BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

In the Matter of:

Anthony C. Pozun, D.O.
Holder of License No.: 3684
For the Practice of Osteopathic Medicine
In the State of Arizona

Respondent

Case No. DO-19-0005

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR PROBATION

INTRODUCTION

Pursuant to A.R.S. § 32-1855 (E), the Arizona Board of Osteopathic Examiners ("Board") held an investigative hearing in the above-captioned matter on May 18, 2019. Anthony C. Pozun, D.O. ("Respondent") voluntarily appeared before the Board and was represented by legal counsel, Steve Meyers.

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

JURISDICTIONAL STATEMENTS

1. The Board is the duly constituted authority pursuant to A.R.S. § 32-1800, et seq. for the regulation and control of the practice of Osteopathic Medicine in the State of Arizona.

2. Respondent is the holder of Arizona Osteopathic License No. 3684 for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT

3. On January 15th, 2019, the Board received information from a health care facility reporting that Respondent was requested and agreed to refrain from practicing at the health care facility as a result of a positive screening result for THC in urine and hair samples.

4. On January 16, 2019, the Board’s Executive Director issued Respondent an Interim Order for Substance Use/Impairment Evaluation. Respondent underwent the evaluation on January 17, 2019 with a Board-approved physician.

5. The physician who conducted the evaluation recommended that Respondent participate in a two-year monitoring program that includes random drug testing, abstention
6. On March 6, 2019, March 27, 2019, and April 2, 2019, Respondent’s screening result was positive for Ethyl Glucuronide.

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-1800, et seq.

2. The conduct alleged in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-1854(22) – “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.”

3. The conduct alleged in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-1854(39) - “Committing any conduct or practice that endangers a patient’s or the public’s health or may reasonably be expected to do so.

4. The conduct alleged in the Findings of Fact constitutes grounds for discipline pursuant to A.R.S. § 32-1854(40) – “Committing 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

Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED:

1. Osteopathic License No. 3684 issued to Respondent to practice osteopathic medicine in the State of Arizona shall be placed on PROBATION for two (2) years.

2. The terms and conditions of the Order of Probation are as follows:

3. Practice: At this time, the Respondent’s practice is unrestricted.

4. Participation in Monitoring: Respondent shall promptly begin participation in the Board's monitoring aftercare program and as such, shall cooperate with Board Staff and shall comply with all terms of this agreement.

5. Biological Fluid Collection:
   a. Respondent shall be subject to random alcohol and drug testing as recommended by the Board monitor for a minimum of two years and shall submit for testing as directed by the Board monitor.
b. During all times that Respondent is physically present in the State of Arizona and such other times as Board Staff may direct, Respondent shall promptly comply with requests from Board Staff to submit to biological fluid collection. Respondent shall be directed to contact an automated telephone message system on a daily basis to determine if she is required to provide a specimen on that particular day. When ordered to submit a specimen, Respondent shall do so promptly as specified by Board Staff. Further, in the event the Board’s Executive Director determines that additional biological fluid testing is necessary, the Executive Director or designee shall call Respondent and inform him of the requirement to submit to additional biological fluid testing. Respondent shall promptly comply with the order. For the purposes of this paragraph, “Promptly comply” means that, except for good cause shown, Respondent shall appear and submit to specimen collection not more than two hours after telephonic notice to appear is given. The Board Staff in its sole discretion shall determine whether good cause exists that would excuse Respondent from having to comply with the order in the time given. The Board Staff may require the collection to be observed or witnessed. The specimen submitted shall be within the lab’s approved guidelines for specific gravity and creatinine. If the specimen is outside of the acceptable parameters, Respondent shall be required to submit another specimen.

c. Respondent shall provide in writing to Board Staff one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid collection. For purposes of this section, telephonic notice shall be deemed given at the time a message to submit is left at the contact telephone number provided by Respondent.

d. Respondent shall cooperate with collection site personnel regarding biological fluid collection. Repeated complaints from collection site personnel that Respondent is not cooperating regarding collection may be considered failure to comply with this Agreement.

e. Respondent authorizes any person or organization conducting tests on the collected samples to provide testing results to the Board Staff.

f. The failure to provide a random biological fluid sample, a positive drug screen for an illegal drug or a medication for which Respondent has no authorized prescription, or an unexcused failure to appear for the specimen testing will constitute non-compliance with this Order.
4. **Board-Staff Approved Primary Care Physician:** Respondent shall promptly obtain a primary care physician ("PCP") and shall submit the name of the physician in writing to Board Staff for approval. Respondent shall schedule the appointment within 14 days of the effective date of the Order and the appointment shall be completed within 45 days thereafter. The PCP shall not be in the same office practice as the Respondent, nor related to the Respondent by blood or marriage. The PCP shall be in charge of providing and coordinating Respondent’s medical care and treatment. Except in an *Emergency*, Respondent shall obtain medical care and treatment only from the PCP and from health care providers to whom the 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 Respondent’s rehabilitation efforts and provide a copy of this Agreement to the PCP. Respondent shall also inform all other health care providers who provide medical care or treatment that Respondent is under this Agreement. For the purpose of this Agreement, "*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.

