BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **ISMAEL I. GUERRERO, M.D.** Holder of License No. 21545 For the Practice of Allopathic Medicine In the State of Arizona.	Case No. MD-23-0446A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR DECREE OF CENSURE AND PROBATION WITH PRACTICE RESTRICTION**

The Arizona Medical Board ("Board") considered this matter at its public meeting on October 9, 2024. Ismael I. Guerrero, M.D. ("Respondent"), appeared with legal counsel, Paul Gerding, Esq., before the Board for a Formal Interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board 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 21545 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-23-0446A after receiving a report from the Drug Enforcement Administration ("DEA") that Respondent's controlled substance prescribing registration had been suspended. Specifically, the DEA Order to Show Cause and Immediate Suspension of Registration included findings that as recently as March 7, 2023, Respondent violated federal and Arizona law by issuing prescriptions to three patients (KP, KF, and SS) for Schedule II through V controlled substance outside the usual course of professional practice and not for a legitimate medical purpose. The DEA determined that Respondent's prescribing posed an "imminent danger"; therefore, his DEA registration was suspended immediately pending investigation.

4. On October 31, 2023, Respondent surrendered his DEA registration for cause.

5. Based on the DEA report, Board staff requested Medical Consultant ("MC") review of KP, KF and SS as well as three additional patients (MH, DS and CP) for whom Respondent prescribed long term controlled substances. The MC identified deviations from the standard of care for Patients KP, KF, SS, DS and CP.

6. KF was a 61 year-old female long-term patient of Respondent's practice. KF's medical history included chronic pain syndrome, chronic migraines, fibromyalgia, chronic hepatitis C, COPD/Reactive airway disease ("RAD"), methamphetamine abuse, and anxiety. Respondent prescribed KF medications including carisoprodol 350mg four times daily, clonazepam 1mg twice daily, hydrocodone-acetaminophen 5/325mg every six hours as needed, and trazodone 50mg at bedtime. Respondent also authorized medical marijuana for severe pain. KF's medical records included aberrant UDSs performed by other providers.

7. SS was a 32 year-old female long-term patient of Respondent's practice. SS's medical history included chronic pain syndrome, chronic headaches, chronic multifactorial pelvic pain with endometriosis, nephrolithiasis, asthma, allergic rhinitis, generalized anxiety disorder. Respondent prescribed SS medications including oxycodone IR 30mg 1-2 tablets every 8 hours, alprazolam 1mg three times daily, and Valtrex 1000mg twice daily. In October 2021, SS overdosed on opioids and alprazolam in a manner that appeared intentional. Respondent continued to prescribe SS oxycodone and alprazolam.

8. MH was a 44 year-old female long-term patient of Respondent's clinic. MH's medical history included chronic migraine, chronic pain syndrome, fibromyalgia, lumbar spinal stenosis with neurogenic claudication, generalized anxiety disorder, hypertension, metabolic syndrome, RAD, hypothyroidism, severe anxiety with panic disorder, and

depressive disorder. Respondent prescribed MH medications including Ativan 1mg twice daily, MS Contin 15mg at bedtime, MSIR 15mg every 8 hours, and Botox.

9. DS was a 69 year-old long-term patient of Respondent's clinic. DS's medical history included chronic pain, chronic fatigue, generalized osteoarthritis, right-sided sciatica and foot drop, restless leg syndrome, hypertension, and insomnia. Respondent prescribed DS medications including methadone 10mg 2 tablets every 8 hours, carisoprodol 350mg four times daily, and alprazolam 2mg three times daily. Respondent documented referrals for specialty care, including urology, nephrology, neurology, podiatry, endocrinology, and wound care.

10. CP was a 65 year-old long-term patient of Respondent's practice. CP's medical history included chronic pain due to Hodgkin's lymphoma, chronic headache, polymyalgia rheumatica, fibromyalgia, chronic fatigue syndrome, chronic back pain with spondylosis radiographically, asthma, Addison's disease, type 2 diabetes mellitus, hypertension, and anxiety. Respondent prescribed CP medications including alprazolam 2mg twice daily, carisoprodol 350mg three times daily, Lexapro 20mg daily, Robaxin 500mg four times daily, MS Contin 60mg twice daily, gabapentin 900mg three times daily, and oxycodone IR 15mg every 4 hours. In February 2022, CP suffered a left occipital stroke with residual gait instability and cognitive problems. In December 2022, CP was hospitalized for acute mental status decline due to toxic metabolic encephalopathy secondary to psychotropic medications and need for chronic narcotic analgesics with electrolyte imbalance. In May 2023, CP was referred to a pain management specialist for future renewals of controlled medications.

11. The standard of care requires a physician to obtain urinary drug screens prior to prescribing controlled substances. Respondent deviated from the standard of care

for Patients KP, KF, SS, DS and CP by failing to obtain urinary drug screens prior to prescribing controlled substances.

12. The standard of care requires a physician trial non-pharmacological and/or interventional pain measures. Respondent deviated from the standard of care for Patients KP, SS and DS by failing to trial non-pharmacological and/or interventional pain measures.

13. The standard of care requires a physician to refer a patient to a specialist when appropriate. Respondent deviated from the standard of care for Patient KP by failing to refer the patient to a pain management specialist. Respondent deviated from the standard of care for Patient SS by failing to refer the patient to neurology and psychiatry.

14. The standard of care prohibits a physician from prescribing high dose opioids, benzodiazepines, and carisoprodol concurrently for long-term use without a clinical rationale. Respondent deviated from the standard of care for Patients KF, DS and CP by prescribing high dose opioids, benzodiazepines, and carisoprodol concurrently for long-term use without a clinical rationale.

