

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **STUART L. POSNER, M.D.**

4 Holder of License No. 9295  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

**Case No. MD-22-0103A**

**ORDER FOR LETTER OF REPRIMAND  
AND PROBATION WITH PRACTICE  
RESTRICTION; AND CONSENT TO  
THE SAME**

7 Stuart L. Posner, M.D. ("Respondent") elects to permanently waive any right to a  
8 hearing and appeal with respect to this Order for Letter of Reprimand and Probation with  
9 Practice Restriction; admits the jurisdiction of the Arizona Medical Board ("Board"); 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 9295 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-22-0103A after receiving a complaint  
17 regarding Respondent's care and treatment of six patients alleging inappropriate  
18 controlled substance prescribing. Based on the complaint, Board staff requested Medical  
19 Consultant ("MC") review of Respondent's care and treatment of SG, RW, PM, DH, PH,  
20 and MK.

21 4. SG was a 59-year-old female with a medical history of chronic pain  
22 syndrome, inflammatory osteoarthritis, and osteoporosis. Respondent prescribed SG  
23 medication including Soma 350mg every 6 hours, MS Contin 15mg daily, and oxycodone  
24 15mg every four hours.

25 5. RW was a 57-year-old female with a medical history of rheumatoid arthritis,  
osteoarthritis, and degenerative spondylosis as well as a lumbar laminectomy in 2019.

1 Respondent prescribed RW medications including Soma 350mg twice daily, oxycodone  
2 15mg three times daily, trazodone 100mg at bedtime, and MS Contin 60mg three times  
3 daily. Additionally, Respondent treated RW with low dose prednisone, Actemra and  
4 administered frequent Kenalog injections.

5 6. PM was a 57-year-old female with a medical history of fibromyalgia,  
6 osteoporosis, and chronic pain. Respondent prescribed PM medications including  
7 oxycodone 10mg every six hours, Norco 5/325mg every six hours, Cymbalta 60mg daily,  
8 and Lyrica 150mg 2 tabs at bedtime in addition to administering frequent steroid  
9 injections. PM was referred to psychiatry for depression.

10 7. DH was a 57-year-old female with a medical history of stage IV juvenile  
11 rheumatoid arthritis, chronic back pain, and osteoarthritis. DH also had a history of  
12 reconstructive hand and elbow surgery, foot surgery and posterior cervical spine fusion.  
13 Respondent prescribed DH medications including oxycodone 15mg every eight hours and  
14 MS Contin 30mg three times daily. Respondent also prescribed DH low dose prednisone  
15 and Humira.

16 8. PH was a 48-year-old female with a medical history of chronic pain  
17 syndrome, possible inflammatory arthritis, osteoarthritis with knee replacement,  
18 fibromyalgia, and morbid obesity. Respondent prescribed PH medications including Soma  
19 350mg twice daily, oxycodone 10mg every four hours, and Plaquenil 200mg twice daily  
20 as well as administering frequent steroid injections.

21 9. MK was a 60-year-old female with a medical history of psoriatic arthritis vs  
22 rheumatoid arthritis and osteoarthritis, and fibromyalgia. Respondent prescribed MK  
23 medications including Percocet 10/325mg every 4-6 hours, gabapentin 300mg at  
24 bedtime, Plaquenil 200mg daily, and cyclobenzaprine 10mg twice daily. Respondent also  
25 administered frequent steroid injections. Respondent referred MK to pain management.

1 MK was terminated from care in 2020 and again in December 2021 due to verbal abuse  
2 of staff.

3 10. The standard of care prohibits a physician from prescribing opioids for long  
4 term use without justification. The Board concludes that Respondent deviated from the  
5 standard of care for Patients SG, PM, DH and PH by prescribing opioids for long term use  
6 without justification.

7 11. The standard of care prohibits a physician from prescribing opioids and  
8 Soma concurrently without justification. The Board concludes that Respondent deviated  
9 from the standard of care for Patients SG, RW, and PH by prescribing opioids and Soma  
10 concurrently for long term use without justification.

