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BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of
JAMES RYAN, M.D.,
Holder of License No. 53075
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No.19A-53075-MDX

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
(License Revocation)**

On July 11, 2019, this matter came before the Arizona Medical Board ("Board") for consideration of Administrative Law Judge ("ALJ") Thomas Shedden's proposed Findings of Fact, Conclusions of Law and Recommended Order. James Ryan, M.D., ("Respondent") was not present; Assistant Attorney General Anne Froedge represented the State. Assistant Attorney General Elizabeth A. Campbell was available to provide independent legal advice to the Board.

The Board, having considered the ALJ's Decision and the entire record in this matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

PROCEDURE

1. The Arizona Medical Board ("Board") is the duly constituted authority for licensing and regulating the practice of allopathic medicine in the State of Arizona.
2. On March 28, 2019 the Board issued a Complaint and Notice of Hearing setting this matter for hearing at 9:00 a.m. May 2, 2019.
3. No representative appeared for James Ryan, M.D at the scheduled hearing-time, and the matter was convened in his absence at about 9:15 a.m.
4. The Board presented the testimony investigator Bob Kessler and practice consultant Kathleen Coffey, M.D.
5. Dr. Ryan holds License No. 53075 for the practice of allopathic medicine in the State of Arizona. Dr. Ryan's license was suspended at the time of the hearing.
6. Through the Complaint, the Board alleges that Dr. Ryan committed unprofessional conduct by failing to comply with a Board Order. More specifically, the Board received information showing that Dr. Ryan might not be safe to practice and it issued an Interim

1 Order requiring him to undergo a psychosexual evaluation. After Dr. Ryan made clear that
2 he would not comply with the Order, the Board offered him the opportunity to resolve the
3 matter through a consent agreement. Dr. Ryan was unwilling to do so, and the Board
4 determined that an emergency existed and summarily suspended his license.

5 7. Dr. Ryan was licensed in California until that license expired on January 31, 2017.

6 8. During the Board's investigation of this matter, Dr. Ryan explained that he would
7 have surrendered his California license but that was not possible because California has an
8 open investigation.

9 9. The Board received from the California medical board an Accusation, which is
10 equivalent to a Board-complaint in Arizona.

11 10. In the Accusation, the California board alleges that Dr. Ryan had inappropriate
12 physical contact with two patients and that he was prescribing for a patient that he began
13 dating and possibly diverting from that patient.

14 11. As of the hearing date in this matter, California had scheduled a hearing to be
15 conducted in October 2019 at which the merits of its allegations would be addressed.

16 12. The Board began an investigation of Dr. Ryan to verify whether he was safe to
17 practice, but that investigation did not consider whether California's allegations are true.

18 13. On February 15, 2019, the Board conducted an Investigational Interview of Dr. Ryan
19 that was attended by Mr. Kessler, Dr. Coffey, and Raquel Rivera, who is Mr. Kessler's
20 supervisor.

21 14. On many occasions during that interview, Dr. Ryan stated that he had been delirious
22 (from overwork) during the times at issue in California's Accusation and that he could not
23 recollect many of the events forming the bases of California's allegations.

24 15. Dr. Ryan also told the interviewers that California's allegations were perpetrated by
25 his ex-wife and that the patients who made the allegations against him were sent to him by
her powerful family as part of a contentious divorce. Dr. Coffey testified that Dr. Ryan
presented no evidence to substantiate this claim.

16. During the interview, Dr. Ryan was informed that the Board was ordering him to
undergo a psychosexual evaluation.

1 17. A psychosexual evaluation is a comprehensive evaluation that typically lasts three
2 days and includes a history and physical examination; a psychological evaluation, including
3 psychological testing; a psychiatric evaluation; a sexual history; a review of the use of
4 addictive chemicals; a neuropsychological evaluation; and polygraph testing.

