BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF: **DONALD FRUCHTMAN, D.O.** Holder of License No. **2874** For the practice of osteopathic medicine in the State of Arizona	**Case No.: DO-12-0162A** **TERMINATION OF PROBATIONARY ORDER**

IT IS HEREBY ORDERED that the Order for Probation (and any amendments thereto) dated November 27, 2013, have been satisfied and therefore, a full and unrestricted license (active license status) is reinstated to Donald Fruchtman, D.O. effective November 24, 2014.

ISSUED THIS 24th DAY OF NOVEMBER 2014.

STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

By: _____
Jenna Jones, Executive Director

Original filed this 24th day of November, 2014 with the:

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

Copy of the foregoing sent by U.S. mail
this 24th day November, 2014 to:

Donald Fruchtman, D.O.
Address of record

Steve Myers, Esq.
Myers & Jenkins, PC
One East Camelback Road, Ste. 500
Phoenix, AZ 85012

BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF:	**Case No.: DO-12-0162A**
DONALD FRUCHTMAN, D.O. Holder of License No. **2874**	**FIRST AMENDMENT TO ORDER FOR DECREE OF CENSURE AND PROBATION**
For the practice of osteopathic medicine in the State of Arizona	

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Donald Fruchtman, D.O. (hereinafter "Respondent"), the parties, having met on May 10, 2014, hereby agree to the following modification of this matter.

AMENDED ORDER

NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:

Effective May 12, 2014, pursuant to A.R.S. §§ 32-1855 (C) and 41-1064 (C), License No. 2874 held by Donald Fruchtman, D.O., ("Respondent") remains on **PROBATION** with all terms of the original Order, except that paragraph 1 of the Order, on page 4, is deleted.

ISSUED THIS 20th DAY OF MAY, 2014.

STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

By: _____
Jenna Jones, Executive Director

Original "Amendment to Order for Decree of Censure and Probation" filed this 20th day of May, 2014 with the:

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

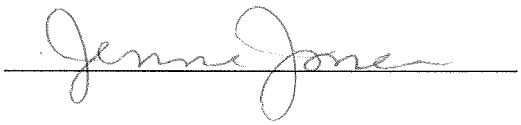
Copy of the foregoing "Amendment to Order for Decree of Censure and Probation" sent via regular mail this 20th day of May, 2014 to:

Donald Fruchtman, D.O.
Address of record

Stephen Myers, Esq.
Myers & Jenkins, PC
One East Camelback Road, Ste. 500
Phoenix, AZ 85012
Attorney for Respondent

Copy of the foregoing "Amendment to Order for Decree of Censure and Probation" sent via electronic mail this 20th day of May, 2014 to:

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



BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF: **DONALD FRUCHTMAN, D.O.** Holder of License No. **2874** For the practice of osteopathic medicine in the State of Arizona	**Case No.: DO-12-0162A** **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR DECREE OF CENSURE AND PROBATION**

On September 28, 2012, the Arizona Board of Osteopathic Examiners (hereafter "Board") received a complaint against Donald Fruchtman, D.O. (hereafter "Respondent"). On October 11, 2012, the Board noticed Respondent of an investigation into that complaint. On October 30, 2012, the Board received Respondent's Response to the complaint.

On September 5, 2013, the Board invited Respondent to attend an Investigative Hearing on this matter. The initial review was November 16, 2013. Respondent was present, participated in the Investigative Hearing and appeared on his own behalf.

After hearing testimony from Respondent and considering the documents and evidence submitted, the Board voted to enter the following Findings of Fact, Conclusions of Law, and Order for Decree of Censure and Probation.

JURISDICTIONAL STATEMENTS

1. The Board is empowered, pursuant to A.R.S. § 32-1800 et seq., to regulate the practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed, registered, or permitted to practice osteopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 2874 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT

3. On September 28, 2012, the Board received an anonymous complaint against Respondent alleging that Respondent was overprescribing medications to patient, E.G.

4. Patient E.G., a 49 year-old male, began treatment with Respondent on January 6, 2010 with a chief complaint of headaches. Respondent did not obtain prior medical records and prescribed Butalbital #60, Oxycodone mg #60 Indocin SR #15. In May 2010, records from the Pharmacy Board indicate the patient received #600 Oxycodone from Respondent. In July 2012, Respondent was contacted by pharmacists at Target and Fry's indicating that E.G. was attempting to fill prescriptions written on July 24, 2012 with photocopies. The patient was discharged from care on July 30, 2012. A pharmacy audit revealed E.G. had obtained very large quantities of Oxycodone 30 mg and Oxycodone 15 mg each month from October 2011 to July 2012.

