

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **SCOTT W. SMITH, M.D**

4 Holder of License No. 64679  
5 For the Practice of Medicine  
6 In the State of Arizona.

**Case No. MD-23-0466A**

**ORDER FOR SURRENDER OF  
LICENSE AND CONSENT TO THE  
SAME**

7 Scott W. Smith, M.D. ("Respondent") elects to permanently waive any right to a  
8 hearing and appeal with respect to this Order for Surrender of License; admits the  
9 jurisdiction of the Arizona Medical Board ("Board") as well as the facts stated herein; and  
10 consents to the entry of this Order by the Board.

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of license number 64679 for the practice of  
15 allopathic medicine in the State of Arizona. Respondent's license was granted through the  
16 Interstate Medical Licensure Compact on August 2, 2021. At the time, Respondent had a  
17 pending but incomplete application for a temporary emergency license with the Board  
18 which was withdrawn on the same day upon notification from Board staff.

19 3. The Board initiated case number MD-23-0466A after receiving a self-report  
20 from Respondent indicating that the Drug Enforcement Agency ("DEA") had suspended  
21 his registration.

22 4. On May 3, 2023 the DEA issued an Order to Show Cause and Immediate  
23 Suspension of Registration against Respondent's DEA Certificate of Registration ("DEA  
24 Order"). The DEA Order was based on allegations that Respondent inappropriately  
25 prescribed controlled substances to individuals in multiple states without obtaining valid

1 state medical licenses or obtaining and reviewing prescription monitoring database reports  
2 as required.

3 5. Following the DEA Order, Respondent voluntarily surrendered his licenses to  
4 practice medicine in multiple states (Utah, Alabama, Virginia, Maine, Arkansas, Wisconsin,  
5 Kentucky and New Hampshire). Additionally, on July 10, 2023, The Virginia Board of  
6 Medicine suspended Respondent's Virginia medical license based on the action of the  
7 Alabama State Board of Medical Examiners. On July 31, 2023, Respondent entered into a  
8 non-practice agreement with the North Dakota Board of Medicine. On September 7, 2023,  
9 Respondent resigned his inchoate right to renew his license medicine. On October 19,  
10 2023, Respondent relinquished his Colorado medical license.

11 6. Board staff requested Medical Consultant ("MC") review of Respondent's  
12 care and treatment of five Arizona patients (JT, JH, MW, LF and AP).

13 7. JT was a 42 year-old male that initiated care with Dr. Smith via telemedicine  
14 on May 10, 2021 and was seen on a monthly basis thereafter. JT's medical history  
15 included anxiety, PTSD, and treatment resistant depression. JT's medication list included  
16 bupropion XL 150mg daily. Respondent started JT on 200mg of sublingual ketamine every  
17 3 days at bedtime with subsequent incremental dose increases to 400mg.

18 8. JH was a 30 year-old female that initiated care with Respondent via  
19 telemedicine on January 15, 2021, and was seen by Respondent on a monthly basis  
20 thereafter. JH's medical history included major depressive disorder and chronic suicidality.  
21 JH's medication list included pantoprazole 40mg daily, Zofran 8mg as needed, sertraline  
22 100mg daily, amitriptyline 25mg daily, norethindrone 5mg 3 tablets daily, and  
23 promethazine 12.5mg daily as needed. Respondent started JH on 200mg of sublingual  
24 ketamine every 3 days at bedtime. On December 6, 2021, Respondent discontinued the  
25

ketamine after JH had an episode of hypomania. Respondent diagnosed JH with Bipolar disorder, prescribed Lamictal 25mg 2 tablets twice daily, and referred her to a psychiatrist.

9. MW was a 35 year-old female that initiated care with Respondent via telemedicine on January 26, 2021, and was seen by Respondent on a monthly basis thereafter. MW's medical history included major depressive disorder. MW's medication list included Zofran 8mg every six hours as needed. Respondent started MW on ketamine nasal spray 100mg 2 sprays every 3 days at bedtime. MW reported that the spray was not effective so Respondent modified her ketamine prescription to a 300mg troche every 3 days.

10. LF was a 51 year-old female that initiated care with Respondent via telemedicine on June 28, 2022 and was seen on a monthly basis thereafter. LF's medical history included anxiety, PTSD, and depression. LF's medication list included fluoxetine 60mg daily. Respondent started LF on 200mg of sublingual ketamine every 3 days at bedtime with subsequent incremental dose increases to 500mg.

