

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

Case No. MD-18-0026A

3 **JOHN W. MCGETTIGAN, M.D.**

4 Holder of License No. 12606
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

**ORDER DENYING REQUEST FOR
REHEARING OR REVIEW**

7
8 At its public meeting on January 7, 2021 the Arizona Medical Board ("Board")
9 considered John W. McGettigan, M.D.'s ("Respondent") Petition for Rehearing of the
10 Board's Order dated December 3, 2020 in the above referenced matter. After considering
11 all of the evidence, the Board voted to deny Respondent's Petition for Rehearing.

12 **ORDER**

13 IT IS HEREBY ORDERED that:

14 Respondent's Petition for Rehearing is denied. The Board's December 3, 2020
15 Findings of Fact, Conclusions of Law and Order for Decree of Censure and Probation with
16 Practice Restriction in Case MD-18-0026A is effective and constitutes the Board's final
17 administrative order.
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1 RIGHT TO APPEAL TO SUPERIOR COURT

2 Respondent is hereby notified that he has exhausted his administrative remedies.
3 Respondent is advised that an appeal to Superior Court in Maricopa County may be taken
4 from this decision pursuant to title 12, chapter 7, and article 6 of the Arizona Revised
5 Statutes.

6 DATED AND EFFECTIVE this 8th day of January, 2021.

7 ARIZONA MEDICAL BOARD

8
9 By Patricia E. McSorley
10 Patricia E. McSorley
11 Executive Director

12 EXECUTED COPY of the foregoing mailed
13 this 8th day of January, 2021 to:

14 John W. McGettigan, M.D.
15 Address of Record

16 Susan Trujillo, Esq.
17 Quarles & Brady, LLP
18 Two North Central Avenue, #3
19 Phoenix, Arizona 85004-1032
20 Attorney for Respondent

21 ORIGINAL of the foregoing filed
22 this 8th day of January, 2021 with:

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

Michelle Robles
Board staff

1 **BEFORE THE REVIEW COMMITTEE OF THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. MD-18-0026A

3 **JOHN W. MCGETTIGAN, M.D.**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR DECREE
OF CENSURE AND PROBATION WITH
PRACTICE RESTRICTION**

4 Holder of License No. 12606
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

7 The Review Committee of the Arizona Medical Board ("Board") considered this
8 matter at its public meeting on October 8, 2020. John W. McGettigan, M.D.
9 ("Respondent"), appeared with legal counsel, Susan Trujillo, Esq., before the Review
10 Committee for a Formal Interview pursuant to the authority vested in the Board by A.R.S. §
11 32-1451(P). The Review Committee voted to issue Findings of Fact, Conclusions of Law
12 and Order for Decree of Censure and Probation with Practice Restriction after due
13 consideration of the facts and law applicable to this matter.

14 **FINDINGS OF FACT**

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

17 2. Respondent is the holder of license number 12606 for the practice of
18 allopathic medicine in the State of Arizona.

19 3. The Board initiated case number MD-18-0026A after receiving a complaint
20 regarding Respondent's care and treatment of a 61 year-old female patient ("CA") alleging
21 inappropriate and/or excessive prescribing of narcotic medications and inadequate
22 medication monitoring.

23 4. CA established care with Respondent on June 17, 2015 with a history of
24 multiple sclerosis and chronic pain. Respondent treated CA through January 12, 2018.
25 Respondent prescribed CA medications including MS Contin, diazepam, and morphine IR.
In 2017, Respondent documented that CA's daughter reported diagnoses of dementia and

1 depression, and requested reduction of CA's diazepam. Respondent reduced CA's
2 diazepam, and subsequently increased it back to 5 mg in May, 2017. CA's last visit was
3 January 12, 2018. She reported a fall, and Respondent documented that CA's pain
4 medications may be too strong. Respondent refilled CA's medications.

5 5. CM was a 43 year-old male patient with a past medical history of lumbago,
6 chronic pain due to trauma, diabetes type II with recent amputation of a portion of the left
7 foot, and phantom limb pain who initiated care with Respondent in 2014. Respondent
8 prescribed CM medications including oxycodone IR and methadone in dosages that
9 averaged between 520-550 morphine milligram equivalents ("MME") per day.

10 6. FCM was a 35 year-old female patient with a past medical history of chronic
11 pain syndrome, lumbago, and sacroiliitis who initiated care with Respondent in 2016. FCM
12 reported that prior epidural steroid injections and nerve ablations were not helpful.
13 Respondent's treatment of FCM included prescribing medications including temazepam,
14 morphine sulfate extended release, oxycodone, methocarbamol, and Lidoderm patch.
15 FCM's MME was 225 per day.

16 7. KA was a 51 year-old female with past medical history including chronic pain
17 due to trauma and multiple spinal surgeries who initiated care with Respondent in 2014.
18 Respondent prescribed KA medications including fentanyl 100mcg patch, Fentora oral
19 transmucosal fentanyl 600mg, and diazepam. KA's MME was 1010 per day. In 2016, KA
20 obtained a medical marijuana card.

21 8. RA was a 61 year-old male patient with complaints of neck pain, shoulder
22 pain, and low back pain following a career as a paratrooper in the Army initiated care with
23 Respondent in 2014. RA's medication list included hydromorphone 4mg every four hours,
24 methadone 10mg 1-2 tablets every eight hours, Valium 10mg three times daily, bupropion
25

1 150mg every am, sertraline 200mg daily, Prazosin 5mg daily as needed. RA's MME was
2 324 per day.