5 18. Dr. Coffey explained that psychosexual evaluations are ordered when there are
6 allegations of inappropriate touching or boundary issues. The evaluation determines
7 whether there may be recidivism for either nonsexual or sexual behaviors, and what
8 treatments might be used to render a physician safe to practice.

9 19. Dr. Coffey had concerns as to Dr. Ryan's ability to practice safely because he had
10 been charged with inappropriate touching of two patients, with engaging in an inappropriate
11 dating relationship with a third patient, and with prescribing without keeping proper records
12 and continuing to prescribe while in a dating relationship with a patient. In addition, during
13 the interview he was using "distancing" statements such as "I don't recall" or "that doesn't
14 sound like me," he would segue to his divorce, he often had to be redirected, he made the
15 admission that he had practiced while delirious, and he acknowledged having issues with
16 concentration because he was not taking medication for his ADHD.

17 20. Dr. Coffey's opinion was that a psychosexual evaluation of Dr. Ryan was warranted
18 because there were multiple allegations regarding inappropriate touching or boundary
19 issues occurring on multiple occasions, the patients were mental health patients which
20 raises dependency/co-dependency issues, he has been licensed as a physician for a
21 relatively short time, and because of Dr. Ryan's distancing statements and
22 acknowledgement that he had been practicing when delusional.

23 21. As part of its investigation, California's board had Dr. Ryan undergo a physical and a
24 psychiatric examination. Dr. Coffey testified to the effect that California's examination did
25 not include the same level of scrutiny as a psychosexual evaluation and was not sufficient
to meet the Board's requirements in Dr. Ryan's case. She also testified that although Alan
Abrams, M.D. concluded in November 2017 that Dr. Ryan was safe, Dr. Abrams's report
shows that more investigation would be required to determine whether Dr. Ryan had
engaged in the alleged inappropriate sexual behavior, which she considered to be
inconsistent with a finding that he was safe.

1 22. The Board issued its Interim Order on February 15, 2019. The Order required Dr.
2 Ryan to schedule the psychosexual evaluation within fourteen days of that date and to
3 undergo the evaluation within sixty days.

4 23. After the Board presented the Interim Order to Dr. Ryan, he exchanged emails and
5 had other communications with the Board staff in which he vacillated between agreeing to
6 undergo the evaluation and declining to do so. The Board extended the deadline by which
7 the evaluation had to be conducted, but Dr. Ryan ultimately told the Board that he would
8 not undergo the evaluation and explained that he planned to stop practicing medicine.

9 24. The Board informed Dr. Ryan that if he chose not to undergo the evaluation he could
10 surrender his license or have a practice restriction placed on the license (forbidding him to
11 practice until he was found to be safe to practice). Dr. Ryan was unwilling to consent to
12 either of these options.

13 25. Because Dr. Ryan was unwilling to undergo the psychosexual evaluation or to
14 resolve the matter through a consent agreement, at a public meeting on March 7, 2019, the
15 Board determined that the public health, safety and welfare required that his license be
16 summarily suspended, which it did. Although Dr. Ryan was provided notice of that Board
17 meeting, he failed to appear.

18 CONCLUSIONS OF LAW

19 1. The Board has jurisdiction over Respondent and the subject matter in this case. See
20 ARIZ. REV. STAT. § 32-1401 *et seq.*

21 2. The Board must prove its allegations by clear and convincing evidence. ARIZ. REV.
22 STAT. § 32-1451.04.

23 3. Clear and convincing evidence is “[e]vidence indicating that the thing to be proved is
24 highly probable or reasonably certain.” BLACK’S LAW DICTIONARY 674 (10th ed. 2014).

