

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **MATTHEW J. HUMMEL, M.D.**

4 Holder of License No. 27179
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-23-0303A

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

7 Matthew J. Hummel, M.D. ("Respondent") elects to permanently waive any right to
8 a hearing and appeal with respect to this Order for Letter of Reprimand and Probation;
9 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
10 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 27179 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-23-0303A after receiving a report from
17 the Arizona State Board of Pharmacy (ABOP) indicating that Respondent was non-
18 compliant with mandatory use requirements for the Arizona Controlled Substance
19 Prescription Monitoring Program ("CSPMP"). Based on the report, Board staff requested
20 Medical Consultant ("MC") review of Respondent's patient care. The MC identified
21 deviations from the standard of care with regard to three non-hospice patients selected
22 for review.

23 4. CB is a 70 year-old female who is an established patient of Respondent's
24 practice. CB's medical history included chronic pain syndrome, fibromyalgia, cervical
25 degenerative disc disease with spinal stenosis, inflammatory polyarthropathy, COPD,
sleep apnea, anxiety, and depression. CB also had an unstable gait and a history of falls.

1 Respondent prescribed CB medications including oxycodone-APAP 10/325mg four times
2 daily, Soma 350mg three to four times a day, morphine sulfate ER 30mg every 8-12
3 hours, Horizant 300mg once daily to 600mg twice daily, Celebrex 200mg twice daily,
4 lorazepam 0.5mg four times daily, Zoloft 100mg 1-2 times daily, and bupropion XL 300mg
5 daily. CB had a pain stimulator placed in 2022 but did not appear to help. Respondent
6 offered CB a psychiatry consultation multiple times, in part to address severe depression
7 with hallucinations but CB declined the referrals.

8 5. DN is a 73 year-old male who is an established patient of Respondent's
9 practice. DN's medical history included chronic pain due to cervical disc disease with
10 radiculopathy, compression fracture of a thoracic vertebra, deformity of his right shoulder
11 and left shoulder osteoarthritis with rotator cuff pathology, anxiety, and insomnia.
12 Respondent prescribed DN medications including oxycodone-APAP 10/325mg 1-2 tablets
13 every 4-6 hours, trazodone 100mg at bedtime, tramadol 50mg 1-2 tablets every 6 hours
14 as needed, clonazepam 1mg once to twice daily as needed, escitalopram 10mg daily,
15 and depo-testosterone 20mg weekly.

16 6. PB is a 65 year-old male who is an established patient of Respondent's
17 practice. PB's medical history included severe generalized anxiety disorder, panic
18 disorder, agoraphobia, low back pain, PTSD, and bipolar disorder with depression.
19 Respondent prescribed PB medications including zolpidem 10mg 2 tablets at bedtime,
20 tramadol 50mg every 6 hours as needed, phentermine 37.5mg daily, gabapentin 600mg in
21 am and 1200mg in pm, fluconazole 200mg twice daily, clonazepam 1mg in the evening,
22 and Soma 350mg three times daily. Respondent also prescribed oxycodone-APAP
23 5/325mg on occasion. PB was also being treated at a Ketamine Clinic for severe
24 depression.

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1 7. The standard of care prohibits a physician from prescribing high dose opioids
2 for long-term use without a clinical rationale. Respondent deviated from this standard of
3 care for Patients CB and DN by prescribing high dose opioids for long-term use without a
4 clinical rationale.

5 8. The standard of care prohibits a physician from prescribing Soma for long-
6 term use in an elderly patient without a clinical rationale. Respondent deviated from the
7 standard of care for Patient CB by prescribing Soma for long-term use in an elderly patient
8 without a clinical rationale.

9 9. The standard of care prohibits a physician from prescribing opioids,
10 benzodiazepines, and Soma concurrently without a clinical rationale. Respondent
11 deviated from the standard of care for Patients CB and PB by prescribing opioids,
12 benzodiazepines, and Soma concurrently without a clinical rationale.

13 10. The standard of care requires a physician to recognize and address aberrant
14 behaviors. Respondent deviated from the standard of care for Patients CB and DN by
15 failing to recognize and address aberrant behaviors.

