

1 5. On May 29, 2018, MR presented to Respondent's office with a chief
2 complaint of chronic pain from OA and DDD. Respondent noted that MR reported
3 changing fentanyl patches every 48 hours instead of package insert dosing interval of 72
4 hours. Respondent documented MR's explanation that the patches were falling off due to
5 sweating and oily skin. Respondent noted that the plan was to refer to pain management
6 for medication management and evaluation.

7 6. MR subsequently referred to a pain management facility, resulting in
8 decreased fentanyl prescriptions and substitution with tizanidine 4 mg, three times daily.

9 7. On January 24, 2019, Respondent saw MR and noted that she was stable
10 on her fentanyl patches with a pain level of 6/10. MR was referred to a second pain
11 management practice, where MR received prescriptions for oxycodone 15 mg.

12 8. On March 18, 2019, Respondent documented that MR was upset and
13 complaining about pain management. Respondent also documented that MR was stable
14 on her fentanyl patches with pain level of 6/10. On March 21, 2019 MR reported losing
15 her pills after spilling them down the drain. Respondent obtained authorization for a five
16 day supply of oxycodone from MR's second pain management provider. On March 25,
17 2019, MR reported pain of 10/10, and pins and needles sensation over her body. MR
18 admitted to taking more medication than supplied. Respondent documented a plan to
19 contact the first pain management facility to request restarting of fentanyl.

20 9. On April 18, 2019, MR was seen by the first pain management facility for
21 cervical dystonia. The facility providers reviewed MR's controlled substance prescription
22 monitoring profile ("CSPMP") and noted the prescriptions for oxycodone provided by the
23 second pain management provider. MR denied taking oxycodone, but her urine drug
24 screen was positive for it. The first pain management facility refused to prescribe
25 medication to MR due to the aberrancy.

1 10. On May 2, 2019, Respondent documented MR's report that her pain was
2 unbearable at 10/10. MR reported reading in a chair a lot and stated that physical therapy
3 has helped. MR brought a letter from the Governor stating that she should not have been
4 weaned from narcotics. MR also reported that YRMC restarted the fentanyl, which was
5 untrue. MR continued to receive oxycodone 90 morphine milligram equivalent (MME) daily
6 from the second pain management provider.

7 11. On May 22, 2019, MR reported to Respondent that her pain was unbearable
8 and that out of a 30 day prescription of oxycodone, she was out of medication after 16
9 days. Respondent resumed pain medications, prescribing oxycodone 10mg every four
10 hours daily (maximum of 5 tablets) and fentanyl 25mcg every 72 hours for a total of 135
11 MMEs.

12 12. On June 13, 2019, MR reported that her pain was still 10/10 and unbearable.
13 Respondent provided MR an early refill of her pain medications.

14 13. On June 16, 2019, Respondent noted that the second pain management
15 provider was no longer willing to prescribe MR pain medication. Respondent also noted
16 that per his supervising physician, he was not to prescribe more than 90MMEs.
17 Respondent prescribed MR fentanyl 25 mcg patch, decreased MR's oxycodone 10mg to
18 twice daily for an MME of 90, and prescribed Narcan.

19 14. The standard of care prohibits a PA from prescribing high dose opioids
20 without clinical justification. Respondent deviated from the standard of care by prescribing
21 high dose opioids to MR without clinical justification.

22 15. The standard of care requires a PA to address a patient's aberrant
23 behaviors. Respondent deviated from the standard of care by failing to adequately
24 respond to MR's aberrant behaviors.

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1 Supervising Physician supporting probation termination. The Board has the sole
2 discretion to determine whether all of the terms and conditions of this Order have been
3 met or whether to take any other action that is consistent with its statutory and regulatory
4 authority.

5 **Obey All Laws**

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

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

10 DATED AND EFFECTIVE this 29th day of February, 2024.

11
12 ARIZONA REGULATORY BOARD
13 OF PHYSICIAN ASSISTANTS

14 By 

15 Patricia E. McSorley
16 Executive Director

17 **CONSENT TO ENTRY OF ORDER**

18 1. Respondent has read and understands this Consent Agreement and the
19 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
20 acknowledges that he has the right to consult with legal counsel regarding this matter.

21 2. Respondent acknowledges and agrees that this Order is entered into freely
22 and voluntarily and that no promise was made or coercion used to induce such entry.

23 3. By consenting to this Order, Respondent voluntarily relinquishes any rights
24 to a hearing or judicial review in state or federal court on the matters alleged, or to
25 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.

1 4. The Order is not effective until approved by the Board and signed by its
2 Executive Director.

3 5. All admissions made by Respondent in this Order are solely for final
4 disposition of this matter and any subsequent related administrative proceedings or civil
5 litigation involving the Board and Respondent. Therefore, said admissions by Respondent
6 are not intended or made for any other use, such as in the context of another state or
7 federal government regulatory agency proceeding, civil or criminal court proceeding, in the
8 State of Arizona or any other state or federal court.

9 6. Notwithstanding any language in this Order, this Order does not preclude in
10 any way any other State agency or officer or political subdivision of this state from
11 instituting proceedings, investigating claims, or taking legal action as may be appropriate
12 now or in the future relating to this matter or other matters concerning Respondent,
13 including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent
14 acknowledges that, other than with respect to the Board, this Order makes no
15 representations, implied or otherwise, about the views or intended actions of any other
16 state agency or officer or political subdivisions of the State relating to this matter or other
17 matters concerning Respondent.

18 7. Upon signing this agreement, and returning this document (or a copy
19 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
20 entry of the Order. Respondent may not make any modifications to the document. Any
21 modifications to this original document are ineffective and void unless mutually approved
22 by the parties.

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

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

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

11. Any violation of this Order constitutes unprofessional conduct and may result in disciplinary action. A.R.S. § § 32-2501(18)(ee) ("Violating a formal order, probation agreement or stipulation issued or entered into by the board or its executive director.") and 32-2551.

12. **Respondent has read and understands the terms of this Agreement.**


KERRY D. MALIN, P.A.

DATED: 12/13/13

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EXECUTED COPY of the foregoing mailed
this 29th day of February, 2024 to:

Kerry D. Malin, P.A.
Address of Record

ORIGINAL of the foregoing filed
this 29th day of February, 2024 with:

Arizona Regulatory Board
of Physician Assistants
1740 West Adams, Suite 4000

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Board staff