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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
JONATHAN C. KOMAR, M.D.
Holder of License No. 31330
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-15-0939A

**ORDER FOR DECREE OF
CENSURE AND PROBATION;
AND CONSENT TO THE SAME**

Jonathan C. Komar, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for a Decree of Censure and Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

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 31330 for the practice of allopathic medicine in the State of Arizona.
3. The Board initiated case number MD-15-0939A after receiving a self-report from Respondent disclosing that he had engaged in inappropriate sexual contact with patients.
4. According to the self-report, Respondent engaged in inappropriate sexual contact with patient S.L. in January, 2009 and with patient D.K. between 2011 and 2012. Respondent also reported that he had engaged in inappropriate sexual contact with members of his staff.
5. On the morning of August 10, 2015, after an interview with Board staff, Respondent signed an Interim Consent Agreement for Practice Restriction ("ICA"). The ICA prohibited Respondent from practicing medicine in Arizona. Respondent subsequently returned to his office and continued to see patients until the end of the day.

1 6. During that same interview, Respondent was asked to disclose all patients
2 with whom he may have engaged in inappropriate sexual contact. Respondent disclosed
3 a total of three patients. Subsequently during an evaluation, Respondent disclosed an
4 additional four patients with whom he had engaged in inappropriate sexual contact.

5 7. On November 3, 2015, Respondent presented to an inpatient treatment
6 facility to address his behavior as recommended by an evaluation. Respondent
7 successfully completed treatment on December 16, 2015. In its discharge summary, the
8 facility recommended that Respondent receive additional outpatient treatment including,
9 but not limited to, completion of individual treatment through a professional enhancement
10 program ("PEP").

11 8. On January 24, 2016, Respondent presented to PEP for an additional 6
12 weeks of treatment. Respondent successfully completed the program and was discharged
13 on March 21, 2016. Respondent's discharge summary found that he was safe to return to
14 the practice of medicine with compliance with various practice and treatment
15 recommendations.

16 9. On April 29, 2016, Respondent completed the PB-24C Professional
17 Boundaries course.

18 10. On May 10, 2016, Respondent attended a follow up interview with Board
19 staff. Respondent expressed remorse and understanding regarding his boundary
20 violations and the impact on his patients. Respondent admitted to and provided an
21 apology for previously providing false information to Board staff regarding the number of
22 patients with whom he had inappropriate sexual contact. Respondent also provided a
23 relapse prevention plan.

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1 **CONCLUSIONS OF LAW**

2 a. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

4 b. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(r)("Violating a formal order, probation, consent
6 agreement or stipulation issued or entered into by the board or its executive director under
7 the provisions of this chapter.").

8 c. The conduct and circumstances described above constitute unprofessional
9 conduct pursuant to A.R.S. § 32-1401(27)(z)("Engaging in sexual conduct with a current
10 patient or with a former patient within six months after the last medical consultation unless
11 the patient was the licensee's spouse at the time of the contact or, immediately preceding
12 the physician-patient relationship, was in a dating or engagement relationship with the
13 licensee. For the purposes of this subdivision, "sexual conduct" includes: (i) Engaging in or
14 soliciting sexual relationships, whether consensual or nonconsensual. (ii) Making sexual
15 advances, requesting sexual favors or engaging in any other verbal conduct or physical
16 contact of a sexual nature. (iii) Intentionally viewing a completely or partially disrobed
17 patient in the course of treatment if the viewing is not related to patient diagnosis or
18 treatment under current practice standards.").

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

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ORDER

IT IS HEREBY ORDERED THAT:

- 1. This Order supersedes all other Orders issued in this matter.
- 2. Respondent is issued a Decree of Censure.
- 3. Respondent is placed on Probation for a period of 10 year(s) with the

following terms and conditions:

a. Practice Restriction

Respondent shall implement the practice recommendations provided by the PEP including the following: Respondent shall at this time restrict his direct patient care to only male patients. Respondent shall not engage in solo medical practice. Respondent shall submit the name of a worksite monitor, who is a licensed health care worker, in writing to Board staff for approval. The monitor shall be responsible for observing Respondent's demeanor, relationships with patients, appearance, timeliness and whether Respondent maintains appropriate boundaries with patients. Respondent shall provide the monitor with a list of all employees, including full and part-time employees and locum tenens in advance of any employees' start date. The monitor shall report to Board staff and Respondent's Board-approved therapist periodically as requested by Board staff. The monitor shall also provide reports to PEP upon request.

b. Chart Reviews

Board staff or its agents shall conduct periodic chart reviews to monitor Respondent's compliance with the terms of this Order. Based upon the chart review findings, the Board retains jurisdiction to take additional disciplinary or remedial action.

c. Board Approved Therapist

Respondent shall enter treatment with a Board-approved therapist as recommended by the PEP and shall comply with any and all treatment recommendations.

