
23 Buprenorphine 32 mg per day, and Alprazolam 1 mg 4-5 times per day, as well as  
24 clonazepam.

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1 13. Additionally, Respondent had a social and business relationship with JT.

2 14. The MC opined that Respondent deviated from the standard of care by  
3 failing to identify red flag behaviors indicating abuse and diversion, failing to address  
4 concurrent mental health issues, and by failing to maintain proper physician/patient  
5 boundaries. The MC also opined that Respondent's documentation was inadequate.

6 15. Actual patient harm was identified by the Board's MC in that Respondent's  
7 prescribing facilitated abuse of Ketamine, and JT was at risk of overdose and diversion.  
8 Respondent denies that his prescribing promoted abuse of prescribed medications and  
9 notes that the patient maintained sobriety from opiates for a year while under  
10 Respondent's care.

11 **MD-19-0361A**

12 16. The Board initiated case MD-19-0361A after receiving a complaint from a  
13 pharmacist identifying concerns regarding recent prescriptions for opioids written to a new  
14 patient ("JS").

15 17. Patient JS, a 63 year-old female, established care with Respondent in April,  
16 2019. Respondent issued JS a prescription for Morphine sulphate ER 60 #90 dated April  
17 7, 2019 and a prescription for oxycodone 15 mg #150 dated April 8, 2019. JS presented  
18 to the pharmacy on April 9, 2019 attempting to fill both prescriptions. When the  
19 pharmacist attempted to contact Respondent for direction on which prescription to fill, she  
20 noted that Respondent's voicemail stated that he was on holiday out of the country and  
21 would be available to patients via text message and WhatsApp. Based on her inability to  
22 contact Respondent, the pharmacist refused to fill the prescription.

23 18. During the course of the Board's investigation, Respondent stated that he  
24 examined JS in her home on March 28, 2019 before he left the country. In his responsive  
25 narrative, Respondent also stated that he does not maintain an office space, but sees

1 patients in their place of residence, and at times, other public locations such as lounges,  
2 restaurants or conference rooms. Respondent provided Board staff with travel itineraries  
3 to establish that he was in Arizona at the time he saw JS. However, Respondent's travel  
4 itineraries also established that Respondent prescribed medications to patients on dates  
5 Respondent was out of the country. During the Board's investigation, Respondent stated  
6 that he was available to patients via WhatsApp and texts during these times.

7 19. The MC who reviewed Respondent's care and treatment of JS opined that  
8 Respondent deviated from the standard of care by failing to adequately evaluate the  
9 patient's pain history and functional status, failing to properly assess the patients potential  
10 past or present substance abuse, by prescribing JS opioid morphine milligram equivalents  
11 ("MME") per day of over 292 without adequately documented discussion of the risks of  
12 overdose, respiratory depression and death and without offering a prescription for  
13 naloxone. Respondent noted that he maintained JS at her previously prescribed dosage  
14 of medication.

15 20. Additionally, the MC opined that Respondent's decision to manage a virtual  
16 pain management practice in the manner described by Respondent is also below the  
17 standard of care, fails to comply with HIPAA standards, and endangers patient safety.  
18 The MC opined that Respondent's failure to appropriately screen JS also placed her at  
19 high risk of patient harm.

#### 20 **Prior Board History**

21 21. Respondent's prior Board history includes a Consent Agreement for License  
22 Reactivation and Probation in case MD-02-L088. Respondent subsequently entered into a  
23 Consent Agreement for Decree of Censure in MD-04-1506 and MD-05-0170 arising out  
24 alleged violations of Respondent's Board Order. Additionally, in case MD-09-1440A,  
25 Respondent was issued a non-disciplinary Order for Continuing Medical Education

1 requiring him to complete an intensive, in-person controlled substance prescribing course  
2 for inappropriate prescribing of narcotics containing acetaminophen in violation of A.R.S. §  
3 32-1401(27)(q) (now § 32-1401(27)(r)). Respondent complied with this Order.

4 22. Based on the foregoing information, on January 23, 2020, the Board voted to  
5 summarily suspend Respondent's Arizona medical license.

6 23. Respondent states that believes that his medical record documentation is  
7 appropriate. Respondent has requested to surrender his Arizona medical license subject  
8 to the ability to reapply in five (5) years from the Effective Date of this Order pursuant to  
9 A.R.S. § 32-1458.

10 **CONCLUSIONS OF LAW**

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

13 2. The conduct and circumstances described above constitute unprofessional  
14 conduct pursuant to A.R.S. § 32-1401(27)(e) ("Failing or refusing to maintain adequate  
15 records on a patient.").

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

19 4. The Board possesses statutory authority to enter into a consent agreement  
20 with a physician and accept the surrender of an active license from a physician who  
21 admits to having committed an act of unprofessional conduct. A.R.S. § 32-1451(T)(2).

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1 or made for any other use, such as in the context of another state or federal government  
2 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
3 any other state or federal court.

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

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

12 8. If the Board does not adopt this Order, Respondent will not assert as a  
13 defense that the Board's consideration of the Order constitutes bias, prejudice,  
14 prejudgment or other similar defense.

15 9. ***Respondent has read and understands the terms of this agreement.***

16 Marc A. Bauder, M.D.  
17 MARGA. BAUDER, M.D.

Dated: 4/22/2020

18 EXECUTED COPY of the foregoing mailed by  
19 US Mail this 22<sup>nd</sup> day of April, 2020 to:

20 Marc A. Bauder, M.D.  
21 Address of Record

22 ORIGINAL of the foregoing filed this  
23 8<sup>th</sup> day of May, 2020 with:

24 The Arizona Medical Board  
25 1740 West Adams, Suite 4000  
Phoenix, Arizona 85007

Michelle Peoples  
Board staff