

BEFORE THE BOARD OF MEDICAL EXAMINERS
IN THE STATE OF ARIZONA

In the Matter of
JASON E. GITTMAN, M.D.
Holder of License No. 10754
For the Practice of Medicine
In the State of Arizona.

OAH Docket No. 99F-7841-MDX
Case No. MD-94-0419 (Inv. 7841)

AMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER AFTER JUDICIAL REVIEW

On November 19, 1999, this matter came before the Arizona State Board of Medical Examiners ("Board") for oral argument and consideration of the Recommended Decision of the Administrative Law Judge ("ALJ") containing proposed findings of fact and conclusions of law.¹ JASON E. GITTMAN, M.D. ("Respondent") appeared in person and was not represented by counsel. The State was represented by Assistant Attorney General Gordon S. Bueler. The Board was advised by Assistant Attorney General Thomas J. Dennis of the Solicitor General Section of the Attorney General's Office. The Board entered Proposed Findings of Fact, Conclusions of Law and Order.

On April 27, 2001, this matter came before the Board after Judgment was entered in the Superior Court ordering revisions to the Conclusions of Law. The Board hereby issues the following Findings of Fact, Conclusions of Law and Order with revisions as ordered by the Superior Court.

¹ The Administrative Hearing was held at the Office of Administrative Hearings on August 9, 1999.

FINDINGS OF FACT

1
2 1. The Board of Medical Examiners ("BOMEX" or "the Board") is the duly
3 constituted authority that regulates and controls the practice of medicine in the State of
4 Arizona.

5 2. The Respondent, Jason E. Gittman, M.D., is the holder of License No. 10754
6 for the practice of medicine in the State of Arizona.

7 3. Respondent has been licensed to practice medicine since 1975.

8 4. Respondent is board certified in internal medicine and pulmonary diseases.
9
10 He had been engaged in clinical practice as an emergency physician and
11 pulmonary/critical care specialist until about 1988, when he decided to leave direct patient
12 care to pursue other non-clinical interests and for personal reasons.

13 5. During his years in clinical practice, Respondent maintained clinical
14 privileges in a number of hospitals in Mariposa County, Arizona. During his 13 years of
15 providing direct patient care, Respondent has never had a single patient complaint or
16 malpractice suit lodged against him. Moreover, no health care entity with which he had
17 been associated had ever investigated Respondent for, or issued a finding of, substandard
18 care or professional misconduct.

19 6. As a result of traumatic injuries sustained during an assault in 1978,
20 Respondent has cosmetic deformities for which he has undergone extensive
21 reconstructive surgery, which is still ongoing.

22 7. On July 11, 1994, Respondent was hospitalized at the Good Samaritan
23 Regional Medical Center ("Good Samaritan") in Phoenix, Arizona, with an infected scalp
24 wound.
25

1 8. Prior to and during his hospitalization at Good Samaritan, Respondent told
2 medical staff that his scalp wound was a result of a recent motor vehicle accident in the
3 State of New Jersey. Respondent told Good Samaritan medical staff that he had a split-
4 thickness graft to his scalp after the accident, which had deteriorated and became infected
5 in the previous two or three days prior to his hospitalization.

6 9. Good Samaritan medical staff were so concerned about Respondent's
7 medical condition that they attempted to verify Respondent's motor vehicle accident with
8 New Jersey authorities but could find no record of such an accident.

9 10. Good Samaritan medical staff attempted to locate the treating physician and
10 place of treatment in New Jersey but could not find either a treating physician or a
11 hospital.

12 11. Respondent's statements to Good Samaritan medical staff that his scalp
13 wound resulted from a motor vehicle accident in New Jersey were false. Respondent's
14 open scalp wound was a result of plastic surgery performed by a plastic surgeon in the
15 State of Michigan approximately 6 to 9 months prior to his hospitalization at Good
16 Samaritan.

17 12. During the above described 6 to 9 months post-surgery period, Respondent
18 sought no medical care until his scalp wound became infected.

19 13. When Respondent was admitted to Good Samaritan on July 12, 1994, he
20 was toxic, malnourished and "totally anorexic."²
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25 ² Board Exhibit No. 1, admission reports of Carrie L. Waters, M.D., and Elinor A. Schottstaedt, M.D.

1 14. Good Samaritan medical staff recorded in their notes that Respondent
2 appeared "confused," that he had "paranoid ideation" and was "concerned about
3 catastrophes we are not telling him about."³

4 15. Respondent's position that he did not have to give Good Samaritan medical
5 staff an accurate medical history on admission to the hospital because his medical
6 condition at that time did not require any lengthy history is unpersuasive. As a physician
7 with prior clinical experience, Respondent knew or should have known the importance of
8 his furnishing the treating medical staff with an accurate history. Respondent is found to
9 have deliberately misled the treating medical staff by intentionally misrepresenting his
10 medical history. Respondent's misrepresentation caused the treating medical staff, who
11 were appropriately concerned with his medical condition, to go on a "wild goose chase" to
12 investigate his medical history.
13

14 16. After Respondent was successfully treated and released from Good
15 Samaritan, BOMEX received a complaint concerning Respondent's medical condition and
16 information communicated to medical staff while admitted to that hospital. The identity of
17 the individual filing the complaint has not been disclosed.

18 17. As a result of the complaint received by BOMEX, Mark Speicher, then the
19 Executive Director of BOMEX, and David Greenberg, M.D., then the Medical Director of
20 BOMEX's Monitored Aftercare Program, met with Respondent in an investigative interview
21 on November 2, 1994.
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25 ³ Board Exhibit No. 1, handwritten Progress Report dated 7/13/94, and nurse's notes dated 7/14/94.

