

1 ARIZONA MEDICAL BOARD

2
3 In the Matter of

4 **BENJAMIN LICUP, M.D.**

5 Holder of License No. 15363
6 For the Practice of Medicine
7 In the State of Arizona

No. 02F-15363-MDX

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER FOR LICENSE
REVOCATION**

8
9 On October 3, 2002, this case came before the Arizona Medical Board ("Board")
10 for oral argument and consideration of the Recommended Decision of the Administrative
11 Law Judge ("ALJ") containing proposed findings of fact, conclusions of law. Benjamin
12 Licup, M.D. ("Respondent") did not appear. The State was represented by Attorney Dawn
13 Bergin. The Board was advised by its legal advisor, Christine Cassetta, Assistant
14 Attorney General.

15 The Board, having considered the ALJ's recommendation, and the entire
16 administrative record in this case, hereby issues the following Findings of Fact,
17 Conclusions of Law, and Order.

18 **FINDINGS OF FACT**

19 1. The Arizona Medical Board ("Board") has been delegated by the legislature
20 the regulatory oversight and control of the practice of allopathic medicine in the State of
21 Arizona.¹

22 2. Benjamin H. Licup, M.D., is the holder of License No. 15363 for the practice
23 of allopathic medicine in the State of Arizona.

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¹ A.R.S. § 32-1403.

1 3. Dr. Licup has allowed his license to expire. However, because Dr. Licup
2 was advised by the Board in writing of pending investigations prior to the expiration of his
3 medical license, his license is on suspended status from the date it otherwise would have
4 expired. Dr. Licup is prohibited from practicing medicine in the State of Arizona until the
5 investigations are resolved.

6 4. The Board issued a Citation and Notice of Hearing alleging that Dr. Licup
7 violated applicable statutes related to the practice of allopathic medicine in the State of
8 Arizona.

9 5. The Board mailed the first copy of the complaint to Dr. Licup at the following
10 address submitted to the Board by Dr. Licup as his official address of record: 540 West
11 Road, Wickenburg, Arizona. That mailing was undeliverable because there is no such
12 address. The Board's medical investigator, Mike Wheeler, discovered that the true and
13 correct street address is 540 South West Road.

14 6. On or about June 26, 2002, the Board sent a copy of the Complaint and
15 Notice of Hearing to Dr. Licup at 540 South West Road, Wickenburg, Arizona 85390. The
16 United States Postal Service returned that mailing to the Board with a notation which
17 indicated that it was undeliverable to Dr. Licup at that address.

18 7. On or about July 22, 2002, another copy of the Complaint and Notice of
19 Hearing was sent to Dr. Licup by certified mail at the address listed in Finding of Fact No.
20 6 above. That mailing was received by another individual at that address, who
21 acknowledged receipt of the mailing by completing the delivery section of the domestic
22 return receipt.

23 8. It is determined that the Board properly served Dr. Licup with a copy of the
24 Complaint and Notice of Hearing to his last known address.

1 15. Dr. Licup saw patient D.H. again on September 22,1991. Much of the note
2 for that date is illegible. Part of the note appears to state that no bleeding was noted, and
3 that no masses or growths were palpated on rectal examination. The diagnosis was
4 internal and external hemorrhoids. Dr. Licup ordered an x-ray of the right foot and
5 prescribed Darvocet.

6 16. On December 16, 1991, Dr. Licup saw D.H. with the complaint of pain in her
7 ears and throat. Dr. Licup's note indicates that she was passing blood clots in her stool
8 and "would like laxative." The note also states that her ears were slightly infected and her
9 throat, heart and lungs were negative.

10 17. Dr. Licup saw D.H. on December 20, 1991 for pharyngitis, otitis external and
11 constipation, but his office note for that date does not refer to the hemorrhoids.

12 18. The office note for March 11, 1992 states that the patient was "still having
13 problems with bowels, still losing blood" in her stools. She also had an earache. Dr.
14 Licup's note does not show any diagnosis or treatment plan regarding the blood in the
15 stools.

16 19. On May 19, 1992, the office note refers to problems with the patient's ear
17 and "still having problems with bowels, bloody stools." There is no diagnosis or treatment
18 plan regarding the bloody stools.

19 20. On June 21, 1992, the patient was again complaining of bright red rectal
20 bleeding. The note states that she had been using suppositories, but was "still not
21 better." According to Dr. Licup, he thought he felt a mass in the rectum. He referred her
22 to a gastroenterologist for a colonoscopy to rule out carcinoma of the rectum.

