

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **HOWARD D. TOFF, M.D**

4 Holder of License No. 19314
5 For the Practice of Medicine
6 In the State of Arizona.

**Case No. MD-21-0820A, MD-21-1041A,
MD-22-0636A**

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

7 Howard D. Toff, 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
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 19314 for the practice of
15 allopathic medicine in the State of Arizona.

16 **MD-21-0820A**

17 3. The Board initiated case number MD-21-0820A based on the results of an
18 unfavorable chart review conducted by the Monitor. Based on the Monitor's report, Board
19 staff requested Medical Consultant ("MC") review of Respondent's care and treatment of
20 three patients (Patients 1-3). The MC identified deviations from the standard of care with
21 regard to Respondent's care of Patients 1 and 2.

22 4. Patient 1 was a 76-year-old female who initiated care with Respondent in
23 February 2016. Patient 1's medical history included chronic pain, hypertension, diabetes,
24 depression, anxiety, possible somatoform disorder, and histrionic personality disorder.
25 Patient 1 denied a history of drug or alcohol abuse and reported a history of sexual abuse.

1 Respondent prescribed Patient 1 medications including alprazolam 1mg twice daily and
2 gabapentin 30mg 2 capsules at bedtime.

3 5. Patient 2 was a 61-year-old male who was an established patient of
4 Respondent's practice. Patient 2's medical history included coronary artery disease
5 ("CAD") with stent placement, migraines, bipolar disorder, ADD, high blood pressure, and
6 mood disorder. Respondent prescribed Patient 2 medications including venlafaxine 150mg
7 daily, methylphenidate 20mg twice daily, hydroxyzine 25mg at bedtime, doxepin 10mg 2
8 tablets at bedtime, quetiapine 50mg at bedtime, and Depakote 1000mg daily. ADHD
9 criteria were defined to support the ADHD diagnosis in the progress notes in 2016. In
10 September 2021, Patient 2 reported that the amphetamine (methylphenidate) was
11 approved by his cardiologist.

12 6. Patient 3 was an 11-year-old female who was in the custody of the
13 Department of Child Services ("DCS") and residing at a group home. This child had been
14 removed from her home in May 2020 due to no legal caregiver, and there was an ongoing
15 criminal investigation due to domestic violence in the home, neglect, truancy, and
16 substance use by parents. In May 2021, Patient 3 was diagnosed with ADHD by
17 psychiatry. Respondent prescribed Patient 3 medications including methylphenidate ER
18 18mg in am, methylphenidate IR 5mg 1 ½ tablets at 0100, and melatonin 3mg at bedtime.

19 7. The standard of care requires a physician to coordinate care with other
20 treating providers in patients with complex medical issues. Respondent deviated from this
21 standard of care for Patient 1 by failing to coordinate care with other treating providers
22 regarding drug-to-drug interactions. For Patient 2, Respondent deviated from the standard
23 of care by failing to coordinate care with the patient's other treating providers regarding the
24 use of stimulants in a high-risk patient.

25

1 8. The MC identified documentation deficiencies including illegible handwritten
2 notes, insufficient documentation regarding medication interactions, assessment or
3 referrals, and lack of use of DSM-V diagnoses.

4 9. There was the potential for patient harm in that Patient 1 was at risk of
5 unintentional overdose and death due to drug-to-drug interactions and Patient 2 was at
6 risk of abuse, overdose and death.

7 **MD-21-1041A**

8 10. The Board initiated case number MD-21-1041A based on the results of an
9 unfavorable chart review conducted by the Monitor. Based on the Monitor's report, Board
10 staff requested MC review of Respondent's care and treatment of two patients (Patients 4
11 and 5). The MC identified deviations from the standard of care regarding Respondent's
12 care of both patients, as well as documentation deficiencies.

13 11. Patient 4 was a 46-year-old male who initiated care with Respondent in June
14 2020. Patient 4 had a medical history of insomnia, anxiety, and history of substance
15 abuse. Respondent prescribed Patient 4 medications including temazepam 30mg at
16 bedtime and alprazolam 2mg ½ tablet three times daily, Hydroxyzine, and Trazodone.
17 Patient 4 was noted as "slipping" with alcohol use twice in June 2021 and November 2021.
18 Respondent documented that the patient didn't believe AA or other intervention was
19 needed.

20 12. Patient 5 was a 57-year-old female patient who initiated care with
21 Respondent in June 2014. Patient 5 had a medical history of ADHD, anxiety, and trauma
22 disorder. Respondent prescribed Patient 5 medications including Vyvanse 70mg in am
23 and alprazolam 1mg three times daily. Patient 5 reported continued abuse of alcohol and
24 cannabis. Patient 5 had a continuing delusional belief of a bug infestation.

