

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **WHITAKER M. SMITH, M.D.**

4 Holder of License No. 59894  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Case No. MD-21-1039A

**ORDER FOR LETTER OF  
REPRIMAND; AND CONSENT TO THE  
SAME**

7 Whitaker M. Smith, M.D. ("Respondent") elects to permanently waive any right to a  
8 hearing and appeal with respect to this Order for a Letter of Reprimand; admits the  
9 jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order  
10 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 59894 for the practice of  
15 allopathic medicine in the State of Arizona. Respondent's license was issued on October  
16 19, 2019 through the Interstate Medical License Compact ("IMLC").

17 3. The Board initiated case number MD-21-1039A after receiving a notification  
18 that Respondent's Tennessee medical license had been restricted by the Tennessee  
19 Board of Medical Examiners ("Tennessee Board").

20 4. Effective November 3, 2021, Respondent entered into a Consent Order with  
21 the Tennessee Board placing him on probation with terms and conditions including a  
22 provision prohibiting him from prescribing opioids from six months, pending completion of  
23 intensive, in-person continuing medical education in medical ethics and controlled  
24 substance prescribing. The Tennessee Consent Order was based on findings of  
25 substance abuse, inappropriate controlled substance prescribing, and an inappropriate  
sexual relationship with a patient. The Tennessee Consent Order also included a finding

1 indicating that Respondent entered into a contract with the Tennessee Medical Foundation  
2 ("TMF") for substance use monitoring in January, 2015, and again in March, 2017 with an  
3 expected termination date of March, 2022.

4 5. Effective December 13, 2021, Respondent entered into an Interim Consent  
5 Agreement for Practice Restriction prohibiting him from prescribing controlled substances.

6 6. On May 24, 2022, The Tennessee Board reported that Respondent had  
7 complied with the terms of their Consent Order.

8 7. Respondent's licenses in other states were also disciplined as follows:

9 a. On January 6, 2022, the Maryland Board of Physicians adopted a Consent  
10 Order reprimanding Respondent based on the Tennessee Consent Order.

11 b. On February 1, 2022, Respondent entered into a Consent Order Louisiana  
12 Board of Medical Examiners issuing Respondent a Reprimand, \$1,000.00  
13 fine, and requiring Respondent to comply with the Tennessee Consent  
14 Order.

15 c. On April 1, 2022, Respondent entered into a Consent Order with the Illinois  
16 Department of Financial and Professional Regulation issuing Respondent's  
17 Illinois license a reprimand, and requiring Respondent to comply with the  
18 Tennessee Consent Order.

19 d. On May 3, 2022, Respondent accepted a Stipulation and Agreement with  
20 Reprimand with the South Dakota Board of Medical & Osteopathic  
21 Examiners reprimanding Respondent for failure to report the Tennessee  
22 Consent Order. The South Dakota Stipulation and Agreement also required  
23 Respondent to comply with the Tennessee Consent Order.

24 e. On June 21, 2022, Respondent entered into a Consent Agreement and  
25 Order with the Pennsylvania Board of Medicine reprimanding Respondent's

1            Pennsylvania license and requiring Respondent to comply with the  
2            Tennessee Consent Order.

3            f. On July 27, 2022, Respondent entered into a Consent Order with the West  
4            Virginia Board of Medicine reprimanding Respondent's West Virginia license  
5            due to the conduct identified in the Tennessee Consent Order.

6            g. On August 23, 2022, Respondent entered into a Settlement Agreement with  
7            the New Hampshire Board of Medicine reprimanding Respondent's New  
8            Hampshire medical license based on the conduct identified in the Tennessee  
9            Consent Order.

10           h. On September 15, 2022, the Oklahoma State Board of Medical Licensure &  
11           Supervision issued an Order Accepting Voluntary Submittal to Jurisdiction  
12           that issued a Reprimand and \$3500.00 fine against Respondent's Oklahoma  
13           medical license based on the conduct identified in the Tennessee Consent  
14           Order.

15           i. On October 12, 2022, Respondent entered into a Consent Agreement with  
16           the Medical Board of Ohio issuing Respondent's Ohio license a reprimand  
17           and requiring him to complete intensive continuing medical education  
18           ("CME") in professional ethics and controlled substance prescribing based on  
19           the conduct identified in the Tennessee Consent Order.

