

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **STUART L. POSNER, M.D.**

4 Holder of License No. **9295**
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-22-0103A

**INTERIM CONSENT AGREEMENT
FOR PRACTICE RESTRICTION**

7 **INTERIM CONSENT AGREEMENT**

8 Stuart L. Posner, M.D. ("Respondent") elects to permanently waive any right to a
9 hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction
10 and consents to the entry of this Order by the Arizona Medical Board ("Board").

11 **INTERIM 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 No. 9295 for the practice of allopathic
15 medicine in the State of Arizona.

16 3. The Board initiated case number MD-22-0103A after receiving a complaint
17 regarding Respondent's care and treatment of six patients alleging inappropriate
18 controlled substance prescribing. Based on the complaint, Board staff requested Medical
19 Consultant ("MC") review of Respondent's care and treatment of all six patients identified.

20 4. The MC identified deviations from the standard of care for all six patients
21 regarding Respondent's prescribing of controlled substances, as well as potential harm in
22 that all patients were at risk of dependence, addiction, respiratory depression, overdose
23 and death.

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1 Interim Consent Agreement. The Executive Director, in consultation with and agreement of
2 the lead Board member and the Chief Medical Consultant, has the discretion to determine
3 whether it is appropriate to release Respondent from this Interim Consent Agreement.

4 3. The Board retains jurisdiction and may initiate new action based upon any
5 violation of this Interim Consent Agreement, including, but not limited to, summarily
6 suspending Respondent's license.

7 4. Because this is an Interim Consent Agreement and not a final decision by
8 the Board regarding the investigation, it is subject to further consideration by the Board.

9 5. This Interim Consent Agreement shall be effective on the date signed by the
10 Board's Executive Director.

11 **RECITALS**

12 Respondent understands and agrees that:

13 1. The Board, through its Executive Director, may adopt this Interim Consent
14 Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-
15 504.

16 2. Respondent has read and understands this Interim Consent Agreement as
17 set forth herein, and has had the opportunity to discuss this Interim Consent Agreement
18 with an attorney or has waived the opportunity to discuss this Interim Consent Agreement
19 with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and
20 by doing so agrees to abide by all of its terms and conditions.

21 3. By entering into this Interim Consent Agreement, Respondent freely and
22 voluntarily relinquishes all rights to an administrative hearing on the matters set forth
23 herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or
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1 any other administrative and/or judicial action, concerning the matters related to the
2 Interim Consent Agreement.

3 4. Respondent understands that this Interim Consent Agreement does not
4 constitute a dismissal or resolution of this matter or any matters that may be currently
5 pending before the Board and does not constitute any waiver, express or implied, of the
6 Board's statutory authority or jurisdiction regarding this or any other pending or future
7 investigations, actions, or proceedings. Respondent also understands that acceptance of
8 this Interim Consent Agreement does not preclude any other agency, subdivision, or
9 officer of this State from instituting civil or criminal proceedings with respect to the conduct
10 that is the subject of this Interim Consent Agreement. Respondent further does not
11 relinquish his/her rights to an administrative hearing, rehearing, review, reconsideration,
12 judicial review or any other administrative and/or judicial action, concerning the matters
13 related to a final disposition of this matter, unless Respondent affirmatively does so as part
14 of the final resolution of this matter.
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16 5. Respondent acknowledges and agrees that upon signing this Interim
17 Consent Agreement and returning it to the Board's Executive Director, Respondent may
18 not revoke acceptance of this Interim Consent Agreement or make any modifications to it.
19 Any modification of this original document is ineffective and void unless mutually approved
20 by the parties in writing.

21 6. Respondent understands that this Interim Consent Agreement shall not
22 become effective unless and until it is signed by the Board's Executive Director.

23 7. Respondent understands and agrees that if the Board's Executive Director
24 does not adopt this Interim Consent Agreement, he will not assert in any future
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1 proceedings that the Board's consideration of this Interim Consent Agreement constitutes
2 bias, prejudice, prejudgment, or other similar defense.

3 8. Respondent understands that this Interim Consent Agreement is a public
4 record that may be publicly disseminated as a formal action of the Board, and that it shall
5 be reported as required by law to the National Practitioner Data Bank.

6 9. Respondent understands that this Interim Consent Agreement does not
7 alleviate Respondent's responsibility to comply with the applicable license-renewal
8 statutes and rules. If this Interim Consent Agreement remains in effect at the time
9 Respondent's allopathic medical license comes up for renewal, Respondent must renew
10 the license if Respondent wishes to retain the license. If Respondent elects not to renew
11 the license as prescribed by statute and rule, Respondent's license will not expire but
12 rather, by operation of law (A.R.S. § 32-3202), become suspended until the Board takes
13 final action in this matter. Once the Board takes final action, in order for Respondent to be
14 licensed in the future, Respondent must submit a new application for licensure and meet
15 all of the requirements set forth in the statutes and rules at that time.
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1 10. Respondent understands that any violation of this Interim Consent
2 Agreement constitutes unprofessional conduct under A.R.S. § 32-1401(27)(s) ("violating
3 a formal order, probation, consent agreement or stipulation issued or entered into by the
4 board or its executive director under this chapter.").

5 Stuart Posner M.D.
6 STUART L. POSNER, M.D.

DATED: MAY 10th 2023

8 DATED this 17th day of May, 2023.

9 ARIZONA MEDICAL BOARD

10 By Patricia E. McSorley
11 Patricia E. McSorley
12 Executive Director

13 EXECUTED COPY of the foregoing e-mailed
14 this 17th day of May, 2023 to:

15 Stephen A. Bullington, Esq.
16 Jones, Skelton & Hochuli, P.L.C.
17 40 North Central Avenue, Suite 2700
18 Phoenix, Arizona 85004
19 Attorney for Respondent

20 ORIGINAL of the foregoing filed
21 this 17th day of May, 2023 with:

22 Arizona Medical Board
23 1740 West Adams, Suite 4000
24 Phoenix, Arizona 85007

25 [Signature]
Board staff