

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2  
3 In the Matter of

4 **DAVID A. RUBEN, M.D**

5 Holder of License No. 11382  
6 For the Practice of Medicine  
In the State of Arizona.

**Case No. MD-18A-11382**

**ORDER FOR SURRENDER  
OF LICENSE AND CONSENT  
TO THE SAME**

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

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of the  
13 practice of allopathic medicine in the State of Arizona.

14 2. David A. Ruben, M.D. ("Respondent") is the holder of License No. 11382 for the  
15 practice of allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-17-0179A after receiving notification that  
17 Respondent was in violation of the Amended Findings of Facts, Conclusions of Law and  
18 Order for a Decree of Censure, Practice Restriction, and Probation issued in Case  
19 No.15A-11382-MDX by the Board on February 9, 2016 ("Board Order").

20 4. The 2016 Board Order included a practice restriction prohibiting Respondent from  
21 prescribing, administering or dispensing any schedule II controlled substances for a period  
22 of two years.

23 5. For the time-period following the date of the 2016 Board Order through April 25,  
24 2017, Respondent wrote some prescriptions for schedule II controlled substances to  
25

1 multiple patients. The prescriptions included Percocet (oxycodone/acetaminophen), Norco  
2 (hydrocodone/acetaminophen) and at least one prescription for Oxycodone.

3 6. On March 1, 2017, Respondent self-reported writing a prescription for Oxycodone  
4 on February 23, 2017 in violation of the Board Order. Respondent stated that this  
5 prescription was issued in error.

6 7. During an investigational interview on March 24, 2017, Respondent stated that at  
7 the time he prescribed Norco and Percocet to his patients, he was unaware that these  
8 medications were classified as schedule II.

9 8. On or about November 15, 2018, Respondent was convicted of two counts of  
10 Facilitation to Commit Administration of a Narcotic Drug, to wit: Oxycodone, Class Six  
11 Undesignated Offenses, in violation of A.R.S. §§13-1004, 13-3408 committed on February  
12 23 and March 3, 2017; and one count of Facilitation to Commit Administration of a  
13 Narcotic Drug, to wit: Hydrocodone, a Class Six Undesignated Offense, in violation of  
14 A.R.S. §§13-1004, 13-3408 committed on February 16, 2017. Per the court's minute  
15 entry, "the determination of guilt was based upon a plea of guilty."

16 9. Respondent has a health condition that renders him unable to safely engage in the  
17 practice of medicine.

#### 18 CONCLUSIONS OF LAW

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

21 2. The conduct and circumstances described above constitute unprofessional  
22 conduct pursuant to A.R.S. §32-1401(27)(d) ("[c]ommitting a felony, whether or not  
23 involving moral turpitude, or a misdemeanor involving moral turpitude. In either case,  
24 conviction by any court of competent jurisdiction or a plea of no contest is conclusive  
25 evidence of the commission.").

1 3. The Board possesses statutory authority to enter into a consent agreement with a  
2 physician and accept the surrender of an active license from a physician who admits to  
3 being unable to safely engage in the practice of medicine and/or having committed an  
4 act of unprofessional conduct. A.R.S. § 32-1451(T)(1) and (2).


5 **ORDER**

6 **IT IS HEREBY ORDERED THAT** Respondent immediately surrender License  
7 Number 11382, issued to David A. Ruben, M.D., for the practice of allopathic medicine in  
8 the State of Arizona, and return her/his certificate of licensure to the Board.

9 DATED and effective this 16<sup>th</sup> day of April, 2019.

10  
11 ARIZONA MEDICAL BOARD

12  
13 By:

  
Patricia E. McSorley  
Executive Director

14  
15  
16 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

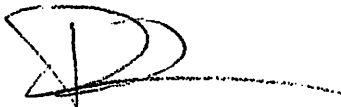
3           5.     All admissions made by Respondent are solely for final disposition of this  
4 matter and any subsequent related administrative proceedings or civil litigation involving  
5 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
6 or made for any other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

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

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

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

20           9.     ***Respondent has read and understands the terms of this agreement.***

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22 X \_\_\_\_\_  
23 DAVID A. RUBEN, M.D.

Dated: March 8, 2019

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1 EXECUTED COPY of the foregoing mailed by  
2 US Mail this 17<sup>th</sup> day of April, 2019 to:

3 David A. Ruben, M.D.  
4 Address of Record

5 Robert S. Wolkin, Esq.  
6 3301 E. Camino Campestre  
7 Tucson, Arizona 85716  
8 robert@rswolkin.com  
9 Attorney for Respondent

10 ORIGINAL of the foregoing filed this  
11 17<sup>th</sup> day of April, 2019 with:

12 The Arizona Medical Board  
13 1740 West Adams, Suite 4000  
14 Phoenix, Arizona 85007

15 Michelle Robus  
16 Board staff  
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