15. The standard of care requires a physician to recognize and address aberrant behaviors. Respondent deviated from the standard of care for Patient SS by failing to address the patient's life-threatening overdose. Respondent deviated from the standard of care for Patient CP by failing to address the patient's hospitalization for toxic metabolic encephalopathy due to controlled medications.

16. The standard of care prohibits a physician from prescribing high dose opioids and carisoprodol concurrently for long-term use without a clinical rationale. Respondent deviated from this standard of care for Patient KP by prescribing high dose opioids and carisoprodol concurrently for long-term use without a clinical rationale.

17. The standard of care prohibits a physician from prescribing high dose opioids and benzodiazepines concurrently for long-term use without a clinical rationale.

Respondent deviated from the standard of care for Patient SS by prescribing high dose opioids and benzodiazepines concurrently for long-term use without a clinical rationale.

18. The standard of care requires a physician to prescribe Narcan to a patient prescribed high dose opioids. Respondent deviated from the standard of care for Patient DS by failing to prescribe Narcan to a patient prescribed high dose opioids.

19. Actual patient harm was identified in that SS experienced a life threatening overdose.

20. There was the potential for patient harm in that all patients were at risk of respiratory depression, dependence, abuse, overdose and death.

21. Board staff reviewed Respondent's query history for the Controlled Substance Prescription Monitoring Program ("CSPMP"). For Patients KF, SS, and MH, Respondent failed to query the CSPMP despite long term controlled substance prescribing. For Patients KP, DS, and CP, Respondent queried the CSPMP on one occasion for each patient.

22. During the course of the Board's investigation Respondent reported that he retired from the practice of medicine.

23. During a Formal Interview on this matter, Respondent stated that he has practiced in Yuma for 31 years. Respondent stated that when he established his practice, there were no chronic pain doctors available, and a limited number of specialists who treated chronic pain. Respondent stated that he was one of the few physicians who were willing to treat patients on high dose opioid medications. Respondent stated that by the time more specialists began practicing in the area, he had an established group of patients that he knew well. Respondent stated that he sold his practice in 2019 to a hospital that implemented electronic medical records. Respondent stated that he has been unsuccessful in obtaining his old records from the hospital that purchased his practice.

Respondent expressed regret that he was not more diligent about drug screening. Respondent stated that he had been asked to take over a practice from a physician who had recently passed away, and that he expected to continue practicing for approximately a year before fully retiring.

24. Respondent agreed that drug screening is good option for patients taking opioid medications for patients who are new to the physician; however, Respondent stated that these were established patients who he treated exclusively. Respondent additionally noted that Patient SS' mother was a member of his staff.

25. Respondent agreed that high dose opiate therapy posed a risk to patients, especially when taken in combination with benzodiazepines and muscle relaxants. Respondent stated that he was aware of the risks and that he disliked prescribing the combinations of medications, but he was trying to help his patients. Respondent stated that he tries not prescribe these medications in this manner anymore. Respondent stated that he did try and wean the patients and use alternative modalities, but he was unsuccessful.

26. When asked about the lack of documentation regarding SS's suicide attempt, Respondent stated that SS's mother informed him of the attempt, and that he worked with SS's mother to monitor the patient. Respondent agreed that he should have documented his interactions in the medical record.

27. Respondent testified that he was aware of the requirement to query the CSPMP database and agreed that he should have queried these patients. However, Respondent stated that he felt like he knew these patients and was comfortable that they were not diverting medications or obtaining medication from other practitioners. Respondent agreed that his documentation could have been better. Respondent stated that the patients were all prescribed Narcan. Respondent stated that he did contract with

a company to perform urine drug screens, but he did not recall ever getting results that affected his medical decision making.

28. Respondent's counsel indicated that Respondent would not object to controlled substance prescribing restriction, as he did not intend on prescribing controlled substances going forward. When asked how he would manage a prescribing restriction in his practice, Respondent testified that in his new clinic, patients are informed prior to making an appointment that he does not prescribe controlled substances. Respondent stated that this approach has worked well for him.

29. During that same Formal Interview, Board members recognized the difficult nature of the environment where Respondent was practicing as well as the thoughtful approach he took with his patients. Board members also noted that the six patients reviewed were selected because they were receiving a large amount of controlled substances, and observed that Respondent's management of these patients was deficient. Board members agreed that a disciplinary order prohibiting Respondent from prescribing controlled substances was appropriate.

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)(a) ("Violating any federal or state laws or rules and regulations applicable to the practice of medicine."). Specifically, Respondent's conduct violated A.R.S.§ 36-2606(F) (". . . a medical practitioner, before prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule II, III or IV for a patient, shall obtain a patient utilization report regarding the patient for the preceding twelve months from the controlled substances prescription monitoring program's central

database tracking system at the beginning of each new course of treatment and at least quarterly while that prescription remains a part of the treatment.").

3. 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.").

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

5. 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.").

ORDER

IT IS HEREBY ORDERED THAT:

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

a. Practice Restriction

Respondent is prohibited from prescribing controlled substances in the State of Arizona unless Respondent applies to the Board and receives permission to do so in accordance with this Order. Board staff or its agents shall conduct periodic chart reviews or perform other investigation to monitor Respondent's compliance with this 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. Probation Termination

Prior to any Board consideration for 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 Probation shall not terminate except upon affirmative request of Respondent and approval by the Board. 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 and the Board may continue the Practice Restriction or take any other action consistent with its authority.

The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether to take any other action that is 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/she 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.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED AND EFFECTIVE this 16th day of December, 2024.

ARIZONA MEDICAL BOARD

By Patricia Mcsorley
Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing
mailed this 16th day of December, 2024
to:

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

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Michelle Robles
Board staff