

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. MD-19-0942A

3 **MANITH S. MANN, M.D.**

**ORDER FOR LETTER OF REPRIMAND
AND PROBATION WITH PRACTICE
RESTRICTION; AND CONSENT TO
THE SAME**

4 Holder of License No. 32732
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

7 Manith S. Mann, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Letter of Reprimand 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 32732 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-19-0942A after receiving a complaint
17 regarding Respondent's care and treatment of a 72 year-old male patient ("JW") alleging
18 inappropriate prescribing. Based on the complaint, Board staff requested Medical
19 Consultant ("MC") review of Respondent's care and treatment of JW, and three other
20 patients (JS, RW and MD).

21 4. JW established care with Respondent on October 24, 2017 with initial
22 diagnoses of back pain and anxiety. Respondent prescribed JW medications including
23 oxycodone 10mg every four hours (90 MME), diazepam 10mg twice daily, Soma 350mg
24 three times daily, temazepam 15mg daily, and Flexeril 5mg twice daily. On June 8, 2019,
25 JW expired and the cause of death was identified as multiple drug overdose.

1 5. JS was a 57 year-old female who established care with Respondent on
2 November 18, 2018 with complaints of low back pain, bilateral knee pain, and insomnia.
3 Respondent prescribed JS medications including morphine extended release 400mg twice
4 daily, hydrocodone/acetaminophen 10/325mg every six hours for a total of 840 MME and
5 alprazolam 0.5mg four times daily and 2mg at bedtime. During the course of JS's
6 treatment, Respondent documented multiple complaints of GI problems from JS.

7 6. RW was a 62 year-old male treated who established care with Respondent
8 on February 16, 2018 with complaints of low back pain and insomnia. During his course of
9 treatment, Respondent prescribed medications to RW including morphine ER 60mg every
10 morning, morphine ER 30 every night, hydrocodone/acetaminophen 10/325mg every four
11 hours for a total of 150 MME, and clonazepam 4mg at bedtime.

12 7. MD was a 72 year-old male who established care with Respondent on
13 January 31, 2018 with complaints of chronic shoulder pain, low back pain, and insomnia.
14 During his course of treatment, Respondent prescribed MD medications including
15 morphine ER 15mg every twelve hours, oxycodone 10mg every six hours, alprazolam 1mg
16 at bedtime, and Soma 350mg three times daily.

17 8. The standard of care prohibits a physician from prescribing high dose opioids
18 without clinical justification. Respondent deviated from this standard of care for Patients
19 JW, JS, RW and MD by prescribing high dose opioids without adequate clinical
20 justification.

21 9. The standard of care prohibits a physician from prescribing opioids,
22 benzodiazepines, and sedatives concurrently without a clinical rationale. Respondent
23 deviated from the standard of care for Patients JW, JS, RW and MD by prescribing
24 opioids, benzodiazepines, and sedatives concurrently without adequate clinical rationale.

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1 10. The standard of care requires a physician to monitor patient compliance by
2 checking urinary drug screens and/or the controlled substance prescription monitoring
3 program. Respondent deviated from the standard of care for Patients JW, JS, RW and
4 MD by failing to monitor patient compliance by checking urinary drug screens and/or the
5 controlled substance prescription monitoring program.

6 11. The standard of care requires a physician to address chronic early
7 prescription refills of controlled substances. Respondent deviated from the standard of
8 care for Patient RW by failing to address chronic early prescription refills of controlled
9 substances.

10 12. The standard of care requires a physician to trial non-pharmaceutical
11 therapies prior to prescribing controlled substances. Respondent deviated from the
12 standard of care for Patient MD by failing to trial non-pharmaceutical therapies prior to
13 prescribing controlled substances.

14 13. Actual patient harm was identified in that Patient JW expired. Patient JS
15 experienced inadequate treatment for pain and anxiety. Patients RW and MD had
16 inadequate treatment of pain and insomnia.

17 14. There was the potential for patient harm in that Patients JW, JS and RW
18 were at risk for cognitive impairment, delirium, falls, fractures, motor vehicle crashes,
19 addiction, and diversion of controlled substances. Patient MD was at risk of death,
20 addiction, and diversion of controlled substances.

21 15. Effective June 23, 2020 Respondent entered into an Interim Consent
22 Agreement for Practice Restriction prohibiting him from prescribing controlled substances
23 pending the outcome of this case.

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1 **CONCLUSIONS OF LAW**

2 a. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

4 b. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(a)(“ Violating any federal or state laws or rules
6 and regulations applicable to the practice of medicine.”) Specifically, Respondent’s
7 conduct violated A.R.S. § 36-2606(F) (“Beginning the later of October 1, 2017 or sixty days
8 after the statewide health information exchange has integrated the controlled substances
9 prescription monitoring program data into the exchange, a medical practitioner, before
10 prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule
11 II, III or IV for a patient, shall obtain a patient utilization report regarding the patient for the
12 preceding twelve months from the controlled substances prescription monitoring program’s
13 central database tracking system at the beginning of each new course of treatment and at
14 least quarterly while that prescription remains a part of the treatment. Each medical
15 practitioner regulatory board shall notify the medical practitioners licensed by that board of
16 the applicable date. A medical practitioner may be granted a one-year waiver from the
17 requirement in this subsection due to technological limitations that are not reasonably
18 within the control of the practitioner or other exceptional circumstances demonstrated by
19 the practitioner, pursuant to a process established by rule by the Arizona state board of
20 pharmacy.”).