5. **Abstain from Drug / Alcohol Consumption:** Respondent shall abstain completely from the personal use of the following substances: opiates, foodstuffs containing poppy seeds, foodstuffs containing hemp products, foodstuffs containing alcohol or food prepared with alcohol and herbal or health preparations containing alcohol or derivatives of controlled substances. Respondent is fully responsible for any and all ingested materials and their contents. Respondent shall abstain completely from the personal use of alcohol or controlled substances or possession of controlled substances, as defined in the State Controlled Substances Act and Dangerous Drugs and Narcotics as defined by law or any drugs requiring a prescription. Respondent shall abstain from the use of alcohol and all over-the-counter medications except plain aspirin, acetaminophen, or ibuprofen.

6. **Medication:** Except in an *Emergency*, Respondent shall take no *Medication* unless the PCP, the Board Approved psychiatrist, or other health care provider to whom the PCP refers Respondent prescribes the *Medication*. In the case of over-the-counter *Medications*, Respondent shall provide to his/her PCP a list of the over-the-counter *Medications* currently taken; PCP shall review and approve those and recommend any new *Medications* needed. For purpose of this Agreement, “*Medication*” or “*Medications*” means a prescription-only drug,
controlled substance, and over-the-counter preparation other than plain aspirin, plain ibuprofen and plain acetaminophen.

a. Respondent shall not self-prescribe any *Medication*. For the purpose of this Agreement, “self-prescribe” means starting or stopping any *Medication*, or altering the dosage or regimen of any *Medication* except as directed by the PCP, or stopping altogether a *Medication* prescribed by the PCP or other physician to whom the PCP has referred Respondent.

b. If a controlled substance is prescribed, dispensed, or is administered to Respondent by any person other than the PCP, Respondent shall notify the PCP in writing within 48 hours and shall notify the Board Staff immediately. The notification shall contain all information required for the medication log entry specified in paragraph 10. Respondent shall request that the notification be made a part of the medical record. This paragraph does not authorize Respondent to take any *Medication* other than in accordance with paragraph 6.

7. **Psychologist / Psychiatrist:** Within thirty (30) days from the effective date of this Order, Respondent shall obtain and maintain regular appointments with a Board-approved psychologist who shall also refer Respondent to a psychiatrist to determine if Respondent may benefit from psychiatric medication. Additionally, the psychologist shall determine and report to the Board if Respondent would benefit from a modification to or reduction of Respondent’s current work schedule. In the event the psychologist recommends changes to Respondent’s work schedule, the Board may modify this Order to address the recommended changes. Respondent shall ensure that both the Board-approved psychologist and psychiatrist (if determined to be necessary) provide quarterly reports to the Board on Respondent’s progress in his mental health therapy.

8. **AA/NA Meetings:** Respondent shall attend a minimum of one AA/NA meeting per month for the duration of the probation period. The frequency of attendance maybe modified based on the recommendation of the substance abuse evaluator. Respondent shall maintain a log of the AA/NA meetings attended and receive a signature from the meeting organizer of each meeting. Once per month, Respondent shall provide a copy of his AA/NA meeting signature log to the Board.

9. **Treatment:** Respondent shall submit to all medical, substance abuse, and mental health care and treatment ordered by the Board or Executive Director.
10. **Monthly Prescription Report:** If Respondent has a lawful prescription for a narcotic or mood-altering drug, Respondent shall cause their prescribing provider to submit monthly reports to the Board by the 30th day of each month regarding the continued need for the prescribed narcotic or mood-altering medications. The Board or its designee may, at any time, request the provider to document the continued need for prescribed medications.

Respondent shall keep a written record of medications taken, including over the counter drugs, and produce such record upon request by the Board or its designee. For *Medication* taken on an on-going basis, Respondent may comply with this paragraph by logging the first and last administration of the *Medication* and all changes in dosage or frequency. The log, at a minimum, shall include the following:

A. Name and dosage of *Medication* taken or administered;
B. Date taken or administered;
C. Name of prescribing or administering physician; and
D. Reason *Medication* was prescribed or administered.

This paragraph does not authorize Respondent to take any *Medication* outside the parameters of this Agreement.

11. If the Respondent violates any of the terms and conditions of this Order or violates any Board statute or rule during the term of probation, the Board may then summarily suspend Respondent’s license and may, after notice and the opportunity for a hearing, impose disciplinary action including but not limited to suspension or revocation of Respondent’s license. The issue at such hearing will be limited to whether Respondent failed to comply with any of the terms and conditions of this Order or violated any Board statute or rule while on probation.