20           j. On November 12, 2022, Respondent entered into a Stipulation and Order  
21           with the Minnesota Board of Medical Practice reprimanding Respondent's  
22           Minnesota medical license based on conduct identified in the Tennessee  
23           Consent Order.

24           k. On February 9, 2023, Respondent entered into a Consent Order with the  
25           New York Board of Medicine based on the findings in the Tennessee

1 Consent Order reprimanding and issuing Respondent's New York license a  
2 fine. The New York Consent Order also required him to complete CME in  
3 ethics.

4 i. On May 10, 2023, Respondent entered into a Consent Order with the  
5 Virginia Board of Medicine reprimanding and assessing his Virginia medical  
6 license a \$2500.00 fine for the conduct identified in the Tennessee Consent  
7 Order. The Virginia Consent Order also found that Respondent failed to  
8 appropriately disclose the first TMF contract on his 2016 license application.

9 8. Respondent has completed CMEs required by other licensing jurisdictions in  
10 controlled substance prescribing, ethics, boundaries, and professionalism.

11 9. On June 21, 2023, the Executive Director terminated the Interim Consent  
12 Agreement for Practice Restriction.

#### 13 CONCLUSIONS OF LAW

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

16 b. The conduct and circumstances described above constitute unprofessional  
17 conduct pursuant to A.R.S. § 32-1401(27)(p) ("Having action taken against a doctor of  
18 medicine by another licensing or regulatory jurisdiction due to that doctor's mental or  
19 physical inability to engage safely in the practice of medicine or the doctor's medical  
20 incompetence or for unprofessional conduct as defined by that jurisdiction and that  
21 corresponds directly or indirectly to an act of unprofessional conduct prescribed by this  
22 paragraph. The action taken may include refusing, denying, revoking or suspending a  
23 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise  
24 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on  
25 probation by that jurisdiction.").

1 c. The conduct and circumstances described above constitute unprofessional  
2 conduct pursuant to A.R.S. § 32-1401(27)(bb) ("Procuring or attempting to procure a  
3 license to practice medicine or a license renewal by fraud, by misrepresentation or by  
4 knowingly taking advantage of the mistake of another person or an agency.").

5 d. The conduct and circumstances described above constitute unprofessional  
6 conduct pursuant to A.R.S. § 32-1401(27)(kk) ("Knowingly making a false or misleading  
7 statement to the board or on a form required by the board or in a written correspondence,  
8 including attachments, with the board.").

9 **ORDER**

10 IT IS HEREBY ORDERED THAT:

11 1. Respondent is issued a Letter of Reprimand.

12 DATED AND EFFECTIVE this 5<sup>th</sup> day of April, 2024.

13 ARIZONA MEDICAL BOARD

14  
15 By Pat E. McSorley  
16 Patricia E. McSorley  
17 Executive Director

18 **CONSENT TO ENTRY OF ORDER**

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

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

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

1 this Order in its entirety as issued by the Board, and waives any other cause of action  
2 related thereto or arising from said Order.

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

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

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

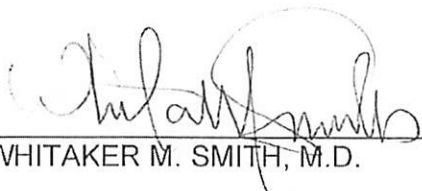
20 7. Upon signing this agreement, and returning this document (or a copy thereof)  
21 to the Board's Executive Director, Respondent may not revoke the consent to the entry of  
22 the Order. Respondent may not make any modifications to the document. Any  
23 modifications to this original document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

25

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

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

8  
9   
10 \_\_\_\_\_  
WHITAKER M. SMITH, M.D.

DATED: 3/25/2024

11  
12  
13 EXECUTED COPY of the foregoing mailed  
14 this 5<sup>th</sup> day of April, 2024 to:

15 Whitaker M. Smith, M.D.  
16 Address of Record

17 ORIGINAL of the foregoing filed  
18 this 5<sup>th</sup> day of April, 2024 with:

19 Arizona Medical Board  
1740 West Adams, Suite 4000  
20 Phoenix, Arizona 85007

21   
22 \_\_\_\_\_  
Board staff