11 12. The standard of care prohibits a physician from prescribing Soma for long  
12 term use without justification. The Board concludes that Respondent deviated from the  
13 standard of care for Patients SG, RW and PH prescribing Soma for long term use without  
14 justification.

15 13. The Board further concludes that there was the potential for patient harm in  
16 that all patients were at risk of dependence, addiction, respiratory depression, overdose,  
17 and death.

18 14. Effective May 17, 2023, Respondent entered into an Interim Practice  
19 Restriction prohibiting him from prescribing controlled substances in the State of Arizona  
20 pending the outcome of this investigation.

21 15. Respondent is currently retired from the practice of medicine, but would like  
22 to retain his ability to return to practice at a future date.

### 23 CONCLUSIONS OF LAW

24 a. The Board possesses jurisdiction over the subject matter hereof and over  
25 Respondent.

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

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

7 **ORDER**

8 IT IS HEREBY ORDERED THAT:

- 9 1. Respondent is issued a Letter of Reprimand.
- 10 2. Respondent is placed on Probation with the following terms and conditions:

- 11 a. **Practice Restriction**

12 Respondent's practice is restricted in that he is prohibited from prescribing  
13 controlled substances in the State of Arizona.

- 14 b. **Continuing Medical Education**

15 Respondent shall no less than 30 days prior to returning to the practice of medicine,  
16 obtain no less than 10 hours of Board Staff pre-approved Category I CME in an intensive,  
17 in-person course regarding medical recordkeeping. Respondent shall at least **thirty days**  
18 prior to the date of the proposed CME submit his request for CME to the Board for pre-  
19 approval. Upon completion of the CME, Respondent shall provide Board staff with  
20 satisfactory proof of attendance. The CME hours shall be in addition to the hours required  
21 for the biennial renewal of medical licensure.

- 22 c. **Obey All Laws**

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

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**d. Probation Termination**

This Order is permanent for the duration of Respondent's licensure and shall not terminate except upon cancellation, expiration, revocation, or surrender of Respondent's license.

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)

DATED AND EFFECTIVE this 7<sup>th</sup> day of March, ~~2023~~<sup>ME</sup> 2024

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.

1           5.     Although Respondent does not agree that the Findings of Fact set forth in  
2 this Consent Agreement are supported by the evidence, Respondent acknowledges that it  
3 is the Board's position that, if this matter proceeded to formal hearing, the Board could  
4 establish sufficient evidence to support a conclusion that certain of Respondent's conduct  
5 constituted unprofessional conduct. Therefore, Respondent has agreed to enter into this  
6 Consent Agreement as an economical and practical means of resolving the issues  
7 associated with the complaint filed against Respondent. Further, Respondent  
8 acknowledges that the Board may use the evidence in its possession relating to this  
9 Consent Agreement for purposes of determining sanctions in any further disciplinary  
10 matter.

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

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

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

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

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

9 11. Any violation of this Order constitutes unprofessional conduct and may result  
10 in disciplinary action. A.R.S. § 32-1401(27)(s) ("violating a formal order, probation,  
11 consent agreement or stipulation issued or entered into by the board or its executive  
12 director under this chapter.") and 32-1451.

13 12. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), he  
14 cannot act as a supervising physician for a physician assistant while his license is on  
15 probation.

16 13. Respondent has read and understands the conditions of probation.

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19 **STUART L. POSNER, M.D.**

DATED: 02/28/24

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1 EXECUTED COPY of the foregoing mailed  
this 7<sup>th</sup> day of March, ~~2023~~<sup>MR</sup> to:  
2 2024

3 Stuart L. Posner, M.D.  
4 Address of Record

5 Stephen A. Bullington, Esq.  
6 Jones, Skelton & Hochuli, P.L.C.  
7 40 North Central Avenue, Suite 2700  
Phoenix, Arizona 85004  
Attorney for Respondent

8 ORIGINAL of the foregoing filed  
9 this 7<sup>th</sup> day of March, ~~2023~~<sup>MR</sup> with:  
2024

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

12 Michelle Posner  
13 Board staff