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MARK A. WELLEK, M.D.

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Case No. MD-16-0293A

ORDER FOR SURRENDER OF LICENSE AND CONSENT TO THE SAME

Holder of License No. 6416 For the Practice of Medicine In the State of Arizona.

Mark A. Wellek, M.D. ("Respondent"), elects to permanently waive any right to a hearing and appeal with respect to this Order for Surrender of License; admits the jurisdiction of the Arizona Medical Board ("Board") as well as the facts stated herein; and consents to the entry of this Order by the Board.

FINDINGS OF FACT

- The Board is the duly constituted authority for the regulation and control of 1. the practice of allopathic medicine in the State of Arizona.
- Respondent is the holder of license number 6416 for the practice of 2. allopathic medicine in the State of Arizona.
- The Board initiated case number MD-16-0293A after receiving a complaint alleging that Respondent had been engaged in an inappropriate sexual relationship with a patient.
- Additionally, the Board has an open investigation under case number MD-4. 15-0352A, involving an allegation that Respondent engaged in inappropriate sexual discussion with a patient.

CONCLUSIONS OF LAW

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

- 2. Respondent has requested that the Board accept the surrender of his license.
- 3. The Board possesses statutory authority to enter into a consent agreement with a physician and accept the surrender of an active license from a physician who admits to having committed an act of unprofessional conduct. A.R.S. § 32-1451(T)(2).
- 4. The conduct and circumstances described above would, if true, constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q)("[A]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").
- 5. The conduct and circumstances described above would, if true, constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(z)("[E]ngaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this subdivision, "sexual conduct" includes: (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual; (ii) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical contact of a sexual nature; and (iii) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.").

<u>ORDER</u>

IT IS HEREBY ORDERED THAT Respondent immediately surrender License Number 6416, issued to Mark A. Wellek, M.D., for the practice of allopathic medicine in the State of Arizona, and return his certificate of licensure to the Board.

DATED and effective this ______ day of _______, 2016.

ARIZONA MEDICAL BOARD

By:

Patricia E. McSorley Executive Director

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. Any 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, any 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. 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 If the Board does not adopt this Order, Respondent will not assert as a 5 defense that the Board's consideration of the Order constitutes bias, prejudice, 6 7 prejudgment or other similar defense. Respondent has read and understands the terms of this agreement. 8 200leflem, D. Dated: 3 9 10 11 12 EXECUTED COPY of the foregoing mailed by US Mail this day of Copy 2016 to: 13 14 Paul J. Glancola, Esq. 15 Snell & Wilmer, LLP 400 E Van Buren St Phoenix, AZ 85004-2202 16 Attorney for Respondent 17 ORIGINAL of the foregoing flied this 18 _, 2016 with: day of april 19 The Arizona Medical Board 20 9545 East Doubletree Ranch Road Scottsdale, AZ 85258 21 22 Board Staff 23 24

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