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BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	Investigative Case No. 10464; 10985
GREGORY J. PORTER, M.D.	)	
Holder of License No. 14879	)	FINDINGS OF FACT, CONCLUSIONS
For the practice of medicine	)	OF LAW AND ORDER
In the State of Arizona.	)	
	)	
	)	

INTRODUCTION

This matter was considered by the Board of Medical Examiners (hereafter, "Board") at its public meeting on September 24, 1998 and November 20, 1998. Gregory J. Porter, M.D. (hereafter, "Respondent"), appeared before the Board, in order that the Board could conduct an informal interview, pursuant to the authority invested in the Board by A.R.S. § 32-1451(G). After due consideration of the facts and law applicable to this matter, the Board voted to issue the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. The Board of Medical Examiners of the State of Arizona is the duly constituted authority for the regulation and control of the practice of medicine in the State of Arizona pursuant to A.R.S. § 32-1401, et seq.
2. Respondent is the holder of Board License No. 14879 for the practice of medicine in the State of Arizona.

1           3.       In regard to Board investigative file No. 10464, this case came to the Board's  
2 attention due to a malpractice lawsuit that was filed against Dr. Porter. The Board's  
3 investigation has disclosed that Dr. Porter and a friend, Gregory Smith, met for the first time  
4 with a P.S. and Leslie Osborn in a social context at a bar/restaurant in the Tucson metropolitan  
5 area on or about August 17, 1995. The unplanned meeting between Dr. Porter and P.S.  
6 resulted in them engaging in a conversation concerning a tattoo located on the dorsum of  
7 P.S.'s left hand approximately in the area of the fleshy space between P.S.'s her left thumb and  
8 forefinger. The tattoo had the appearance of a "SS" symbol. P.S. explained to Dr. Porter how  
9 P.S. acquired the tattoo and that P.S. was interested in having it removed. P.S. has testified in  
10 a deposition that Dr. Porter offered to remove the tattoo that evening; however, Dr. Porter has  
11 testified that P.S. asked that he remove the tattoo for P.S.  
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14           4.       On the evening of August 17, 1995, P.S. and Dr. Porter departed the  
15 bar/restaurant for the purpose of going to Dr. Porter's office to attempt the removal of the  
16 tattoo by Dr. Porter. Dr. Porter and P.S. were accompanied by Gregory Smith and Leslie  
17 Osborn who arrived at Dr. Porter's office located on West St. Mary's Road in Tucson.

18           5.       At Dr. Porter's office P.S. was provided (at P.S.'s request) with scotch to drink  
19 and, subsequently P.S. became ill and vomited in the sink in Dr. Porter's examination room.  
20 After this episode and P.S. having recovered, Dr. Porter proceeded to perform a full skin  
21 thickness removal of the tattooed area of P.S.'s hand.  
22

23           6.       At her deposition, Leslie Osborn, a bartender with approximately ten years of  
24 experience in training and identifying when an individual is intoxicated, testified that both Dr.  
25 Porter and P.S. were under the influence of alcohol when the aforementioned tattoo removal  
26 procedure occurred at Dr. Porter's office. However, Dr. Porter testified that neither he or P.S.  
27 were under the influence of alcohol. Gregory Smith testified that he had approximately five  
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1 mixed drinks at the restaurant and that, in his opinion, neither P.S. or Dr. Porter were under the  
2 influence of alcohol during the course of the aforementioned events.

3           7.       Dr. MacCollum, Board Medical Staff Consultant, has reviewed Dr. Porter's  
4 patient notes compiled as a result of the aforementioned treatment provided to P.S. reports that  
5 the patient notes disclose that entries were made concerning past medical history, allergies,  
6 HIV, and a ROS. The second page of Dr. Porter's patient notes note that the area treated was  
7 scrubbed with alcohol, 2%, Lidocaine used, 1.2 million units of Bicillin was given  
8 intramuscular. The dermis was removed 3/4 half inch containing the tattoo. Because the area  
9 was relatively small, it was covered with a regular size, extra strength band-aid after  
10 completion of the skin removal procedure. The patient notes made by Dr. Porter stated that the  
11 patient was told in the presence of Gregory Smith and Leslie Osborn, to soak the hand b.i.d. in  
12 hot water and Epsom salts, keep it covered and clean. Dr. Porter's notes also reflect  
13 instructions to the patient to avoid excessive use of the hand, prevent getting dirty and return in  
14 four or five days – call p.r.n. The Board's medical consultant also notes that Dr. Porter had  
15 entered an entry in his notes: "... will granulate X 10 to 12 days." In evaluating this case, the  
16 Board's medical consultant has reported that Dr. Porter showed poor judgment in the handling  
17 of this case.  
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20           8.       Dr. Porter's principle area of training and practice is in the field of internal  
21 medicine. Although a licensed practice initially in 1983, his experience in the performance of  
22 surgical procedures is minimal.  
23

24           9.       The attorney writing on behalf of the patient, P.S., alleges that Dr. Porter failed  
25 to obtain an informed consent from the patient before undertaking this procedure; and, that due  
26 to the fact that the patient was under the influence of alcohol P.S. was not able to provide  
27 informed consent nor were other specific options for treatment and removal of the tattoo  
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1 discussed with P.S. It is also alleged that Dr. Porter chose the least favorable alternative for  
2 the removal of the tattoo, failed to give appropriate aftercare instructions and failed to contact  
3 P.S. regarding aftercare. However, P.S. does not allege that P.S. has suffered from a  
4 permanent functional physical impairment as a result of the procedure having been performed.