12. **Out of State Travel and/or Unavailability at Home or Office Telephone Number:** Respondent shall provide Board Staff at least three business days advance written notice of any plans to be away from the office or home when such absence would prohibit Respondent from responding to an order to provide a biological fluid specimen or from responding to communications from the Board. The notice shall state the reason for the intended absence from home or office, and shall provide a telephone number that may be used to contact the Respondent. In the event that Respondent moves out of state or ceases to practice osteopathic medicine in Arizona, he shall notify the Board of these events in writing, within
twenty days, and the Board may stay the terms and conditions of his probation until
Respondent returns to practice osteopathic medicine in Arizona.

13. **Relapse, Violation:** In the event of chemical dependency relapse by Respondent
or Respondent’s use of drugs or alcohol in violation of the Order, Respondent shall promptly
enter into an Interim Order for Practice Restriction and Consent to the Same that requires,
among other things, that Respondent not practice medicine until such time as Respondent
successfully completes long-term inpatient treatment for chemical dependency designated by
the Executive Director and obtains affirmative approval from the Board or the Executive
Director to return to the practice of medicine. Prior to approving Respondent’s request to return
to the practice of medicine, Respondent may be required to submit to witnessed biological fluid
collection or undergo any combination of physical examination, psychiatric or psychological
evaluation. **In no respect shall the terms of this paragraph restrict the Board’s authority to
initiate and take disciplinary action for violation of this Order.**

14. **Costs of Compliance:** Respondent shall bear all costs required to ensure his
compliance with this Order to include, but not limited to, the cost of a Board monitor, required
education, patient treatment, evaluations, and all alcohol and drug testing.

15. **Timely Renewal:** Respondent shall meet all requirements to renew his license for
each year that he remains on probation and shall keep his license current by submitting a
complete license renewal application to the Board prior to January 1 for each year that he
remains on probation.

16. **Obey All Laws:** Respondent shall obey all federal, state and local laws and all
rules governing the practice of osteopathic medicine in Arizona. The Board shall consider any
violation of this paragraph as a separate violation of the Osteopathic Medicine Practice Act.

17. **Interviews:** Respondent shall appear in person before the Board and or Board
Staff for interviews upon request, upon reasonable notice.

18. **Address and Phone Changes, Notice:** Respondent shall immediately notify the
Board in writing of any change in office or home addresses and telephone numbers.

19. **Ceasing Practice in the State of Arizona:** In the event Respondent ceases to
practice medicine in Arizona by moving out of state, failing to renew his/her license, or
maintaining an AZ license but ceasing to practice clinical medicine or administrative medicine
requiring licensure, Respondent shall notify the Board that he/she has ceased practicing in AZ,
in writing, within ten (10) days of ceasing to practice. In its sole discretion, the Board may stay
the terms of this Agreement until such time as the Respondent resumes the practice of medicine
in AZ, or may take other action to resolve this matter.

20. This Order is a public record that may be publicly disseminated as a formal action
of the Board and shall be reported as required by law to the National Practitioner Data Bank.

21. The Board retains jurisdiction over Respondent and may take additional remedial
or disciplinary action against the respondent if it determines that subsequent violations of this
Order or of the Osteopathic Examiners Practice Act have been committed. Respondent shall
appear in person before the Board to respond to questions or concerns regarding compliance
with this Order when requested.

22. Non-Compliance: If Respondent violates this Order in any way or fails to fulfill
the requirements of this Order, the Board, after giving notice and the opportunity to be heard,
may revoke, suspend or take other disciplinary actions against the registration. The issue at
such a hearing will be limited solely to whether this Order has been violated.

NOTICE: This Order constitutes a formal decision and order of the Board. If the
Respondent desires to challenge the Order, Respondent shall file a written motion for rehearing
with the Board’s Executive Director within thirty (30) days after service of the Order. Service
of the Order is effective five days after the date of mailing to Respondent. Under A.A.C. R4-22-108(D), the motion for rehearing must state with specificity the grounds for rehearing.
Failure to file a motion for rehearing or review has the effect of prohibiting judicial review of
the Board’s Order, according to A.R.S. § 41-1092.09 (B) and A.R.S. § 12-904 et seq.

This Order shall be effective and in force upon the expiration of the above time period
for filing a motion for rehearing or review with the Board.
DATED AND EFFECTIVE this 27th day of June, 2019.

STATE OF ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS

[Seal]

Justin Bohall, Executive Director
Arizona Board of Osteopathic Examiners
In Medicine and Surgery

Original of the foregoing filed this
23rd day of May, 2019 with:
Arizona Board of Osteopathic Examiners In Medicine and Surgery
1740 West Adams Street, Suite 2410
Phoenix, Arizona 85007

Executed Copy of the foregoing mailed by U.S. certified mail
This 23rd day of May, 2019, to:

Anthony C. Pozun, D.O.
Address of Record
Respondent
Certificate No. 7018 0680 0000 1286 2526

Sent electronically to:
Steve Myers
Attorney for the Respondent

Mary Williams, Assistant Attorney General
MaryD.Williams@azag.gov
Attorney for the State

Justin Bohall, Executive Director
Board Operations