1 18. During the investigative interview, Respondent stated that he used tissue
2 expanders on himself.

3 19. At the investigative interview, Respondent admitted that he did scar revisions
4 on himself.

5 20. Respondent has performed surgery on himself by suturing facial wounds.

6 21. At the January 15, 1995, BOMEX meeting, then Executive Director Speicher
7 and Dr. Greenberg recommended that Respondent be ordered to undergo psychometric,
8 psychiatric and plastic surgery evaluations. On January 21, 1995, BOMEX adopted that
9 recommendation and ordered Respondent to promptly undergo those evaluations. In
10 BOMEX's Order, BOMEX agreed to pay for the evaluations.
11

12 22. Following the January 21, 1995 BOMEX Order, Respondent represented on
13 numerous occasions that he would undergo the ordered evaluations.

14 23. Respondent has failed to undertake the psychometric, psychiatric and plastic
15 surgery evaluations ordered by BOMEX.

16 24. BOMEX and Respondent entered into a Stipulation and Order effective
17 February 24, 1995, which provided that Respondent "shall not engage in the practice of
18 medicine in the State of Arizona until he has informed the Arizona Board of Medical
19 Examiners, in writing, of his intention to do so."

20 25. By letter dated June 14, 1999, Respondent informed BOMEX in writing of his
21 "intention to practice medicine," as required by the Stipulation and Order.
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23 26. BOMEX subsequently filed a Complaint and Notice of Hearing dated July 1,
24 1999, initiating disciplinary proceedings against Respondent for his failure to comply with
25

1 the Board's prior Order directing Respondent to undergo psychometric, psychiatric and
2 plastic surgery evaluations.

3 **CONCLUSIONS OF LAW**

4 1. BOMEX has the statutory duty to "protect the public from unlawful,
5 incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine,"
6 pursuant to A.R.S. § 32-1403(A).

7 2. BOMEX has the power and duty to order licensed physicians to undergo
8 physical and/or psychiatric testing as deemed necessary. A.R.S. § 32-1403(A)(1).

9 3. BOMEX has the authority to discipline and rehabilitate physicians pursuant
10 to A.R.S. § 32-1403(A)(5).

11 4. BOMEX's January 21, 1995 Order directing Respondent to undergo
12 psychometric, psychiatric and plastic surgery evaluations was not, and is not, prohibited by
13 either the Americans with Disabilities Act or the Arizona Civil Rights Act.

14 5. The evidence of record supports BOMEX's Order directing Respondent to
15 undergo psychometric, psychiatric and plastic surgery evaluations.

16 6. The conduct and circumstances described in the above Findings of Fact
17 constitute unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(25)(r).

18 **ORDER**

19
20 IT IS HEREBY ORDERED, in view of the foregoing, commencing ninety (90) days
21 from the date of this Order, that Respondent's License No. 10754 for the practice of
22 medicine be suspended until Respondent undergoes psychometric, psychiatric and plastic
23 surgery evaluations by evaluators designated by BOMEX or BOMEX Staff, as provided in
24 BOMEX's Order dated January 21, 1995. BOMEX shall pay for the evaluations, except
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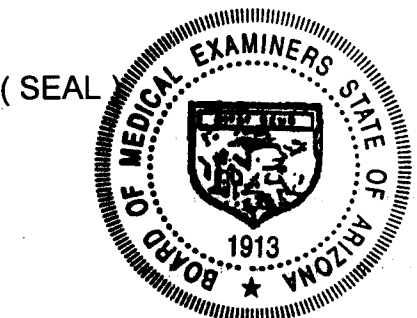
1 that Respondent shall be financially responsible for any costs incurred due to his failure to
2 appear for scheduled appointments. Respondent shall be required to comply with any
3 treatment plan recommended by the evaluators.

4 IT IS FURTHER ORDERED that if Respondent timely undergoes the psychometric,
5 psychiatric and plastic surgery evaluations on or before the above-described deadline
6 date, then the above provided license suspension shall not take place.

7 IT IS FURTHER ORDERED that the Board shall review the evaluations and
8 determine if any discipline or rehabilitation is necessary.

9 DATED this 7th day of May, 2001.

10 BOARD OF MEDICAL EXAMINERS
11 OF THE STATE OF ARIZONA



13 Claudia Foutz
14 CLAUDIA FOUTZ
15 Executive Director
16 TOM ADAMS
17 Deputy Director

18 ORIGINAL of the foregoing filed
19 this 7th day of May, 2001, with:

20 The Arizona Board of Medical Examiners
21 9545 East Doubletree Ranch Road
22 Scottsdale, Arizona 85258

23 EXECUTED COPY of the foregoing mailed by
24 Certified Mail this 7th day of May, 2001, to:

25 Jason E. Gittman, M.D.
12440 North 40th Drive
Phoenix, AZ 85029

1 EXECUTED COPY of the foregoing mailed
this 7th day of May, 2001, to:

2
3 Elizabeth Burns
4 Assistant Attorney General
5 Office of the Arizona Attorney General
6 1275 West Washington
7 Phoenix, AZ 85007

8 COPY of the foregoing hand-delivered this
9 7th day of May, 2001, to:

10 Richard F. Albrecht
11 Assistant Attorney General
12 c/o Arizona Board of Medical Examiners
13 9545 E. Doubletree Ranch Road
14 Scottsdale, AZ 85258
15 Counsel to the Board

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