BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF: **KEVIN MCKEOWN, D.O.** Holder of License No. **005863** For the practice of osteopathic medicine in the State of Arizona	**Case No.: DO-17-0066A** AMENDED **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR CENSURE, SUSPENSION AND PROBATION**

On March 9, 2017, the Arizona Board of Osteopathic Examiners (hereafter "Board") received information from Kevin McKeown, D.O. (hereafter "Respondent") relating to his practice of osteopathic medicine. On June 17, 2017, Dr. McKeown appeared before the Board and was represented by counsel, Mr. Milligan, for an Investigative Hearing. After additional investigation, the Investigative Hearing was continued to October 14, 2017. Respondent was present, participated in the Investigative Hearing and appeared with counsel, Mr. Milligan.

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 Censure, Suspension 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. 005863 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT

3. On March 6, 2017, Respondent forwarded a copy of a "Fraud Alert" from the Arizona State Board of Pharmacy, which was filed by Thomas Shaw, a pharmacist with Walgreens. Mr. Shaw reported that he had evidence to suggest that for the last five years, Respondent had been fraudulently writing prescriptions for controlled substances for himself and his wife, prescribed under the name of Salman Mamdani, an Illinois physician. Mr. Shaw contacted Dr. Mamdani, who denied writing the prescriptions for Respondent. Further, Respondent admitted to Mr. Shaw that he, Respondent, had written the prescriptions for himself under Dr. Mamdani's name.

4. Respondent also disclosed that he wrote prescriptions under his own name for controlled substances to his wife on several occasions.

5. On October 4, 2017, Respondent disclosed that he had been indicted by a State Grand Jury for a number of felony charges as a result of his fraudulent prescribing of controlled substances by using another physician's identity. The criminal charges remain pending.

6. Respondent fraudulently used another physician's name and DEA number to write prescriptions for himself.

7. Respondent self-prescribed a controlled substance.

8. Respondent wrote prescriptions for controlled substances for an immediate family member when another provider was available within fifty (50) miles.

9. Respondent failed to establish and maintain adequate patient records for his wife.

10. Respondent's actions endangered the public health, safety and welfare.

CONCLUSIONS OF LAW

11. The conduct described above constitutes unprofessional conduct pursuant to 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."

12. The conduct described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854 (20), which states, " Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter."

13. The conduct described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854 (22), which states, "Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment."

14. The conduct described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854 (23), which states, "Prescribing controlled substances to members of one's immediate family unless there is no other physician available within fifty miles to treat a member of the family and an emergency exists."

15. The conduct described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1854 (35), which states, "Violating a federal law, a state law or a rule applicable to the practice of medicine."

16. The conduct described above constitutes unprofessional conduct pursuant to A.R.S. §32-1854 (36), which states "Prescribing or dispensing controlled substances or prescription-only medications without establishing and maintaining adequate patient records."

17. The conduct described above constitutes 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."

18. The conduct described above constitutes unprofessional conduct pursuant to A.R.S. §32-1854 (39), which states, "Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so."

ORDER

Pursuant to the authority vested in the Board,

IT IS HEREBY ORDERED that Respondent, Kevin McKeown, D.O, holder of osteopathic medical License number 005863, is issued a DECREE OF CENSURE.

1. **IT IS HEREBY FURTHER ORDERED** that Respondent, Kevin McKeown, D.O., holder of osteopathic medical License number 005863, is placed on SUSPENSION for a period of twelve (12) months from the effective date of the Order. If, after six (6) months from the effective date of this Order, the Respondent wishes to have the suspension lifted, he must petition the Board in writing and make that request. The request will be considered at a future meeting of the Board. Respondent will be required to personally appear at that meeting and discuss his request.

2. **IT IS HEREBY FURTHER ORDERED** that upon the lifting of the SUSPENSION by the Board, Respondent is placed on PROBATION for a minimum period of five (5) years from the effective date of this Order. During the term of probation, Respondent shall comply with the treatment providers' treatment plans as set forth below. At the conclusion of five years,

Respondent must petition the Board, in writing, for termination of his probation and release from all terms and conditions of the probation. If the Board determines that Respondent has not complied with **all** the requirements of this Order the Board, in its sole discretion, may either: (a) continue the probation or (b) institute proceedings for noncompliance with this Order, which may result in suspension, revocation, or other disciplinary and/or remedial action. The Respondent must personally appear at the Board meeting in which his request for termination of probation will be considered.

