BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

KENNETH M. FISHER, M.D.

Holder of License No. 12762
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-19-0558A

INTERIM FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
FOR SUMMARY SUSPENSION OF LICENSE

INTRODUCTION

The above-captioned matter came for discussion before the Arizona Medical Board ("Board") at its November 7, 2019 meeting, where it had been placed on the agenda to consider possible summary action against Kenneth M. Fisher, M.D. ("Respondent"). Having considered the information in the matter and being fully advised, the Board enters the following Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension of License, pending a formal hearing or other Board action. A.R.S. § 32-1451(D).

INTERIM FINDINGS OF FACT

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

2. Respondent's license is subject to Findings of Fact, Conclusions of Law and Order for Decree of Censure and Probation issued in case MD-15-1067A and MD-15-1170A, with terms and conditions including a requirement that Respondent undergo periodic chart reviews by a Board-approved monitoring company of Respondent's care and treatment of patients rendered after February, 2018 ("Board Order").

3. The Board initiated case number MD-19-0558A after receiving notification from the Board-approved monitoring company ("Monitor") that Respondent had been non-compliant with the chart review requirement of the Board Order.
4. On December 10, 2018, the Monitor notified Board staff that Respondent was non-compliant with the chart review process. Specifically, the Monitor reported that Respondent had failed to follow instructions and had become non-responsive to the Monitor's requests for charts needed to complete a chart review.

5. In his response to Board-staff, Respondent denied receiving the requests for records alleged by the Monitor, but admitted to failing to inform Board staff regarding the apparent breakdown in communication.

6. During the course of the Board's investigation, Board staff reviewed Respondent's Controlled Substance Prescription Monitoring Profile ("CSPMP") report, which indicates that Respondent continues to prescribe controlled substance medications. Board staff noted at least three patients that appear to have been prescribed controlled substance medications in generally contraindicated combination and with early refills.

7. During the Board's consideration of the above captioned matter on November 7, 2019, Board staff presented the foregoing. During the Board's deliberations, Board members noted Respondent's disciplinary history dating back to 1990, and raised concerns with regard to whether Respondent was able regulated by this Board. Board members agreed that Respondent's inability to comply with the Board's order despite this history posed a risk to the public health, safety and welfare. Based on the evidence presented, the Board voted unanimously to summarily suspend Respondent's license.

INTERIM CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.
2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(s) ("Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.").

3. Based on the foregoing Interim Findings of Fact and Conclusions of Law, the public health, safety or welfare imperatively requires emergency action. A.R.S. § 32-1451(D).

ORDER

Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth above,

IT IS HEREBY ORDERED THAT:

1. Respondent’s license to practice allopathic medicine in the State of Arizona, License No. 12762, is summarily suspended. Respondent is prohibited from practicing medicine in the State of Arizona and is prohibited from prescribing any form of treatment including prescription medications or injections of any kind.

2. The Interim Findings of Fact and Conclusions of Law constitute written notice to Respondent of the charges of unprofessional conduct made by the Board against Respondent. Respondent is entitled to a formal hearing to defend these charges as expeditiously as possible after the issuance of this Order.

3. The Board’s Executive Director is instructed to refer this matter to the Office of Administrative Hearings for scheduling of an administrative hearing to be commenced within sixty days from the date of the issuance of this Order, unless stipulated and agreed otherwise by Respondent. A.R.S. § 32-1451(D).
DATED AND EFFECTIVE this 8th day of November, 2019.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing mailed this 8th day of November, 2019 to:

Kenneth M. Fisher, M.D.
Address of Record

Calvin L. Raup, Esq.
531 East Thomas Road Suite 104
Phoenix, Arizona 85012
Attorney for Respondent

ORIGINAL of the foregoing filed this 8th day of November, 2019 with:

Arizona Medical Board
1740 West Adams, Suite 4000
Phoenix, Arizona 85007

Michelle Hobbs
Board staff