23 21. The colonoscopy performed on June 8, 1992 revealed a mass in the
24 rectum, 2 to 3 cm above the dentate line. The microscopic diagnosis was moderately
25 differentiated adenocarcinoma of the rectum. The mass was too close to the anus for an

1 anastomosis. The patient was referred to a surgeon, who performed an
2 abdominoperineal resection with colostomy and extensive adhesiolysis on June 19, 1992.
3 The carcinoma of the rectum had penetrated through the entire thickness of the wall of
4 the bowel. Microscopic examination revealed a 4 x 2.5 cm sessile lesion. Lymph nodes
5 sent for microscopic exam showed no evidence of metastasis but the tumor possibly
6 extended through the mucosa. Six weeks of radiation therapy and possibly six weeks of
7 chemotherapy were recommended.

8
9 ***Chart Review***

10 22. On October 6, 1995, the Board staff reviewed 15 of Dr. Licup's charts.

11 23. The records for the following patients failed to support the diagnosis or
12 justify the treatment because they contain no indication that Dr. Licup performed an
13 examination: B.S., G.M., E.S. and J.L.B.

14
15 ***Special Purpose Examination***

16 24. By order of the Board dated May 21, 1996, Dr. Licup was required to take
17 and pass the special purpose examination ("SPEX") with a score of 75 or greater within
18 10 weeks of the order.

19 25. The SPEX tests a core of clinical knowledge and relevant, underlying basic
20 science principles necessary to form a reasonable foundation for the safe and effective
21 practice of medicine. The SPEX is designed to test the knowledge and cognitive abilities
22 required of all physicians, regardless of specialty.

23 26. Dr. Licup failed to take the SPEX within the prescribed time period.

24 27. When Dr. Licup did take the SPEX on October 3, 1996, he failed the exam
25 with a score of 69.

1 28. On July 25, 1997, Dr. Licup signed an Interim Stipulation and Order not to
2 practice medicine under his Arizona medical license until further order of the Board.

3
4 ***Patient L.B.***

5 29. The Board began an investigation of Dr. Licup's treatment of patient L.B.
6 after receiving a complaint from the patient's husband concerning Dr. Licup's over
7 prescribing of medication.

8 30. From March 1994 to September 1996, Dr. Licup rendered medical care to
9 L.B., a 33-year old female with a history of neck pain.

10 31. From March 24, 1994 to October 6, 1995, nineteen prescriptions totaling
11 615 units of Soma were filled under Dr. Licup's name.

12 32. From October 19, 1995 to December 4, 1996, prescriptions totaling 3,210
13 units of Soma were filled for L.B. under Dr. Licup's name: three prescriptions for 30 units,
14 52 refills and/or prescriptions of 60 units.

15 33. Dr. Licup is found to have prescribed excessive amounts of Soma to L.B.

16 34. Dr. Licup's Physician Assistant wrote some of the prescriptions and
17 authorized some of the refills.

18 35. Dr. Licup did not properly supervise his staff with respect to the prescribing
19 of medications and authorizations of refills for L.B.

20 36. On multiple occasions, Dr. Licup's records did not reflect who was actually
21 rendering care to L.B.

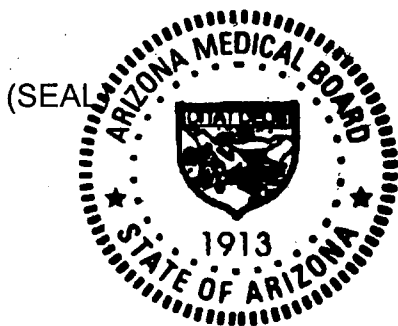
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23 **CONCLUSIONS OF LAW**

24 1. The Board has jurisdiction over the subject matter hereof and over Dr.
25 Licup.

1
2 RIGHT TO APPEAL TO SUPERIOR COURT

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4 Respondent is hereby notified that this Order is the final administrative decision of
5 the Board and that Respondent has exhausted his administrative remedies. Respondent
6 is advised that an appeal to Superior Court in Maricopa County may be taken from this
7 decision pursuant to Title 12, Chapter 7, Article 6.

8 DATED this 3rd day of October, 2002.



ARIZONA MEDICAL BOARD

11
12 By: *Barry A. Cassidy*
13 Barry A. Cassidy, Ph.D., P.A.-C
14 Executive Director

15 Original of the foregoing filed this
16 3rd day of October, 2002, with:

17 Arizona Medical Board
18 9545 East Doubletree Ranch Road
19 Scottsdale, AZ 85258

20 Copy of the foregoing filed this
21 3rd day of October, 2002, with:

22 Cliff J. Vanell, Director
23 Office of Administrative Hearings
24 1400 W. Washington, