

1 Zyrtec. Respondent's medical records for JP did not indicate a history of substance abuse or
2 treatment and did not mention the order of probation for JP which she was under for substance
3 abuse.

4 2. A pharmacy audit shows that Dr. Michel prescribed medications Hydrocodone,
5 Xanax, and Zolipidem throughout 2009 and 2010 to JP. The documentation of medications
6 prescribed did not include the dosage or number of tablets given. Respondent failed to
7 document medications prescribed on multiple occasions. The patient was last seen on May 7,
8 2010. Respondent prescribed Xanax to JP in July, September and November 2010. Respondent
9 prescribed Hydrocodone to JP in December 2010 and Zolipidem in June and October of 2010.

10 3. On or about November 23, 2010, Respondent's medical records for JP reflect a
11 professional reference form that was filled out by Respondent for JP. In the reference,
12 Respondent states that she is aware patient JP has been, "deemed by the board to be overusing
13 medication," but she did not feel the patient was overusing and had chronic pain issues. She
14 stated she and the patient JP have worked together in the past and now she is a valued
15 colleague and patient.

16 4. It is unclear from Respondent's records of treatment of JP when Respondent
17 knew of JP's probation status and substance abuse history. It was clear the Respondent was
18 aware of JP's substance abuse history as of November 2010 when she wrote the reference
19 letter. It is unclear whether patient JP was not truthful with Respondent or if Respondent
20 failed to obtain the patient's history of drug abuse and treatment.

21 5. Respondent wrote several prescriptions for several controlled substances
22 without an office visit. The patient was seen within a few months of time and was last seen in
23 May 2010. Respondent wrote her last prescription for a controlled substance for JP on
24 December 14, 2010.

25 6. Respondent failed to document medications prescribed on multiple occasions.

26 7. The Board's Medical Consultant, Barbara Prah, D.O., conducted a chart audit of
27 ten charts chosen at random for a period of one year. After reviewing the charts Dr. Prah found

1 that at the time of the first office visit, a full history and physical was performed. Many of the
2 patients had been involved in motor vehicle accidents. Respondent did not mention in the
3 medical record any previous physicians, past treatments, or past or present drug or alcohol
4 issues. Respondent did include the patient's past medical and surgical history, their current
5 medications, allergies to medications, and their family history.

6 8. No older medical records were reviewed. Although routine laboratory was
7 performed on many of the patients, there were no drug screens performed. X-rays and other
8 diagnostic studies were performed. Only one file contained a controlled substance contract
9 and that patient had not been seen by Respondent, and instead was seen by Respondent's
10 associate.

11 9. Two patients, KT and DP, whose files were audited, reported their medications
12 were stolen. Respondent refilled the patients' medication and did not ask for a police report.
13 One patient, KT, was reported by the pharmacy to Respondent to be receiving prescriptions
14 from other providers and other pharmacies. Respondent's office continued to prescribe
15 controlled substances to the patient. The patient was warned by Respondent at the time that if
16 she "double dipped" again she would be discharged from the practice.

17 10. In April 2010, the patient, KT, was found to be obtaining controlled substances
18 from other providers again. The patient alleged her identify had been stolen. Respondent gave
19 her two week's quantity of medication and was advised she would receive no more until she
20 could prove her identity had been stolen.

21 11. Controlled substance contracts were not used regularly by Respondent. Only
22 one patient, AL, had a controlled substance pharmacy report included in the medical record.

23 12. Urine/drug screens were not obtained. Old medical records were not requested
24 on a regular basis. A past or current history of drug or alcohol abuse was not documented.
25 Pharmacy inquiries were not conducted. Medication side effects and possible complications
26 were not discussed. Verification of stolen medications was not documented.

27

1 **CONCLUSIONS OF LAW**

2 1. The conduct described above is a violation of unprofessional conduct pursuant
3 to A.R.S. § 32-1854(6), which prohibits "Engaging in the practice of medicine in a manner that
4 harms or may harm a patient or that the board determines falls below the community
5 standard."

6 2. The conduct described above is a violation of unprofessional conduct pursuant
7 to A.R.S. § 32-1854(38), which prohibits "Any conduct or practice that endangers a patient's or
8 the public's health or may reasonably be expected to do so."

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10 **Dr. Michel's Prior Disciplinary History**

11 12. On August 8, 2011, the Board issued an Order for Probation against
12 Respondent's license for criminal charges involving a DUI in February 2008. Respondent was
13 evaluated for possible addiction and it was determined that her alcohol abuse, as of January
14 2011, was in full remission. A period of monitoring was recommended.

15 13. The Order placed her license on Probation for a period of five (5) years with the
16 standard monitoring provisions.

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18 **ORDER**

19 IT IS HEREBY ORDERED THAT Lucinda Michel, D.O., holder of License Number 4314 for
20 the practice of osteopathic medicine in the State of Arizona, is issued a **DECREE OF CENSURE**
21 and placed on **PROBATION** for a period of three (3) years, from the effective date of this Order.
22 The effective date of this Order is the date it is signed by the Board's Executive Director. The
23 terms of probation are as follows:

24 1. On the effective date of this Order, Respondent's shall have six (6) months to
25 complete Continuing Medical Education in the form of the prescribing and record keeping
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1 courses at the Physician Assessment and Clinical Education Program ("PACE"), at the University
2 of San Diego (619-543-6770 / www.paceprogram.ucsd.edu).

3 2. Respondent shall be restricted in that she shall no longer prescribe any Schedule
4 II, III or IV medications, until she has completed the courses referred to in paragraph 1 of this
5 Order, physically appears before the Board to request reinstatement of her prescribing
6 privileges, and the Board grants approval of the reinstatement of privileges.

7 3. Respondent shall bear all costs incurred regarding compliance with this Order.

8 4. Any violation of this Order constitutes unprofessional conduct and may result in
9 disciplinary action and/or referral to the appropriate criminal agency.



11 ISSUED THIS 23rd DAY OF APRIL, 2012.
12 STATE OF ARIZONA
13 BOARD OF OSTEOPATHIC EXAMINERS
14 IN MEDICINE AND SURGERY

15 By: Jenna Jones
16 Jenna Jones, Executive Director

17 **NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING**

18 Any party may request a rehearing or review of this matter pursuant to A.R.S. § 41-
19 1092.09. The motion for rehearing or review must be filed with the Arizona Board of
20 Osteopathic Examiners within thirty (30) days. If a party files a motion for review or rehearing,
21 that motion must be based on at least one of the eight grounds for review or rehearing that are
22 allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30
23 days has the effect of prohibiting judicial review of the Board's decision. Service of this order is
24 effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a motion for rehearing or
25 review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
26 Respondent.

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Original filed this 23rd day of April, 2012 with:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale AZ 85258-5539

Copies of the foregoing sent via regular mail
this 23rd day of April, 2012 to:

Mary Williams, AAG
Office of the Attorney General CIV/LES
1275 West Washington
Phoenix AZ 85007

Lucinda Michel, D.O.
Address of Record

By:  _____