

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

2 In the Matter of

Case No. MD-19-0985A

3 **THANES J. VANIG, M.D.**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR LETTER
OF REPRIMAND AND PROBATION**

4 Holder of License No. 24745
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 December 3, 2020. Licensee, M.D. ("Respondent"),
9 appeared with legal counsel, Christina Chait, Esq., before the Review Committee for a
10 Formal Interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(P).
11 The Review Committee voted to issue Findings of Fact, Conclusions of Law and Order
12 after due consideration of the facts and law applicable to this matter.

13 **FINDINGS OF FACT**

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

16 2. Respondent is the holder of license number 24745 for the practice of
17 allopathic medicine in the State of Arizona.

18 3. The Board initiated case number MD-19-0985A after receiving notification of
19 a malpractice settlement regarding Respondent's care and treatment of a 54 year-old male
20 patient ("RG") alleging inappropriate prescribing of opioids.

21 4. RG was an established patient of Respondent's practice with past medical
22 history including human immunodeficiency virus ("HIV") associated painful peripheral
23 neuropathy. Respondent's treatment for RG included prescribing medications including
24 morphine sulfate ER 60mg three times daily, morphine sulfate ER 30mg four times daily as
25 needed, morphine sulfate IR 30mg every six hours, morphine sulfate IR 15mg three times

1 daily, and Endocet 5/325mg every six hours as needed for a total of 495 morphine
2 equivalents daily. RG was also prescribed Ritalin 10mg twice daily for neuropathy.

3 5. RE was a 58 year-old male who initiated care with Respondent in July 2016.
4 RE's medical history included HIV, chronic kidney disease stage 3, hypogonadism, low
5 back pain, and hypertension. Respondent's treatment included prescribing RE medications
6 including buspirone 10mg three times daily, tramadol 50mg 1-2 tablets every six hours,
7 zolpidem 10mg at bedtime, and Soma 350mg twice daily. In July 2018, Respondent
8 discontinued RE's Soma and substituted a prescription for tizanidine 4mg twice daily.

9 6. DM was a 66 year-old male who was established patient of Respondent's
10 practice. DM had a medical history of HIV, depression, obstructive sleep apnea ("OSA"),
11 peripheral neuropathy, fatigue, and hypercholesterolemia. Respondent's treatment of DM
12 included prescribing medications including Lyrica 150mg twice daily, tramadol 50mg twice
13 daily, gabapentin 300mg three times daily, clonazepam 1mg twice daily, zolpidem 10mg at
14 bedtime, Wellbutrin 300mg daily, and amitriptyline 75mg at bedtime.

15 7. The standard of care prohibits a physician from prescribing high dose opioids
16 without clinical justification. Respondent deviated from this standard of care for Patients
17 RG and DM by prescribing high dose opioids without clinical justification.

18 8. The standard of care requires a physician to monitor patient compliance by
19 checking urinary drug screens and/or the controlled substance prescription monitoring
20 program. Respondent deviated from the standard of care for Patients RG, RE and DM by
21 failing to monitor patient compliance by checking urinary drug screens and/or the
22 controlled substance prescription monitoring program.

23 9. The standard of care prohibits a physician from prescribing Ritalin without
24 clinical justification. Respondent deviated from the standard of care by prescribing Ritalin
25 to Patient RG without adequate clinical justification.

1 10. The standard of care requires a physician to address chronic early
2 prescription refills of controlled substances. Respondent deviated from the standard of
3 care for Patients RG and RE by failing to address chronic early prescription refills of
4 controlled substances.

5 11. The standard of care prohibits a physician from prescribing opioids, Soma,
6 and zolpidem concurrently without a clinical rationale. Respondent deviated from the
7 standard of care by prescribing Patient RE opioids, Soma, and zolpidem concurrently
8 without adequate clinical rationale.

9 12. The standard of care prohibits a physician from prescribing opioids,
10 benzodiazepines, and zolpidem concurrently without a clinical rationale. Respondent
11 deviated from the standard of care for Patient DM by prescribing opioids,
12 benzodiazepines, and zolpidem concurrently without adequate clinical rationale.

13 13. Actual patient harm was identified in that Patient RG had an unrecognized
14 and untreated opioid addiction, and experienced a near fatal overdose with
15 rhabdomyolysis and ICU stay requiring ventilation.

16 14. There was the potential for patient harm in that all patients were at risk of
17 death and diversion of controlled substances. Patient DM was at risk for undiagnosed
18 alcohol use disorder and its sequelae.

19 15. In November, 2019 Respondent completed the Arizona Pain and Addiction
20 Curriculum for a total of 7 hours of Continuing Medical Education ("CME"). During the
21 course of the Board's investigation Respondent reported changes to his practice including
22 discontinuing prescribing opioids for patients with chronic pain, and compliance with
23 Arizona's current opioid prescribing guidelines.

24 16. During a Formal Interview on this matter, Respondent testified regarding his
25 care and treatment of the patients at issue in this case, and his patient population in

1 general. Respondent testified that he treats patients with HIV, who often experience multi-
2 organ complications and require unique treatments and long-term relationships.
3 Respondent agreed that his care fell below the standard of care, and testified regarding his
4 changes in his practice regarding controlled substance prescribing, including routine use of
5 controlled substance agreements.