11. AP was a 35 year-old male that initiated care with Respondent via telemedicine on January 15, 2022 and was seen on a monthly basis thereafter. AP was former military but had moved to the private sector. AP's medical history included PTSD and major depression disorder. AP's medication list included bupropion ER 150mg daily, trazodone 50mg daily, and Pristiq ER 50mg daily. Dr. Smith started AP on 200mg of sublingual ketamine every 3 days at bedtime with subsequent incremental dose increases to 400mg.

12. The MC identified deviations from the standard of care for all five patients including prescribing ketamine to all patients without considering different modalities of treatment, by prescribing off-label ketamine for psychiatric disorders without adequately

1 assessing the patients' suitability for ketamine administration and by failing to adequately  
2 monitor patients being prescribed ketamine and other controlled substances.

3 13. There was potential for patient harm in that all patients were at risk of  
4 developing cystitis, as well as at risk of diversion and overdose.

5 14. Respondent has requested surrender of his license.

### 6 **CONCLUSIONS OF LAW**

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

9 2. The conduct and circumstances described above constitute unprofessional  
10 conduct pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws or rules  
11 and regulations applicable to the practice of medicine."). Specifically, Respondent's  
12 conduct violated A.R.S. § 32-3227(F), ("A person who engages in the unauthorized  
13 practice of a health profession is guilty of a class 5 felony."). "Unauthorized practice of a  
14 health profession" means to engage in the practice of a health profession without having  
15 the licensure or certification required to practice in that health profession in this state.  
16 A.R.S. § 32-3227(G).

17 3. The conduct and circumstances described above constitute unprofessional  
18 conduct pursuant to A.R.S. § 32-1401(27)(q) ("Having sanctions imposed by an agency of  
19 the federal government, including restricting, suspending, limiting or removing a person  
20 from the practice of medicine or restricting that person's ability to obtain financial  
21 remuneration.").

22 4. The conduct and circumstances described above constitute unprofessional  
23 conduct pursuant to A.R.S. § 32-1401(27)(p) ("Having action taken against a doctor of  
24 medicine by another licensing or regulatory jurisdiction due to that doctor's mental or  
25 physical inability to engage safely in the practice of medicine or the doctor's medical

1 incompetence or for unprofessional conduct as defined by that jurisdiction and that  
2 corresponds directly or indirectly to an act of unprofessional conduct prescribed by this  
3 paragraph. The action taken may include refusing, denying, revoking or suspending a  
4 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise  
5 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on  
6 probation by that jurisdiction.").

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

10 6. The Board possesses statutory authority to enter into a consent agreement  
11 with a physician and accept the surrender of an active license from a physician who  
12 admits to having committed an act of unprofessional conduct. A.R.S. § 32-1451(T)(2).

13 **ORDER**

14 IT IS HEREBY ORDERED THAT Respondent immediately surrender License  
15 Number 64679, issued to Scott W. Smith, M.D., for the practice of allopathic medicine in  
16 the State of Arizona, and return her/his certificate of licensure to the Board.

17 DATED and effective this 16th day of December, 2024.

18  
19 ARIZONA MEDICAL BOARD

20  
21 By:

*Patricia E. McSorley*

Patricia E. McSorley  
Executive Director

22  
23 **CONSENT TO ENTRY OF ORDER**

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

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

3           3.     By consenting to this Order, Respondent voluntarily relinquishes any rights  
4 to a hearing or judicial review in state or federal court on the matters alleged, or to  
5 challenge this Order in its entirety as issued by the Board, and waives any other cause of  
6 action related thereto or arising from said Order.

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

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

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

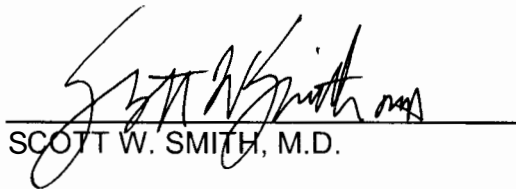
24          7.     Upon signing this agreement, and returning this document (or a copy  
25 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the

1 entry of the Order. Respondent may not make any modifications to the document. Any  
2 modifications to this original document are ineffective and void unless mutually approved  
3 by the parties.

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

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

10 10. ***Respondent has read and understands the terms of this agreement.***

11  
12   
13 SCOTT W. SMITH, M.D.

Dated: 4/25/2024

14  
15 EXECUTED COPY of the foregoing mailed by  
16 US Mail this 16TH day of December, 2024 to:

17 Scott W. Smith, M.D.  
18 Address of Record

19 ORIGINAL of the foregoing filed this  
20 16th day of December, 2024 with:

21 The Arizona Medical Board  
22 1740 West Adams, Suite 4000  
23 Phoenix, Arizona 85007

24   
25 Board staff