

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **MICHAEL P. ALBERTI, M.D.**

4 Holder of License No. 24716
5 For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-22-0196A, MD-22-1018A

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

6 Michael P. Alberti, M.D. ("Respondent") elects to permanently waive any right to a
7 hearing and appeal with respect to this Order for a Letter of Reprimand and Civil Penalty;
8 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
9 this Order by the Board.

10 **FINDINGS OF FACT**

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

13 2. Respondent is the holder of license number 24716 for the practice of
14 allopathic medicine in the State of Arizona.

15 **MD-22-0196A**

16 3. The Board initiated case number MD-22-0196A after receiving a report from
17 the Arizona Department of Health Services indicating that Respondent failed to query the
18 Controlled Substance Prescription Monitoring Program ("CSPMP") when certifying patients
19 for medical marijuana ("MMJ") between June 1, 2021 through December 31, 2021. Based
20 on the report, Board staff reviewed 5 patients for whom Respondent issued MMJ
21 certifications during the specified time frame (CS, AA, OM, AM and DS).

22 4. With regard to four patients (CS, AA, AM and DS), Respondent issued MMJ
23 certifications without performing in-person physical examinations or reviewing the patient's
24 CSPMP report. Respondent did not establish or maintain a medical record for each
25

1 patient other than the MMJ Certification form and failed to review each patient's prior
2 medical records prior to determining that the patients qualified for medical marijuana.

3 **MD-22-1018A**

4 5. The Board initiated case MD-22-1018A after receiving a complaint that
5 Respondent was issuing MMJ Certifications through telemedicine.

6 6. In his written response to the Board, Respondent admitted that he had been
7 utilizing telemedicine to evaluate patients for MMJ certifications.

8 7. Based on the complaint, Board staff reviewed records related to 12 patients
9 that Respondent certified for medical marijuana.

10 8. For each patient reviewed, Respondent issued MMJ certifications without
11 performing in-person physical examination. Respondent did not establish or maintain a
12 medical record for each patient other than the MMJ Certification form and failed to review
13 each patient's prior medical records prior to determining that the patients qualified for
14 medical marijuana. For one patient, Respondent failed to query the CSPMP prior to
15 issuing the certification. For one patient, Respondent queried the CSPMP the day after
16 the certification was issued.

17 **CONCLUSIONS OF LAW**

18 a. The Board possesses jurisdiction over the subject matter hereof and over
19 Respondent.

20 b. The conduct and circumstances described in MD-22-0196A and MD-22-
21 1018A above constitute unprofessional conduct pursuant to A.R.S. § 32-
22 1401(27)(e)("Failing or refusing to maintain adequate records on a patient.").

23 c. The conduct and circumstances described in MD-22-0196A and MD-22-
24 1018A above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(u)("
25 Knowingly making any false or fraudulent statement, written or oral, in connection with the

1 practice of medicine or if applying for privileges or renewing an application for privileges at
2 a health care institution.”).

3 **ORDER**

4 IT IS HEREBY ORDERED THAT:

5 1. Respondent is issued a Letter of Reprimand.

6 2. **Civil Penalty**

7 Respondent is assessed a \$2500.00 civil penalty. The civil penalty shall be paid, by
8 certified funds, within one year of the effective date of this order.

9 DATED AND EFFECTIVE this 5th day of April, 2024.

10 ARIZONA MEDICAL BOARD

11
12 By Patricia E. McSorley
13 Patricia E. McSorley
14 Executive Director

15 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

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

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

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

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

5
6 Michael Alberti
7 MICHAEL P. ALBERTI, M.D.

DATED: 3/14/2024

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9 EXECUTED COPY of the foregoing mailed
10 this 5th day of April, 2024 to:

11 Michael Alberti, M.D.
12 Address of Record

13 Andrew Breavington, Esq.
14 Mitchell Stein Carey Chapman, PC
15 2600 North Central Avenue Suite 1000
16 Phoenix, Arizona 85004
17 Attorney for Respondent

18 ORIGINAL of the foregoing filed
19 this 5th day of April, 2024 with:

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

23 Michelle Probus
24 Board staff
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