6 17. During that same Formal Interview, Review Committee members expressed
7 concern regarding Respondent's past prescribing practices and potential red flag
8 interactions with the patients' medical conditions such as porphyria and sleep apnea.
9 Board members agreed that assisting the physician to become more knowledgeable
10 regarding prescribing controlled substances, including benzodiazepines would be
11 beneficial.

12 CONCLUSIONS OF LAW

13 1. The Board possesses jurisdiction over the subject matter hereof and over
14 Respondent.

15 2. The conduct and circumstances described above constitute unprofessional
16 conduct pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws or rules
17 and regulations applicable to the practice of medicine.") Specifically, Respondent's
18 conduct violated A.R.S. § 36-2606(F) ("Beginning the later of October 1, 2017 or sixty days
19 after the statewide health information exchange has integrated the controlled substances
20 prescription monitoring program data into the exchange, a medical practitioner, before
21 prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule
22 II, III or IV for a patient, shall obtain a patient utilization report regarding the patient for the
23 preceding twelve months from the controlled substances prescription monitoring program's
24 central database tracking system at the beginning of each new course of treatment and at
25 least quarterly while that prescription remains a part of the treatment. Each medical

1 practitioner regulatory board shall notify the medical practitioners licensed by that board of
2 the applicable date. A medical practitioner may be granted a one-year waiver from the
3 requirement in this subsection due to technological limitations that are not reasonably
4 within the control of the practitioner or other exceptional circumstances demonstrated by
5 the practitioner, pursuant to a process established by rule by the Arizona state board of
6 pharmacy.”).

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

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

13 **ORDER**

14 IT IS HEREBY ORDERED THAT:

- 15 1. Respondent is issued a Letter of Reprimand.
16 2. Respondent is placed on Probation for a period of 2 years with the following terms
17 and conditions:

18 a. **Continuing Medical Education**

19 Respondent shall within 12 months of the effective date of this Order obtain no less
20 than 5 hours of Board Staff pre-approved Category I Continuing Medical Education
21 (“CME”) in prescribing opioids and benzodiazepines. Respondent shall within **thirty days**
22 of the effective date of this Order submit his request for CME to the Board for pre-
23 approval. Upon completion of the CME, Respondent shall provide Board staff with
24 satisfactory proof of attendance. The CME hours shall be in addition to the hours required
25 for the biennial renewal of medical licensure.

1 Additionally, Respondent shall within 12 months of the effective date of this Order
2 complete the intensive, in-person CME course in medical recordkeeping offered by the
3 Center for Professional Education for Physicians (“CPEP”). Respondent shall within thirty
4 days of the effective date of this Order submit his request for CME to the Board for pre-
5 approval. Upon completion of the CME, Respondent shall provide Board staff with
6 satisfactory proof of attendance. The CME hours shall be in addition to the hours required
7 for the biennial renewal of medical licensure.

8 Within 30 days of successful completion of the CPEP CME, Respondent shall enroll
9 in the Personalized Implementation Program (“PIP”) with successful completion.
10 Respondent shall comply with any and all requirements and practice recommendations
11 made by his PIP reviewer as well as follow any and all recommendations made for further
12 education and/or remediation by the PIP, subject to the approval of the Board or its staff.
13 Respondent shall provide Board staff with proof that he successfully completed the PIP.
14 Respondent shall sign any and all consents or releases necessary to allow for CPEP to
15 communicate to the Board directly. Respondent shall be responsible for the expenses of
16 participation in the PIP, and shall notify the Board staff of enrollment in the PIP.
17 Respondent shall not revoke any release prior to successful completion of the CME and
18 PIP.

19 **b. Obey All Laws**

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

23 **c. Probation Termination**

24 Prior to the termination of Probation, Respondent must submit a written request to
25 the Board for release from the terms of this Order. Respondent’s request for release will

1 be placed on the next pending Board agenda, provided a complete submission is received
2 by Board staff no less than 30 days prior to the Board meeting. Respondent's request for
3 release must provide the Board with evidence establishing that he has successfully
4 satisfied all of the terms and conditions of this Order. The Board has the sole discretion to
5 determine whether all of the terms and conditions of this Order have been met or whether
6 to take any other action that is consistent with its statutory and regulatory authority.

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

9 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

10 Respondent is hereby notified that he has the right to petition for a rehearing or
11 review. The petition for rehearing or review must be filed with the Board's Executive
12 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
13 petition for rehearing or review must set forth legally sufficient reasons for granting a
14 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after
15 date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed,
16 the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

17 Respondent is further notified that the filing of a motion for rehearing or review is
18 required to preserve any rights of appeal to the Superior Court.

19 DATED AND EFFECTIVE this 11th day of February, 2021.

20 ARIZONA MEDICAL BOARD

21
22 By Patricia E. McSorley
23 Patricia E. McSorley
24 Executive Director
25

1 EXECUTED COPY of the foregoing mailed
this 11th day of February, 2021 to:

2
3 Christina Chait, Esq.
4 Jones, Skelton & Hochuli, PLC
5 40 North Central Avenue, Suite 2700
6 Phoenix, Arizona 85004
7 Attorney for Respondent

8 ORIGINAL of the foregoing filed
9 this 11th day of February, 2021 with:

10
11 Arizona Medical Board
12 1740 West Adams, Suite 4000
13 Phoenix, Arizona 85007

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Michelle Prober
Board staff