5. Patient E.G. was not referred to a specialist and a function based approach was not utilized.

6. A chart review of 20 patients was conducted, and it revealed a number of deficiencies. The chart audit revealed the following:

a. Medication side effects were not discussed with patients.

b. The medical records did not indicate that treatment plans and goals were established with patients.

c. Previous medical records were not requested or reviewed (A.C., M.D., M.H. (DOB 1/24/84), S.K., R.K., A.L., J.M., V.M., J.R. (DOB 5/28/82), T.R., J.R. (DOB 6/28/73), M.S., R.S., J.S., and M.T.)

d. Urine drug screens were not performed (T.G., M.H., S.K., J.R. (DOB 6/28/73) and J.S.).

e. Urine drug screens were discussed but the results were not included in the medical record (A.C., E.C., J.K., A.L., J.M., and V.M.)

f. Occasionally urine drug screens were done, but were inconsistent with the stated medications (E.C., M.D., M.H. (DOB 1/24/84), R.K., A.L., M.S., R.S., M.T.).

g. The drug screens were positive for illegal substances but the medications were continued (A.C. and A.L.)

h. Respondent failed to obtain a signed controlled substance contract for 18 of the 20 patients reviewed (A.C., E.C., M.D., J.E., T.G., M.H. (DOB 1/24/84), M.H. (DOB 2/5/83), S.K., J.K., R.K., A.L., J.M., V.M., J.R. (DOB 5/28/82), J.R.(DOB 6/28/73), M.S., R.S., and M.T.

i. Respondent failed to provide documentation of the patient being referred to a consulting physician (J.E., MH.(DOB 1/24/84), S.K., J.K., R.K., A.L., J.M., V.M., J.R. (DOB 6/28/73), T.R., R.S., J.S. and M.T.).

j. Respondent failed to document a pharmacy audit (A.C., E.C., M.D., J.E., T.G., M.H. (DOB 1/24/84), M.H. (DOB 2/5/83), S.K., T.R., J.K., R.K., A.L., J.M., V.M., J.R. (DOB 5/28/82), J.R. (6/28/73), M.S., R.S., J.S., and M.T.).

k. The patient was seen in the emergency room with a possible overdose but the medications were continued (A.C., R.K., and R.S.).

l. The patient reported their narcotics were lost of stolen and the medications were refilled (A.L., J.M., and V.M.).

m. The patient was on large doses of narcotics (E.C., M.D., J.E., T.G., M.H. (DOB 1/24/84), M.H. (DOB 2/5/83), S.K., R.K., J.M., V.M., J.R.(5/28/82), T.R., M.S., R.S., J.S., and M.T.)

n. No diagnostic procedures were documented (M.H. (DOB 1/24/84), S.K., J.K., A.L., J.R.(DOB 6/28/73) and R.S.).

o The patient was involved in a motor vehicle accident or had a DUI possibly related to controlled substance use (R.K., V.M., and R.S.).

p. Patient M.H. (DOB 2/5/83), received an independent evaluation by a spinal surgeon who felt that narcotics were contraindicated.

CONCLUSIONS OF LAW

9. The conduct described above constitutes unprofessional conduct and is a violation of A.R.S. § 32-1854 (6), which states "Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard."

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

ORDER

Pursuant to the authority vested in the Board,

IT IS HEREBY ORDERED that Donald Fruchtman, D.O, holder of osteopathic medical License number 2874 is issued a **DECREE OF CENSURE.**

IT IS HEREBY FURTHER ORDERED that Donald Fruchtman, D.O., holder of osteopathic medical License number 2874 is placed on **PROBATION for a period of five (5) years** from the effective date of this Order, with the following terms:

1. Respondent shall be restricted from prescribing opioid medications, Class 2, 3, 4, or 5, and may not issue any medical marijuana certifications. This restriction includes that any allied health professionals supervised by Respondent are also prohibited from prescribing these medications.

2. Respondent shall obtain thirty (30) in person Continuing Medical Education (CME) credits in the area of pain management. The CME hours must be approved in advance

by the Board's Executive Director, and shall be in addition to the hours required for biennial renewal of his osteopathic medical license. The CMEs should be completed within twenty-four (24) months of the effective date of this Order at the Respondent's expense.

3. Respondent shall surrender his certification from the Drug Enforcement Agency to allow his prescribing of Suboxone. Respondent shall not prescribe Suboxone.

4. Respondent may request, in writing, the Board reinstate his prescribing privileges after completing the thirty (30) CME credits in the area of pain management.

5. **Costs:** Respondent shall bear all costs incurred regarding compliance with this Order.

6. **Obey All Laws:** Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in the State of Arizona.

7. **Ceasing Practice in the State of Arizona:** In the event that Respondent ceases to practice medicine in the State of Arizona, by moving out of state, failing to renew his license, or maintaining an Arizona license but ceasing to practice clinical medicine or administrative medicine requiring licensure, Respondent shall notify the Board that he has ceased practicing in Arizona, in writing, within 10 days of ceasing to practice. In its sole discretion, the Board may stay the terms of this Order until such time as the Respondent resumes the practice of medicine in Arizona, or may take other action to resolve the findings of fact and conclusions of law contained in this Consent Agreement and Order for Probation.

8. **Failure to Comply / Violation**: Respondent's failure to comply with the requirements of this Order shall constitute an allegation of unprofessional conduct as defined at A.R.S. § 32-1854(25) and proven violations may be grounds for further disciplinary action (e.g., suspension or revocation of license).

ISSUED THIS 27th DAY OF NOVEMBER, 2013.
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: _____
Jenna Jones, Executive Director

NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING

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

Original "Findings of Fact, Conclusions of Law and Order for Decree of Censure and Probation" filed this 27th day of November, 2013 with:

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

Copy of the "Finding of Fact, Conclusions of Law and Order for Decree of Censure and Probation" sent by certified mail, return receipt requested, this 27th day of November, 2013 to:

Donald Fruchtman, D.O.
Address of Record

Copies of this "Findings of Fact, Conclusions of Law and Order for Decree of Censure and Probation" filed/sent this 27th day of November, 2013 to:

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