BEFORE THE REVIEW COMMITTEE OF THE ARIZONA MEDICAL BOARD

In the Matter of **MICHAEL S. KUNTZELMAN, M.D.** Holder of License No. 13565 For the Practice of Allopathic Medicine In the State of Arizona.	Case No. MD-18-0863A, MD-19-0723A, MD-19-0954A, MD-20-0049A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR DECREE OF CENSURE AND PROBATION WITH PRACTICE RESTRICTION**

The Review Committee of the Arizona Medical Board ("Board") considered this matter at its public meeting on December 3, 2020. Michael S. Kuntzelman, M.D. ("Respondent"), appeared before the Review Committee for a Formal Interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(P). The Review Committee voted to issue Findings of Fact, Conclusions of Law and Order for Decree of Censure and Probation with Practice Restriction after due consideration of the facts and law applicable to this matter.

FINDINGS OF FACT

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

2. Respondent is the holder of license number 13565 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case numbers MD-18-0863A, MD-19-0723A, MD-19-0954A and MD-20-0049A pursuant to the Board's Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Probation with Practice Restriction issued on November 8, 2017 in case MD-16-1257A ("Order") due to inappropriate prescribing and treatment of several patients at a Suboxone Clinic. The Order restricted Respondent's controlled substances prescribing to Suboxone or buprenorphine for the purposes of addiction treatment, and required chart reviews through a Board-approved monitoring company.

4. In each of the cases referenced herein, the monitoring company found deficiencies in Respondent's documentation and/or identified patients for whom Respondent failed to meet generally accepted standards of practice.

5. Based on concerns raised during the monitoring company's reviews in these cases, Board staff requested Medical Consultant ("MC") review to further address whether Respondent's treatment of the patients met generally acceptable standards of care.

MD-18-0863A

6. An MC reviewed Respondent's care and treatment of five patients.

7. LD initiated care at the Suboxone Clinic in April of 2017 for opioid use disorder and Respondent prescribed Suboxone 8/2mg film three times daily. VR initiated care with the Suboxone Clinic in January of 2018 for opioid use disorder and Respondent prescribed Suboxone 8/2mg three films daily. JL initiated care with the Suboxone Clinic in March of 2018 for opioid use disorder and Respondent prescribed Suboxone 8/2mg three times daily. DS initiated care with the Suboxone Clinic in January of 2018 for opioid use disorder and Respondent prescribed Suboxone 8/2mg three times daily. RB initiated care with the Suboxone Clinic in February 2018 for opioid use disorder and Respondent prescribed Suboxone 8/2mg four times daily. Urine drug screens appear to have been performed weekly and the results were reported 2-3 weeks later.

8. During the course of the Board's investigation, a complaint was received from the Drug Enforcement Agency ("DEA") indicating that Respondent authorized a total of seven prescriptions for Lyrica for one patient for the period of March 7, 2018 to August 15, 2018 in violation of the Board's Order. Respondent acknowledged responsibility for writing and authorizing the prescriptions, and indicated that he was not aware that Lyrica (pregabalin) is a scheduled V controlled substance.

9. The MC found that in all five cases, Respondent prescribed the maximum recommended dose of Suboxone without clinical justification. The MC found that urine drug screens were rarely current and that Respondent did not address aberrant results.

10. The standard of care prohibits a physician from prescribing the maximum recommended dose of Suboxone without clinical justification. Respondent deviated from this standard of care by prescribing the maximum recommended dose of Suboxone without clinical justification for the five patients.

11. The standard of care requires a physician to address aberrant urinary drug screens. Respondent deviated from this standard of care by failing to address aberrant urinary drug screens for all five patients.

12. The standard of care requires a physician to adequately monitor the Controlled Substance Prescription Monitoring Program ("CSPMP"). Respondent deviated from the standard of care by failing to monitor the CSPMP for all five patients.

13. There was the potential for patient harm in all five patients in that over utilization could incur undue drain on the patients' finances and time.

MD-19-0723A

14. An MC reviewed Respondent's care and treatment of Patients EL and JP.

15. Patient EL was a 24 year-old male who established care at the Clinic in July, 2018. Respondent prescribed EL Suboxone 8/2 mg film twice daily as needed and Clonidine 0.1 mg three times daily. EL reported obtaining a medical marijuana card. EL discontinued treatment in December, 2018 and returned on July 11, 2019 reporting a relapse the previous April and recent heroin use. Respondent prescribed EL Suboxone 8/2 film daily as needed and Clonidine 0.1 mg three times daily. On July 18, 2019 EL complained of withdrawal symptoms of chills and stomach discomfort and requested a dose increase. Respondent increased EL's Suboxone to 8/2 mg 2 films daily.

16. JP was a 39 year-old male patient who established care at the Clinic in September, 2016 for opioid use disorder. JP had transferred from another provider and reported stability on Suboxone, with a dose of 12-16mg daily for 2.5 years, noting anxiety with lower doses. Respondent assumed JP's care in March 2018. JP's asked that his Suboxone not be decreased. Respondent prescribed Suboxone 8/2mg ½ tablet daily and sertraline 100mg daily. In January 2019, Respondent increased the Suboxone to 8/2mg ¾ tablet daily and discontinued the sertraline and prescribed citalopram 20mg daily.

17. The standard of care requires a physician to perform and monitor urinary drug screens prior to prescribing chronic narcotic therapy. Respondent deviated from this standard of care by failing to perform and monitor urinary drug screens prior to prescribing chronic narcotic therapy for patient JP.