1 19. From June 28, 2019, to July 3, 2019, Patient 6 was admitted to an Inpatient
2 Behavioral Health Facility for suicidal ideations and detox. Patient 6 reported that she had
3 been drinking alcohol heavily. Patient 6's routine bloodwork showed that she had a slightly
4 elevated TSH and elevated cholesterol levels. Patient 6 also reported that she was
5 charged with and pleaded guilty to DUI in January 2019. Patient 6's toxicology screen at
6 the hospital was positive for stimulants, but it was negative for benzodiazepines. Patient 6
7 was discharged with a prescription for naltrexone.

8 20. On March 30, 2021, Respondent documented that Patient 6 was off
9 clonazepam.

10 21. On December 2, 2021, Respondent started Patient 6 on a limited trial of
11 lorazepam 0.5mg twice daily.

12 22. The standard of care prohibits a physician from prescribing benzodiazepines
13 for long term use without justification. Respondent deviated from the standard of care for
14 Patient 6 by prescribing benzodiazepines for long term use in a patient with substance
15 abuse without justification.

16 23. The standard of care requires a physician to provide diagnostic analysis
17 when diagnosing a patient. Respondent deviated from the standard of care for Patient 6
18 by failing to provide diagnostic analysis for psychiatric diagnoses.

19 24. There was potential for patient harm in that Patient 6 was at risk for abuse,
20 addiction, overdose and death.

21 **CONCLUSIONS OF LAW**

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

1 2. The conduct and circumstances described above constitute unprofessional
2 conduct pursuant to A.R.S. § 32-1401(27) (e)(“Failing or refusing to maintain adequate
3 records on a patient.”).

4 3. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(r) (“Committing any conduct or practice that is
6 or might be harmful or dangerous to the health of the patient or the public.”).

7 4. The Board possesses statutory authority to enter into a consent agreement
8 with a physician and accept the voluntary surrender of an active license from a physician
9 who admits to having committed an act of unprofessional conduct. A.R.S. § 32-
10 1451(T)(2).

11 **ORDER**

12 IT IS HEREBY ORDERED THAT Respondent immediately surrender License
13 Number 19314, issued to Howard D. Toff, M.D., for the practice of allopathic medicine in
14 the State of Arizona, and return his certificate of licensure to the Board.

15 DATED and effective this 2nd day of November, 2023.

16 ARIZONA MEDICAL BOARD

17
18 By: Pat E McSorley
19 Patricia E. McSorley
20 Executive Director

21 **CONSENT TO ENTRY OF ORDER**

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

25 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.

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

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

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

13 6. Notwithstanding any language in this Order, this Order does not preclude in
14 any way any other State agency or officer or political subdivision of this state from
15 instituting proceedings, investigating claims, or taking legal action as may be appropriate
16 now or in the future relating to this matter or other matters concerning Respondent,
17 including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent
18 acknowledges that, other than with respect to the Board, this Order makes no
19 representations, implied or otherwise, about the views or intended actions of any other
20 state agency or officer or political subdivisions of the State relating to this matter or other
21 matters concerning Respondent.

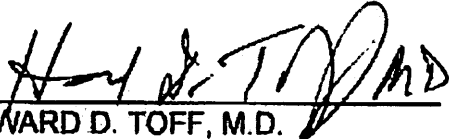
22 7. Upon signing this agreement, and returning this document (or a copy
23 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
24 entry of the Order. Respondent may not make any modifications to the document. Any
25

1 modifications to this original document are ineffective and void unless mutually approved
2 by the parties.

3 8. This Order is a public record that will be publicly disseminated as a formal
4 disciplinary action of the Board and will be reported to the National Practitioner's Data
5 Bank and on the Board's web site as a disciplinary action.

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 has read and understands the terms of this agreement.***

10
11 
12 HOWARD D. TOFF, M.D.

Dated: 9/19/2023

13
14 EXECUTED COPY of the foregoing mailed
this 2nd day of November, 2023 to:

15 Howard D. Toff, M.D.
16 Address of Record
17 Michele G. Thompson, Esq.
18 Udall Law Firm, LLP
19 4801 East Broadway Boulevard, Suite 400
Tucson, Arizona 85711-3609
Attorney for Respondent

20 ORIGINAL of the foregoing filed
21 this 2nd day of November, 2023 with:

22 The Arizona Medical Board
1740 West Adams, Suite 4000
23 Phoenix, Arizona 85007

24 
25 Board staff