3 9. RB was a 63 year-old female with past medical history including
4 hypertension, fibromyalgia, insomnia, fatigue, chronic constipation, chronic pain, cognitive
5 impairment, history of falls, hyperlipidemia, joint pain, lumbar radiculopathy, lumbar disc
6 degeneration, renal insufficiency, rotator cuff injury, major depressive disorder, thyroid
7 problems, and vitamin D deficiency who initiated care with Respondent in 2016.
8 Respondent prescribed RB medications including Xanax, diazepam, Fentanyl patch, and
9 oxycodone. RB's MME was 446 per day. During the course of Respondent's treatment, he
10 documented ongoing marijuana use, complaints of stress and crying during visits. In
11 September 2019, RB reported that she had experienced three recent falls. Respondent
12 documented a plan to continue medications and start home health.

13 10. The standard of care prohibits a physician from care prescribing high dose
14 opioids without a clinical rationale. Respondent deviated from this standard of care for
15 Patients CA, CM, FCM, KA, RA, and RB by prescribing high dose opioids without
16 adequate clinical rationale.

17 11. The standard of care prohibits a physician from prescribing a combination of
18 opioids and benzodiazepines for long term use. Respondent deviated from the standard
19 of care for Patients CA, KA, RA, and RB by prescribing a combination of high dose opioids
20 and benzodiazepines for long term use without a clinical rationale.

21 12. The standard of care requires a physician to trial non-pharmacological
22 therapy prior to prescribing controlled substances. Respondent deviated from the
23 standard of care by failing to trial non-pharmacological therapy prior to prescribing
24 controlled substances to Patients CA, CM, FCM, KA, RA, and RB.

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1 13. The standard of care requires a physician to perform an adequate pain
2 specialty level neurological/physical examination. Respondent deviated from the standard
3 of care for Patients CA, CM, FCM, KA, RA, and RB by failing to perform an adequate pain
4 specialty level neurological/physical examination.

5 14. There was actual patient harm in that Patient KA experienced decreased
6 functionality and lost the chance for improvement that could have occurred with the
7 implementation of appropriate behavioral and physical interventions.

8 15. There was the potential for patient harm in that Patient CA was at risk of
9 abuse, diversion, overdose and death. Patient CM, FCM, KA, RA and RB were at risk of
10 mental health concerns and increased risk of accidental overdose.

11 16. Effective July 10, 2020 Respondent entered into an Interim Consent
12 Agreement for Practice Restriction prohibiting him from (1) accepting new patients who
13 require controlled substance management of chronic pain conditions, and (2) increasing
14 dosages of controlled substances prescribed to current patients in the State of Arizona
15 pending the outcome of a formal interview or formal hearing in this matter. Additionally,
16 Respondent was required to retain a practice monitor to provide concurrent review of his
17 controlled substance prescribing pending the outcome of a formal interview or formal
18 hearing in this matter ("Interim Practice Restriction").

19 17. During a Formal Interview on this matter, Respondent testified regarding his
20 care and treatment of the patients at issue in the case, and changes implemented or
21 planned in his practice. Respondent testified that he recognized that his medical
22 recordkeeping could be improved, and discussed actions taken to improve them.
23 Respondent testified regarding his experience with the practice monitor required by the
24 Interim Practice Restriction.

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1 ORDER

2 IT IS HEREBY ORDERED THAT:

- 3 1. Respondent is issued a Decree of Censure.
4 2. Respondent is placed on Probation for a period of 3 years with the following terms
5 and conditions:

6 a. Practice Restriction

7 Respondent is prohibited from (1) accepting new patients who require controlled
8 substance management of chronic pain conditions, and (2) increasing dosages of
9 controlled substances prescribed to current patients in the State of Arizona. Additionally,
10 Respondent shall continue to utilize a Board staff pre-approved Practice Monitor as
11 required by the Interim Practice Restriction. Respondent shall agree to allow the Monitor
12 to select patient charts for review on a weekly basis, to view his interactions with any and
13 all patients as deemed appropriate by the Monitor. The Monitor shall provide written
14 reports to the Board on a monthly basis or at any time the Monitor has concerns regarding
15 Respondent's controlled substance prescribing or safety to practice. Respondent shall be
16 responsible for all expenses relating to the Practice Monitor and preparation of monthly
17 reports.

18 Respondent may request termination of this Practice Restriction after Respondent
19 has completed the CME as required in paragraph 2(b) of this Order, entered into an
20 agreement with a Board-approved monitor to conduct chart reviews as stated in paragraph
21 2(c) of this Order, and provides Board staff satisfactory proof of compliance with these
22 requirements.

23 b. Continuing Medical Education

24 Respondent shall within 6 months of the effective date of this Order obtain no less
25 than 10 hours of Board Staff pre-approved Category I Continuing Medical Education

1 ("CME") in an intensive, in-person course regarding medical recordkeeping, as well as
2 controlled substance prescribing CME provided by either the Center for Personalized
3 Education for Physicians ("CPEP") or the UC San Diego Physician Assessment and
4 Clinical Education Program ("PACE"). Respondent shall within **thirty days** of the effective
5 date of this Order submit his request for CME to the Board for pre-approval. Upon
6 completion of the CME, Respondent shall provide Board staff with satisfactory proof of
7 attendance. The CME hours shall be in addition to the hours required for the biennial
8 renewal of medical licensure.

9 **c. Chart Reviews**

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

15 **d. Obey All Laws**

16 Respondent shall obey all state, federal and local laws, and all rules governing the
17 performance of healthcare tasks in Arizona.

18 **e. Tolling**

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

1 **f. Probation Termination**

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

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

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

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

21 3. The Board retains jurisdiction and may initiate new action against Respondent
22 based upon any violation of this Order. A.R.S. § 32-2501(18)(ee).

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