18. There was the potential for patient harm in that Respondent failed to check JP's drug screens to monitor for possible relapse with potential for drug interaction and diversion.

MD-19-0954A

19. An MC reviewed Respondent's care and treatment of patients HG and PO.

20. HG was a 39 year-old female patient who was an established patient of the Clinic being treated for opioid use disorder. In March 2018, Respondent assumed HG's care and continued HG's Suboxone dosage of 2/0.5mg daily. HG was seen monthly by Respondent at consistent Suboxone dosage.

21. PO was a 60 year-old male patient who initiated care with the Clinic in February 2019 for opioid dependency. Respondent saw PO one time on April 12, 2019, and noted that PO's treatment with his regular provider had been interrupted due to loss of insurance. Respondent continued PO's Suboxone 8mg/2mg with notation of a bridge to appointment with PO's regular provider the following week.

22. With regard to patient HG, the MC found that Respondent failed to perform and monitor urinary drug screens prior to chronic narcotic therapy. With regard to patient PO, the MC found that Respondent did not adequately document the dose of Suboxone prescribed, and that he did not document any potential relapse while PO had a gap in treatment and drug screens were not checked.

23. The standard of care requires a physician to perform and monitor urinary drug screens prior to prescribing chronic therapy. Respondent deviated from this standard of care for Patient HG by failing to perform and monitor urinary drug screens prior to prescribing chronic narcotic therapy.

24. There was the potential for patient harm in that HG could have relapsed without the physician's knowledge as drug screens were not being checked.

MD-20-0049A

25. An MC reviewed Respondent's care and treatment of patient LM.

26. LM was a 24 year old male who was an established patient of the Clinic. On May 4, 2018, Respondent assumed LM's care from another provider and continued LM's Suboxone at 8/2 mg sublingual twice daily. On June 1, 2018 Respondent increased LM's Suboxone to 8/2, 2.5 films daily. LM's June UDS was subsequently found to be positive for an illicit substance. LM was advised that aberrant UDS results could jeopardize Suboxone prescriptions. LM returned in August, 2018 after a relapse and was treated by Respondent through December, 2019. On multiple occasions, LM was noted to have aberrant UDS results.

27. The MC found that Respondent prescribed high-dose Suboxone for LM without a clinical justification. The MC noted that LM's ongoing amphetamine use remained an issue for many months, and stated that the patient should have either received a higher level of care or been terminated from treatment. The MC further noted

that Respondent should be documenting all drug screen results including monitoring for Suboxone.

28. The standard of care prohibits a physician from prescribing high-dose Suboxone without a clinical justification and to refer a patient for an elevated level of care and/or terminate treatment when necessary. Respondent deviated from this standard of care by prescribing high-dose Suboxone without a clinical justification and by failing to recognize the need for LM to receive a higher level of care or termination after multiple aberrant UDS results.

29. During a Formal Interview on these matters, Respondent testified regarding his care and treatment of the patients at issue, and his efforts at improving his practice during his period of probation.

30. During that same Formal Interview, Review Committee members recognized the good intentions of the Respondent, but expressed concern that Respondent's practice continued to fall below the standard of care. Committee members agreed that while there had been progress in Respondent's practices, the public would be best protected if Respondent was prohibited from prescribing controlled substances for a period of time.

CONCLUSIONS OF LAW

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

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

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

4. The conduct and circumstances described in MD-18-0863A above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(s) ("Violating a formal order, probation, consent agreement or stipulation issued or entered by the board or its executive director under the provisions of this chapter.").

ORDER

IT IS HEREBY ORDERED THAT:

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

a. Practice Restriction

Respondent's practice is restricted in that he is prohibited from prescribing controlled substances in the State of Arizona during the period of this Order. Board staff or its agents may conduct periodic chart reviews to monitor Respondent's compliance with this Board Order.

b. Obey All Laws

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

c. Tolling

In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing medicine in Arizona, Respondent shall notify the Executive Director in writing within ten days of departure and return or the dates of non-practice within Arizona. Non-practice is defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of

medicine. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.

d. **Probation Termination**

Prior to the termination of Probation, Respondent must 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, provided a complete submission is received by Board staff no less than 30 days prior to the Board meeting. Respondent's request for release must provide the Board with evidence establishing that he has successfully satisfied all of the terms and conditions of this Order. The Board may require any combination of examinations and/or evaluations in order to determine whether or not Respondent is safe to prescribe controlled substances. The Board may continue the Practice Restriction and Probation or take any other action consistent with its statutory and regulatory authority.

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

RIGHT TO PETITION FOR REHEARING OR REVIEW

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

1 Respondent is further notified that the filing of a motion for rehearing or review is
2 required to preserve any rights of appeal to the Superior Court.
3 DATED AND EFFECTIVE this 11th day of February, 2021.
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5 ARIZONA MEDICAL BOARD
6
7 By Patricia E. McSorley
Patricia E. McSorley
8 Executive Director

9 EXECUTED COPY of the foregoing mailed
this 11th day of February, 2021 to:
10
Kathleen Rogers
11 Slutes, Sakrison & Rogers PC
4801 E Broadway Blvd, Suite 301
12 Tucson, Arizona 85711
Attorney for Respondent
13
ORIGINAL of the foregoing filed
14 this 11th day of February, 2021 with:
15
Arizona Medical Board
16 1740 West Adams, Suite 4000
Phoenix, Arizona 85007
17
18 Michelle Robles
Board staff
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