1 At the initiation of treatment, Respondent shall authorize the therapist to confirm in writing
2 to Board staff that they have read PEP's evaluation, and that they agree to summarize
3 results of their therapy, and to report back to the Board. Respondent shall instruct the
4 therapist to submit written reports to Board staff regarding diagnosis, prognosis, current
5 medications, recommendation for continuing care and treatment, and ability to safely
6 practice medicine. The reports shall be submitted quarterly to Board staff. Respondent
7 shall pay the expenses of treatment and is responsible for paying for the preparation of the
8 quarterly reports. Respondent shall authorize the therapist to communicate with Board
9 staff regarding Respondent's compliance with treatment, and if at any time the therapist
10 finds evidence that Respondent is a safety threat to patients.

11 **d. Continuing Care Recommendations**

12 Respondent shall continue treatment with his couples therapy and primary care
13 physician as recommended in the PEP discharge summary. Respondent shall comply
14 with any and all treatment recommendations, including taking any and all medications.
15 Respondent shall provide his couples therapist and primary care physician with a copy of
16 this and any subsequent Board Orders. Respondent's couples therapist and primary care
17 physician shall report to the Board immediately if there are any concerns regarding
18 Respondent's ability to safely practice.

19 Respondent shall attend five meetings a week of Sex Addiction Anonymous
20 ("SAA"). Respondent shall promptly obtain an SAA sponsor and submit the name of the
21 sponsor to the Board in writing for approval. Respondent shall maintain an attendance log
22 of all SAA meetings attended and provide it to Board staff upon request.

23 **e. Re-Evaluation**

24 Respondent shall present to PEP within 6 months of his PEP discharge for a five-
25 day re-evaluation. Respondent shall abide by any and all recommendations made by PEP

1 as a result of the re-evaluation, including presenting for subsequent re-evaluations at the
2 request of PEP.

3 **f. Polygraph**

4 Respondent shall take and successfully complete a polygraph at a Board-approved
5 facility on a biannual basis in order to screen for any relapse or relapse behaviors
6 regarding maintenance of appropriate boundaries.

7 **g. Obey All Laws**

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

11 **h. Tolling**

12 In the event Respondent should leave Arizona to reside or practice outside the
13 State or for any reason should Respondent stop practicing medicine in Arizona,
14 Respondent shall notify the Executive Director in writing within ten days of departure and
15 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
16 time exceeding thirty days during which Respondent is not engaging in the practice of
17 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
18 non-practice within Arizona, will not apply to the reduction of the probationary period.

19 **i. Violation**

20 Any violation of this Order constitutes unprofessional conduct and may result in
21 disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation,
22 consent agreement or stipulation issued or entered into by the board or its executive
23 director under this chapter.") and 32-1451. In the event of a violation of this Order by
24 Respondent, as determined by the Board pursuant to A.R.S. § 32-1451(D), Respondent's
25 license shall be **summarily suspended pending formal proceedings for license**

1 revocation. In the alternative, Respondent may **SURRENDER HIS LICENSE** if he agrees
2 in writing to have violated a provision of this Order.

3 **j. Probation Termination**

4 Prior to the termination of Probation, Respondent must submit a written request to
5 the Board for release from or modification of the terms of this Order. Respondent's
6 request for release or modification will be placed on the next pending Board agenda,
7 provided a complete submission is received by Board staff no less than 14 days prior to
8 the Board meeting. Respondent's request for release or modification must provide the
9 Board with evidence establishing that he has successfully satisfied all of the terms and
10 conditions of this Order. The Board has the sole discretion to determine whether all of the
11 terms and conditions of this Order have been met or whether to take any other action that
12 is consistent with its statutory and regulatory authority.

13
14 4. The Board retains jurisdiction and may initiate new action against
15 Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(r).

16 DATED AND EFFECTIVE this 4th day of October, 2016.

17 ARIZONA MEDICAL BOARD

18
19 By Patricia E. McSorley
20 Patricia E. McSorley
21 Executive Director
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CONSENT TO ENTRY OF ORDER

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

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

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

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

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

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

1 7. 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 8. If any part of the Order is later declared void or otherwise unenforceable, the
5 remainder of the Order in its entirety shall remain in force and effect.

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

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

12 11. *Respondent has read and understands the conditions of probation.*

13 
14 JONATHAN C. KOMAR, M.D.

DATED: 9/2/16

16 EXECUTED COPY of the foregoing mailed
17 this 4th day of October, 2016 to:

18 Paul Giancola, Esq.
19 Snell & Wilmer, LLP
20 400 E Van Buren
21 Phoenix, AZ 85004-2202
22 Attorney for Respondent

23 ORIGINAL of the foregoing filed
24 this 4th day of October, 2016 with:

25 Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258


Board staff