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

1 d. 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 **ORDER**

5 IT IS HEREBY ORDERED THAT:

6 1. Respondent is issued a Letter of Reprimand.

7 2. Respondent is placed on Probation for a period of two years with the
8 following terms and conditions:

9 **a. Practice Restriction**

10 Respondent’s practice is restricted in that he is prohibited from prescribing
11 controlled substances until he has completed the Continuing Medical Education (“CME”)
12 as stated in paragraph 2(b) of this Order, enters into an agreement with a Board-approved
13 monitor to conduct chart reviews as stated in paragraph 2(c) of this Order, and provides
14 Board staff satisfactory proof of compliance with these requirements.

15 **b. Continuing Medical Education**

16 Respondent shall within 6 months of the effective date of this Order obtain no less
17 than 15 hours of Board Staff pre-approved Category I Continuing Medical Education
18 (“CME”) in an intensive, in-person course regarding controlled substance prescribing, and
19 no less than 10 hours of Board Staff pre-approved Category I CME in medical
20 recordkeeping. Respondent shall within **thirty days** of the effective date of this Order
21 submit her request for CME to the Board for pre-approval. Upon completion of the CME,
22 Respondent shall provide Board staff with satisfactory proof of attendance. The CME
23 hours shall be in addition to the hours required for the biennial renewal of medical
24 licensure.

1 **c. Chart Reviews**

2 Within 30 days of completion of the CME, Respondent shall enter into a contract
3 with a Board-approved monitoring company to perform periodic chart reviews at
4 Respondent's expense. The chart reviews shall involve current patients' charts for care
5 rendered after the date Respondent returned to practice as stated herein. Based upon the
6 chart review, the Board retains jurisdiction to take additional disciplinary or remedial action.

7 **d. Obey All Laws**

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

11 **e. Tolling**

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

19 **f. Probation Termination**

20 After three consecutive favorable chart reviews, Respondent may petition the Board
21 to terminate the Probation. Respondent may not request early termination without
22 satisfaction of the chart review requirements as stated in this Order.
23

24 Prior to any Board consideration for termination of Probation, Respondent must
25 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,

1 provided a complete submission is received by Board staff no less than 30 days prior to
2 the Board meeting. Respondent's request for release must provide the Board with
3 evidence establishing that he has successfully satisfied all of the terms and conditions of
4 this Order.

5 The Probation shall not terminate except upon affirmative request of Respondent
6 and approval by the Board. In the event that Respondent requests Probation termination
7 and the Practice Restriction is in effect at the time of the request, the Board may require
8 any combination of examinations and/or evaluations in order to determine whether or not
9 Respondent is safe to prescribe controlled substances and the Board may continue the
10 Practice Restriction or take any other action consistent with its authority.

11 The Board has the sole discretion to determine whether all of the terms and
12 conditions of this Order have been met or whether to take any other action that is
13 consistent with its statutory and regulatory authority.

14
15 3. This Order supersedes any and all Consent Agreements previously entered
16 into by Respondent and the Board regarding this matter.

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

19 DATED AND EFFECTIVE this 6th day of August, 2020.

20
21 ARIZONA MEDICAL BOARD

22 By Patricia E. McSorley
23 Patricia E. McSorley
24 Executive Director
25

CONSENT TO ENTRY OF ORDER

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

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

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

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

13 5. All admissions made by Respondent in this Order are solely for final
14 disposition of this matter and any subsequent related administrative proceedings or civil
15 litigation involving the Board and Respondent. Therefore, said admissions by Respondent
16 are not intended or made for any other use, such as in the context of another state or
17 federal government regulatory agency proceeding, civil or criminal court proceeding, in the
18 State of Arizona or any other state or federal court.

19 6. Notwithstanding any language in this Order, this Order does not preclude in
20 any way any other State agency or officer or political subdivision of this state from
21 instituting proceedings, investigating claims, or taking legal action as may be appropriate
22 now or in the future relating to this matter or other matters concerning Respondent,
23 including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent
24 acknowledges that, other than with respect to the Board, this Order makes no
25 representations, implied or otherwise, about the views or intended actions of any other

1 state agency or officer or political subdivisions of the State relating to this matter or other
2 matters concerning Respondent.

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

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

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

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

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

20 12. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), he
21 cannot act as a supervising physician for a physician assistant while his license is on
22 probation.

23 13. ***Respondent has read and understands the conditions of probation.***

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MANITH S. MANN, M.D.

DATED: 7-30-20

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EXECUTED COPY of the foregoing mailed
this 6th day of August, 2020 to:

Manith S. Mann, M.D.
Address of Record

ORIGINAL of the foregoing filed
this 6th day of August, 2020 with:

Arizona Medical Board
1740 West Adams, Suite 4000
Phoenix, Arizona 85007

Michelle Robus
Board staff