25 4. ARIZ. REV. STAT. section 32-1451(C) provides that

The board or, if delegated by the board, the executive
director shall require, at the doctor's expense, any combination of
mental, physical or oral or written medical competency examinations
and conduct necessary investigations, including investigational
interviews between representatives of the board and the doctor to

1 fully inform itself with respect to any information filed with the board
2 under subsection A of this section. These examinations may include
3 biological fluid testing and other examinations known to detect the
4 presence of alcohol or other drugs. The board or, if delegated by the
5 board, the executive director may require the doctor, at the doctor's
6 expense, to undergo assessment by a board approved rehabilitative,
7 retraining or assessment program. This subsection does not
8 establish a cause of action against any person, facility or program
9 that conducts an assessment, examination or investigation in good
10 faith pursuant to this subsection.

11 5. Orders for professionals to undergo evaluations such as Dr. Ryan was ordered to
12 undergo are not considered to be disciplinary in nature, but rather are investigatory only.
13 Such an order is permissible because the professional cannot be disciplined without a
14 hearing, at which time he must be accorded due process. See *Wassef v. Ariz. Bd. of Dental*
15 *Exam'rs*, 242 Ariz. 90, 93 (App. 2017)(citations from other jurisdictions omitted). Due
16 process generally requires notice and an opportunity to be heard in a meaningful manner
17 and at a meaningful time. *Id.*

18 6. The hearing provided Dr. Ryan with the opportunity to present evidence, including
19 evidence to rebut the Board's allegations, and to cross-examine the Board's witnesses.
20 Consequently, Dr. Ryan has received due process in this matter.

21 7. Dr. Coffey provided credible testimony showing that the Board's decision to require
22 Dr. Ryan to undergo the psychosexual evaluation was appropriate considering California's
23 allegations against him and the information the Board staff learned during its investigational
24 interview. She also provided credible testimony that multiple factors show that Dr. Ryan
25 may not be safe to practice.

8. The Board offered Dr. Ryan the opportunity to surrender his license or to enter into a
practice-restriction agreement in lieu of undergoing the psychosexual evaluation. Because
Dr. Ryan may be unsafe to practice, it was appropriate for the Board summarily suspend

1 his license when he failed to avail himself of these options. See ARIZ. REV. STAT. § 32-
2 1451(D).

3 9. The Board presented clear and convincing evidence showing that it was justified in
4 ordering Dr. Ryan to undergo the psychosexual evaluation. Because Dr. Ryan has failed to
5 comply with the Interim Order requiring that evaluation, he has committed unprofessional
6 conduct under ARIZ. REV. STAT. section 32-1401(27)(s).

7 10. Because Dr. Ryan has committed an act of unprofessional conduct, the Board has
8 authority to discipline his license. ARIZ. REV. STAT. § 32-1451(M).

9 11. Considering Dr. Ryan's failure to appear at this hearing, his failure to appear at the
10 March 7, 2019 Board meeting, that the Board had previously afforded him the opportunity
11 to surrender his license, and that there is credible evidence showing that he may not be
12 safe to practice, revocation is appropriate in this case.

13 **ORDER**

14 Based on the foregoing, it is **ORDERED** revoking James Ryan, MD's License No.
15 53075 for the practice of allopathic medicine in the State of Arizona.

16 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

17 Respondent is hereby notified that he has the right to petition for a rehearing or
18 review. The petition for rehearing or review must be filed with the Board's Executive
19 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
20 petition for rehearing or review must set forth legally sufficient reasons for granting a
21 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days
22 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not
23 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
24 Respondent.

25 Respondent is further notified that the filing of a motion for rehearing or review is
required to preserve any rights of appeal to the Superior Court.

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DATED this 12th day of July 2019.

THE ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

ORIGINAL of the foregoing filed this 12th day of July, 2019 with:

Arizona Medical Board
1740 W. Adams, Suite 4000
Phoenix, Arizona 85007

COPY of the foregoing filed this 12th day of July, 2019 with:

Greg Hanchett, Director
Office of Administrative Hearings
1740 W. Adams
Phoenix, AZ 85007

Executed copy of the foregoing
mailed by U.S. Mail this 12th day of July, 2019 to:

James Ryan, M.D.
Address of Record

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