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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
ERNEST K. MAR, M.D.
Holder of License No. 34673
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-16-0982A
**ORDER FOR DECREE OF
CENSURE AND PROBATION; AND
CONSENT TO THE SAME**

Ernest K. Mar, M.D. ("Respondent"), elects to permanently waive any right to a hearing and appeal with respect to this Order for a Decree of Censure and Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

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 34673 for the practice of allopathic medicine in the State of Arizona.
3. The Board initiated case number MD-16-0982A after receiving a complaint regarding Respondent's care and treatment of EM, an 87 year-old male patient who was also Respondent's family member, alleging failure to properly treat the patient's multiple medical conditions, and failure to properly prescribe and manage the patient's medication.
4. Respondent began treating EM in November, 2009 for hypotension, autonomic dysfunction syndrome, osteoarthritis, and hormonal imbalance for which Respondent prescribed over the counter herbs and supplements for EM, as well as prescription strength hormonal replacement therapy and acupuncture treatments.
5. On February 20, 2011, EM suffered from a right frontal hemorrhagic stroke with residual left hemiplegia. Respondent took EM to a hospital by car after EM had been experiencing more than 12 hours of initial symptoms. Respondent asserted that no

1 neurologist was available in the local hospital and that the weather was too bad for a
2 helicopter to fly or for him to drive EM to the hospital. EM was discharged to an acute
3 inpatient rehabilitation hospital and was later sent to a subacute rehabilitation facility.

4 6. On September 22, 2014, EM was seen by an osteopathic provider in
5 consultation and was diagnosed with hypertension, dyspnea, benign prostatic hyperplasia
6 ("BPH"), cerebrovascular accident ("CVA") with history of left hemiparesis, and arthralgia.
7 EM was advised by the osteopathic provider to take the blood pressure medications on a
8 regular basis rather than Respondent's recommendation to take the medications as
9 needed. The osteopathic provider recommended Albuterol for dyspnea and a follow up
10 spirometry. Flomax in addition to Saw Palmetto was considered for BPH. Lastly, the
11 osteopathic provider recommended increased exercise in addition to a multivitamin.

12 7. In August of 2016, EM was admitted to an assisted living facility. By court
13 order, Respondent was removed as EM's primary medical provider as of September 20,
14 2016.

15 8. The standard of care required Respondent to obtain informed written consent
16 from EM regarding the proposed treatment plan. Respondent deviated from this standard
17 of care by prescribing hormonal replacement therapies to EM without obtaining informed
18 written consent from the patient regarding the use of hormonal replacement therapies.

19 9. The standard of care required Respondent to adequately and appropriately
20 treat EM's medical conditions according to allopathic standards. Respondent deviated
21 from this standard of care by failing to adequately and appropriately treat EM's
22 hypertension, hypothyroidism, and stroke according to allopathic medicine standards.

23 10. The standard of care required Respondent to appropriately treat EM's
24 hormonal imbalance according to allopathic standards. Respondent deviated from this
25

1 standard of care by failing to appropriately treat EM's hormonal imbalance according to
2 allopathic standards.

3 11. The standard of care for treating hypothyroidism with compounded T3 and
4 T4 required Respondent to check the patient's TSH as well as T3 and T4 levels to monitor
5 and adjust the doses accordingly. Respondent deviated from the standard of care by
6 failing to check EM's TSH, T4 and T3 levels adequately to adjust the doses when treating
7 EM's hypothyroidism with compounded T3 and T4.

8 12. The standard of care for treating a patient with renal insufficiency required
9 Respondent to avoid prescribing medications containing magnesium, which has poor
10 clearance in renal patients, and to monitor EM's magnesium levels. The standard of care
11 also required Respondent to monitor EM's iron levels when prescribing iron supplements,
12 and to have adequate documentation to support a diagnosis of iron deficiency anemia.
13 Respondent deviated from this standard of care by prescribing multiple prescriptions
14 containing magnesium for EM in the face of renal insufficiency, by failing to monitor EM's
15 magnesium level, and by prescribing an iron supplement without evidence of EM having
16 iron deficiency anemia and without monitoring iron levels.