16 11. The standard of care prohibits a physician from prescribing early refills for
17 controlled substances without a clinical rationale. Respondent deviated from the standard
18 of care for Patients CB, DN and PB by prescribing early refills for controlled substances
19 without a clinical rationale.

20 12. The standard of care requires a physician to routinely monitor a patient
21 prescribed controlled substances by obtaining urinary drug screens and querying the
22 CSPMP. Respondent deviated from the standard of care for Patients CB, DN and PB by
23 failing to routinely monitor a patient prescribed controlled substances by obtaining urinary
24 drug screens and querying the CSPMP.

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1 13. The standard of care requires a physician to prescribe Narcan to a patient
2 receiving high-dose opioids. Respondent deviated from the standard of care for Patient
3 DN by failing to prescribe Narcan to a high risk patient receiving high-dose opioids.

4 14. The standard of care prohibits a physician from prescribing benzodiazepines
5 for long-term use without a clinical rationale. Respondent deviated from the standard of
6 care for Patient DN by prescribing clonazepam for long-term use without a clinical
7 rationale

8 15. The standard of care prohibits a physician from prescribing opioids and
9 benzodiazepines concurrently without a clinical rationale. Respondent deviated from the
10 standard of care for Patient DN by prescribing opioids and benzodiazepines concurrently
11 without a clinical rationale.

12 16. The standard of care prohibits a physician from prescribing controlled
13 substances without a clinical rationale. Respondent deviated from the standard of care for
14 Patient PB by prescribing controlled substances without a clinical rationale.

15 17. The standard of care prohibits a physician from prescribing zolpidem at a
16 higher than recommended dose without a clinical rationale. Respondent deviated from the
17 standard of care for Patient PB by prescribing zolpidem at a higher than recommended
18 dose without a clinical rationale.

19 18. Actual patient harm was identified in that all three patients experienced falls.
20 Patient CB experienced lethargy and Patient PB experienced mental impairment.

21 19. There was the potential for patient harm in that all patients were at risk of
22 respiratory and/or immune system depression, falls, overdose and death.

23 20. Respondent reports that he is in the process of transferring patients receiving
24 opioid medication to other providers. Respondent additionally serves as medical director
25 to two hospice facilities.

1 21. Respondent reports that he has changed his practice and now queries the
2 CSPMP and has implemented protocols to monitor patients who receive controlled
3 substances, including an Opioid Patient Prescriber Agreement and urine drug screening.
4 Respondent has also enrolled in Board staff approved intensive Continuing Medical
5 Education ("CME") courses regarding medical record keeping and controlled substance
6 prescribing.

7 CONCLUSIONS OF LAW

8 a. The Board possesses jurisdiction over the subject matter hereof and over
9 Respondent.

10 b. The conduct and circumstances described above constitute unprofessional
11 conduct pursuant to A.R.S. § 32-1401(27)(a) ("Violating any federal or state laws or rules
12 and regulations applicable to the practice of medicine."). Specifically, Respondent's
13 conduct violated A.R.S. § 36-2606(F) (" . . . a medical practitioner, before prescribing an
14 opioid analgesic or benzodiazepine controlled substance listed in schedule II, III or IV for a
15 patient, shall obtain a patient utilization report regarding the patient for the preceding
16 twelve months from the controlled substances prescription monitoring program's central
17 database tracking system at the beginning of each new course of treatment and at least
18 quarterly while that prescription remains a part of the treatment.")

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

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

1 **ORDER**

2 IT IS HEREBY ORDERED THAT:

- 3 1. Respondent is issued a Letter of Reprimand.
4 2. Respondent is placed on Probation for a period of 2 years with the following

5 terms and conditions:

6 **a. Practice Restriction**

7 Respondent's practice is restricted in that he is prohibited from prescribing
8 controlled substances except as stated herein until he has completed the Continuing
9 Medical Education ("CME") as stated in paragraph 2(b) of this Order, enters into an
10 agreement with a Board-approved monitor to conduct chart reviews as stated in paragraph
11 2(c) of this Order, and provides Board staff satisfactory proof of compliance with these
12 requirements. Respondent may prescribe controlled substances as follows: 1)
13 Respondent may prescribe stimulant medication to current patients with diagnoses of
14 ADD/ADHD; 2) Respondent may prescribe sleep medication to current patients; and 3)
15 Respondent may prescribe testosterone and Lyrica to current patients. Respondent shall
16 not initiate any new stimulant, sleep medication, testosterone, or Lyrica prescriptions for
17 new or existing patients prior to completing the CME and enrolling in chart reviews as
18 stated above. Respondent may prescribe controlled substances as needed when acting
19 within the course and scope of his role as hospice facility medical director at the facilities
20 where he is currently employed.

21 **b. Continuing Medical Education**

22 Respondent shall within 6 months of the effective date of this Order obtain no less
23 than 10 hours of Board staff pre-approved Category I Continuing Medical Education
24 ("CME") in an intensive, in-person course regarding medical recordkeeping, and complete
25 no less than the 15 hour of Board staff pre-approved Category I CME in an intensive, in-

1 person course regarding controlled substance prescribing. Respondent shall within **thirty**
2 **days** of the effective date of this Order submit his request for CME to the Board for pre-
3 approval. Upon completion of the CME, Respondent shall provide Board staff with
4 satisfactory proof of attendance. The CME hours shall be in addition to the hours required
5 for the biennial renewal of medical licensure.

6 **c. Chart Reviews**

7 Within 30 days of completion of the CME, Respondent shall enter into a contract
8 with a Board-approved monitoring company to perform periodic chart reviews at
9 Respondent's expense. The chart reviews shall involve current non-hospice facility
10 patients' charts for care rendered after the date Respondent returned to practice as stated
11 herein. Based upon the chart review, the Board retains jurisdiction to take additional
12 disciplinary or remedial action.

13 **d. Obey All Laws**

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

17 **e. Tolling**

18 In the event Respondent should leave Arizona to reside or practice outside the
19 State or for any reason should Respondent stop practicing medicine in Arizona,
20 Respondent shall notify the Executive Director in writing within ten days of departure and
21 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
22 time exceeding thirty days during which Respondent is not engaging in the practice of
23 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
24 non-practice within Arizona, will not apply to the reduction of the probationary period.
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1 f. Probation Termination

2 After two consecutive favorable chart reviews, Respondent may petition the Board
3 to terminate the Probation. Respondent may not request early termination without
4 satisfaction of the chart review requirements as stated in this Order.

5 Prior to any Board consideration for termination of Probation, Respondent must
6 submit a written request to the Board for release from the terms of this Order.
7 Respondent's request for release will be placed on the next pending Board agenda,
8 provided a complete submission is received by Board staff no less than 30 days prior to
9 the Board meeting. Respondent's request for release must provide the Board with
10 evidence establishing that he has successfully satisfied all of the terms and conditions of
11 this Order.

12 The Board has the sole discretion to determine whether all of the terms and
13 conditions of this Order have been met or whether to take any other action that is
14 consistent with its statutory and regulatory authority.

15 3. The Board retains jurisdiction and may initiate new action against
16 Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(s)

17 DATED AND EFFECTIVE this 7th day of March, 2024.

18 ARIZONA MEDICAL BOARD

19 By Pat E. McSorley
20 Patricia E. McSorley
21 Executive Director
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1 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

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

1 state agency or officer or political subdivisions of the State relating to this matter or other
2 matters concerning Respondent.

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

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

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

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

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

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

23 13. ***Respondent has read and understands the conditions of probation.***

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MATTHEW J. HUMMEL, M.D.

DATED: 2/27/2024

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EXECUTED COPY of the foregoing mailed
this 7th day of March, 2024 to:

Matthew J. Hummel, M.D.
Address of Record

Paul Giancola, Esq.
Tracy A. Olson, Esq.
Snell & Wilmer, LLP
One East Washington Street, Suite 2700
Phoenix, Arizona 85004-2556
Attorney for Respondent

ORIGINAL of the foregoing filed
this 7th day of March, 2024 with:

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

Michelle Bobes
Board staff