5  
6 10. P.S. reportedly developed an infection in the hand as a result of Dr. Porter's  
7 treatment of P.S. which required hospitalization on two occasions. P.S. also underwent plastic  
8 surgery performed by Christopher Demas, M.D. The plastic surgery procedure involved  
9 debridation of the wound and a skin graft. According to deposition testimony by Dr. Demas,  
10 P.S. suffers from a disfigurement of P.S.'s left hand, as well as a permanent chronic pain  
11 problem and a permanent chronic loss of sensation problem in a portion of P.S.'s left hand.  
12 Dr. Demas expects P.S.'s pain and loss of sensation to improve to some extent with time but  
13 expressed the opinion that it will be a permanent problem for P.S.  
14

15 11. As a result of the aforementioned investigative file No. 10464 being received  
16 by the Board, a separate inquiry was initiated by the Board to determine whether Dr. Porter  
17 suffers from a substance abuse disorder which impairs his ability to safely practice medicine.  
18 See Board investigative file No. 10985.

19 12. Due to the aforementioned conduct by Dr. Porter, the Board directed that a  
20 separate investigation (i.e., case No. 10985) be initiated to determine if Dr. Porter has a  
21 substance abuse disorder that effects his ability to safely practice medicine.  
22

23 13. Pursuant to the Board's direction, Dr. Porter was evaluated by Michael A.  
24 Sucher, M.D., for substance abuse. Dr. Porter agreed to participate in the evaluation and  
25 complied with the investigative process. Dr. Sucher has submitted a report (dated 8/27/98) to  
26 the Board reflecting the full extent of the investigation conducted. Dr. Sucher concludes that  
27 "... there is no evidence of an ongoing alcohol or drug problem."  
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CONCLUSIONS OF LAW

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2           1.       The Board of Medical Examiners of the State of Arizona possesses jurisdiction  
3 over the subject matter hereof and over GREGORY J. PORTER, M.D.

4           2.       The Board has received substantial evidence supporting the Findings of Fact  
5 described above and said findings constitute unprofessional conduct or other grounds for the  
6 Board to take disciplinary action in Case No. 10464 pursuant to:  
7

8                   A.       A.R.S. § 32-1401(25)(a), violating any federal or state laws or rule and  
9 regulation applicable to the practice of medicine; and,

10                   B.       A.R.S. § 32-1401(25)(q), "any conduct or practice which is . . . harmful  
11 or dangerous to the health of the patient or the public."

12           3.       Pursuant to A.R.S. § 32-1451(G), after completing the informal interview, the  
13 Board may order appropriate action for the final disposition of this matter to the extent  
14 authorized by law.  
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ORDER

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17           Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY  
18 ORDERED as follows:

19                   1.       Dismissed Case No. 10985; and,

20                   2.       Dr. Porter is reprimanded for unprofessional conduct related to case No. 10464;  
21 and,  
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23                   3.       Respondent is hereby notified that he may file a Motion for Rehearing in this  
24 matter requesting reconsideration of the Board's decision, pursuant to A.R.S. § 41-1092.09(B),  
25 as amended. Said Motion for Rehearing must be filed with the Board's Executive Director  
26 within thirty (30) days after service of this Order or the right to submit said motion is waived;  
27 and, service of this Order is effective five (5) days after date of mailing. Failure by  
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1 Respondent to timely file a motion for rehearing has the legal effect of prohibiting Respondent  
2 from seeking judicial review of this Order. To obtain an Order from the Board granting the  
3 Motion for Rehearing and Reconsideration, Respondent must also comply with the  
4 requirements of Board Administrative Rule A.A.C. R4-16-102(C), and establish good cause  
5 for granting said motion.  
6

7 Issued and effective this 23<sup>rd</sup> day of November, 1998.

8 BOARD OF MEDICAL EXAMINERS  
9 FOR THE STATE OF ARIZONA

10  
11 By: Claudia Foutz  
12 CLAUDIA FOUTZ  
13 Executive Director  
14 1651 E. Morten, Suite 210  
15 Phoenix, Arizona 85020

16  
17 Original of the foregoing  
18 filed this 23<sup>rd</sup> day of  
19 November, 1998  
with:

20 Arizona State Board  
21 of Medical Examiners  
22 1651 E. Morten, Suite 210  
Phoenix, Arizona 85020

23 Copy sent this 23<sup>rd</sup> day of November  
1998, by U.S. Certified Mail (return receipt  
24 requested), to: (Z 262 509 108)

25 Gregory J. Porter, M.D.  
26 1701 W. St. Mary's Road, #C-117  
27 Tucson, Arizona 85745  
(Last known address of record)

28 .....

1 Copy of the foregoing delivered this 23<sup>RD</sup>  
day of November, 1998, to:

2  
3 Michael N. Harrison  
4 Assistant Attorney General  
5 1651 E. Morten, Suite 210  
6 Phoenix, Arizona 85020  
7 Attorney for State

8 Nanette M. Kenyon  
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FOF, COL + ORDER  
Z 262 509 108

19  
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S Form 3800, April 1995