17 13. The standard of care requires a physician to obtain routine labs during
18 patient encounters. Respondent deviated from this standard of care by failing to obtain
19 routine labs during his treatment of EM.

20 14. Actual harm occurred to the patient in that Respondent prescribed Natto and
21 multiple supplements to EM that have blood thinning effects. With uncontrolled
22 hypertension, this combination could have precipitated the hemorrhagic stroke in EM. The
23 patient has developed right eye blindness because of hypertensive retinopathy secondary
24 to poor hypertension control. EM also has multiple side effects of hormone replacement
25

1 therapies including gynecomastia, obstructive sleep apnea, heart disease, and
2 uncontrolled hypertension.

3 15. There was the potential for patient harm in that EM is at risk of increased
4 incidence of prostate cancer because of inadvertent use of testosterone in light of his
5 elevated PSA level. EM was diagnosed with heart block in one of the EKG reports in the
6 chart. Inappropriate use of compounded thyroid preparation may aggravate cardiac
7 arrhythmias. One of the supplements given to EM is sildenafil which may precipitate a
8 cardiac event.

9 16. Respondent recently completed intensive, in-person Continuing Medical
10 Education ("CME") courses regarding medical recordkeeping and controlled substance
11 prescribing as ordered by the Board in MD-15-0730A and MD-15-0964A.

12 CONCLUSIONS OF LAW

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

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

18 c. The conduct and circumstances described above constitute unprofessional
19 conduct pursuant to A.R.S. § 32-1401(27)(q) ("Any conduct or practice that is or might be
20 harmful or dangerous to the health of the patient or the public.").

21 ORDER

22 IT IS HEREBY ORDERED THAT:

- 23 1. Respondent is issued a Decree of Censure.
24 2. Respondent is placed on Probation for a period of 1 year with the following
25 terms and conditions:

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a. ProBE

Within 12 months of the effective date of this Order, Respondent shall complete the Professional/Problem-Based Ethics ("ProBE") program offered by the Center for Personalized Education for Physicians ("CPEP") for Ethics and Boundaries. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure. Respondent shall obtain an unconditional or conditionally passing grade.

In the event that Respondent does not receive an unconditional or conditionally passing grade, Respondent shall follow any and all recommendations made for further education and/or remediation, subject to approval by the Board or its staff.

Respondent shall sign any and all consents or releases necessary to allow CPEP to communicate to the Board directly. Respondent shall not revoke any releases prior to successful completion of ProBE. Respondent shall be responsible for the expenses of participation in ProBE and shall notify Board staff immediately upon scheduling the ProBE course.

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. Probation Termination

The Probation shall terminate upon proof of Respondent's unconditional or conditionally passing grade from ProBE. In the event that Respondent does not receive such a grade from ProBE, the Probation shall remain in effect until Respondent has successfully completed any additional education and/or remediation requirements, and may be subject to Board consideration.

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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)(r).

DATED AND EFFECTIVE this 8th day of June, 2017.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
 Patricia E. McSorley
 Executive Director

CONSENT TO ENTRY OF ORDER

- 1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.
- 2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.
- 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.
- 4. The Order is not effective until approved by the Board and signed by its Executive Director.
- 5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

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

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

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

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

14 10. Any violation of this Order constitutes unprofessional conduct and may result
15 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation,
16 consent agreement or stipulation issued or entered into by the board or its executive
17 director under this chapter.") and 32-1451.

18 11. *Respondent has read and understands the conditions of probation.*

19 *E. Kevin Mar, M.D.*
20 ERNEST K. MAR, M.D.

DATED: MAY 8, 2017

21
22 EXECUTED COPY of the foregoing mailed
this 8th day of June, 2017 to:

23 Joseph E. Holland
24 Holland Law Group
25 970 S Main St, Suite A
Snowflake, AZ 85937
Attorney for Respondent

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ORIGINAL of the foregoing filed
this 8th day of June, 2017 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Mary Boley
Board staff