3. Psychiatric Care/Evaluation. IT IS FURTHER ORDERED that Respondent shall begin treatment by a psychiatrist who has been approved in advance by the Board's Executive Director. Within thirty (30) days of the effective date of this order Respondent shall present the name of a licensed psychiatrist for treatment to the Board's Executive Director for approval. The notification shall be in writing, by facsimile (480-657-7715) or email (jenna.jones@azdo.gov).

Respondent shall be evaluated or continue treatment with the approved psychiatrist within forty-five (45) days of the effective date of this Order. Respondent shall ensure the psychiatrist provides the Board staff with a copy of the initial report within forty-five (45) days of the date of the evaluation. Respondent shall comply with all treatment recommendations made by the psychiatrist. Respondent shall ensure that if psychiatric treatment is recommended, the psychiatrist will provide quarterly updates to the Board. The written updates shall be presented to the Board's Executive Director on the fifteenth (15th) of every month and shall inform the Board of such topics as issues addressed in treatment, Respondent's response to treatment suggestions and his progress made in treatment.

4. Counseling/Evaluation. Within forty-five (45) days of the effective date of this Order, Respondent shall undergo a psychological evaluation and, if recommended, participate

in cognitive behavioral therapy. The psychologist or counselor conducting the evaluation must be licensed in Arizona and must be approved in advance by the Board's Executive Director.

The person must be an Arizona, licensed health professional, who is a psychologist or a counselor as recommended by the psychiatrist. Respondent shall ensure the licensed health care professional provides an initial evaluation within thirty (30) days of the initial visit and then quarterly status reports to the Board during the pendency of this Order. Respondent shall comply with all treatment recommendations made by the provider.

5. Civil Penalty. Respondent shall pay a civil penalty in the amount of $1,000.00 dollars within six (6) months of the effective date of this Order.

6. Board-Staff Approved Primary Care Physician. Within fifteen (15) days of the effective date of this Order, Respondent shall obtain a primary care physician ("PCP") who is approved in advance by the Board's Executive Director. Respondent shall undergo a complete physical and history with the PCP within ten (10) days of being notified by the Executive Director that the PCP has been approved. The PCP shall not be in the same office practice as the Respondent, nor related to the Respondent by blood or marriage. The Respondent shall be required to have the PCP submit a copy of the history and physical to the Board office within sixty days of the effective date of this Order. The PCP shall be responsible for and coordinating Respondent's medical care and treatment. Except in an *Emergency,* Respondent shall obtain medical care and treatment only from the PCP approved by the Board and from health care providers to whom Respondent is referred by the PCP. Respondent shall request that the PCP document all referrals in the medical record. Respondent shall promptly inform the PCP of this Order and the requirement that he is to be monitored by the Board and provide a copy of this Order to the PCP. Respondent shall also inform and provide a copy of this Order to all other health care providers who provide medical care or treatment to Respondent while Respondent is under this Order. For the purpose of this Order, *"Emergency"* means a serious

accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life.

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

8. **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.

9. **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 Order.

10. **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 20th DAY OF OCTOBER, 2017.
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 "Amended Findings of Fact, Conclusions of Law and Order for Censure, Suspension and Probation" filed this 20th day of October, 2017 with:

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

Copy of the "Amended Finding of Fact, Conclusions of Law and Order for Censure, Suspension and Probation" sent by certified mail, return receipt requested, this 20th day of October, 2017 to:

Robert Milligan, Esq.
Milligan Lawless
5050 N. 40th Street, Ste. 200
Phoenix, AZ 85018

Copies of this "Amended Findings of Fact, Conclusions of Law and Order for Censure, Suspension and Probation" filed/sent this 20th day of October, 2017 to:

Kevin McKeown, D.O.
Address of record