

1 6. On November 30, 2011, JK was prescribed an increased dose of Xanax
2 when he complained of a job loss, DMV fines and a suspended license with instructions to
3 use 4-5 tablets daily. Two weeks later, JK continued to report cravings and more anxiety.
4 Respondent documented that he planned to battle the patient's' cravings for opiates by
5 increasing the anxiolytic and observe the response. Xanax was prescribed with
6 instructions to take 5 tablets daily. Suboxone was continued at 30 tablets.

7 7. On December 27, 2011, JK reported his car being totaled after a motor
8 vehicle accident and he complained of more anxiety and cravings. Respondent prescribed
9 Klonopin to reduce the use of Xanax and Suboxone was continued at 2 tablets per day. JK
10 was last seen on January 9, 2012. Respondent stated that the Klonopin did not reduce the
11 use of Xanax and 150 tablets of Xanax were again prescribed. Suboxone was continued at
12 8/2mg twice daily. JK was lost to follow up at that time.

13 8. The Medical Consultant (MC) found that Respondent's treatment fell below
14 the standard of care in several ways. There was no comprehensive assessment of
15 substance use and there were no urine drug screens found in JK's chart. At the initial
16 appointment, a COWS score to determine withdrawal states was absent from the medical
17 records. Additionally, there was no treatment agreement that addressed how no shows or
18 lost medications would be handled. The MC noted that in spite of ongoing complaints of
19 cravings, there was no change in the Suboxone dose; instead, Xanax was constantly
20 being increased. The daily 4 mg dose of Xanax was greater than generally recommended
21 by the FDA and manufacturer. There were no reports from the Controlled Substance
22 Prescription Monitoring Program (CSPMP) in the chart and Xanax was prescribed when
23 relatively contraindicated with escalating doses without other interventions to address or
24 assess anxiety.

25

1 9. The standard of care requires a physician to perform a comprehensive
2 assessment of the patient's psychoactive substance use.

3 10. Respondent deviated from the standard of care by failing to perform a
4 comprehensive assessment of JK's substance use.

5 11. The standard of care requires a physician to monitor for patient compliance
6 with treatment, including urine drug screening and reviews of the CSPMP.

7 12. Respondent deviated from the standard of care by failing to monitor JK for
8 treatment compliance through urine drug screening and CSPMP review.

9 13. The standard of care requires a physician to have the patient enter into a
10 treatment agreement addressing how missed sessions will be handled as well as lost
11 prescriptions.

12 14. Respondent deviated from the standard of care by failing to have JK enter
13 into a treatment agreement that addressed how no shows or lost medications would be
14 handled.

15 15. The standard of care requires a physician to manage the patient's cravings
16 by increasing the Suboxone doses up to a maximum of 32mg if cravings persist despite
17 evidence of compliance with prescribed doses.

18 16. Respondent deviated from the standard of care by failing to change the
19 Suboxone dose based on JK's ongoing complaints of cravings, rather Xanax was
20 constantly increased.

21 17. The standard of care for the treatment of addicted persons requires a
22 physician to involve multiple modalities including medication, appropriate management of
23 comorbid psychiatric disorders, use of 12-step programs or other chemical dependency
24 support, and specific relapse prevention strategies.

25

1 18. Respondent deviated from the standard of care by failing to involve other
2 adjunctive treatments including 12-step programs or other chemical dependency support
3 groups and relapse prevention groups.

4 19. There was the potential for harm to the patient to the extent that there a was
5 a delay in intensive treatment and potential benzodiazepine dependence. There was also
6 a potential for an unintentional overdose with respiratory depression by using Suboxone
7 with Xanax particularly in a known IV drug user.

8 **CONCLUSIONS OF LAW**

9 1. The Board possesses jurisdiction over the subject matter hereof and over
10 Respondent.

11 2. The conduct and circumstances described above constitute unprofessional
12 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be
13 harmful or dangerous to the health of the patient or the public.").

14 **ORDER**

15 IT IS HEREBY ORDERED THAT:

16 1. Respondent is issued a Letter of Reprimand.

17 2. Respondent is placed on probation for six months with the following terms
18 and conditions:

19 **Continuing Medical Education**

20 Respondent shall within six months obtain of the effective date of this Order
21 obtain 15-20 hours of Board Staff pre-approved Category I Continuing Medical Education
22 (CME) course in addiction medicine. Respondent shall within **thirty days** of the effective
23 date of this Order submit his request for CME to the Board for pre-approval. Upon
24 completion of the CME, Respondent shall provide Board Staff with satisfactory proof of
25 attendance. The CME hours shall be in addition to the hours required for the biennial

1 renewal of medical license. The probation shall terminate upon successful completion of
2 the CME.

3
4 DATED AND EFFECTIVE this 6th day of DECEMBER, 2012.

5 ARIZONA MEDICAL BOARD

6
7
8 By 
9 Lisa S. Wynn
Executive Director

10 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

22 5. All admissions made by Respondent are solely for final disposition of this
23 matter and any subsequent related administrative proceedings or civil litigation involving
24 the Board and Respondent. Therefore, said admissions by Respondent are not intended
25 or made for any other use, such as in the context of another state or federal government

1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
2 any other state or federal court.

3 6. 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 7. 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 8. 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 9. 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 10. Any violation of this Order constitutes unprofessional conduct and may result
17 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[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
21 Herbert M. Grossman M.D., DATED: 9/28/12
22 Herbert M. Grossman, M.D.

23 EXECUTED COPY of the foregoing mailed
24 this 28 day of December 2012 to:
25 Faren Akins, Esq.
Renaud Cook Drury Mesaros, PA
One North Central, Suite 900

1 Phoenix, AZ 85004-4417

2 ORIGINAL of the foregoing filed
3 this 20th day of November 2012 with:

4
5
6 Arizona Medical Board
7 9545 E. Doubletree Ranch Road
8 Scottsdale, AZ 85258

9 
10 Arizona Medical Board Staff

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25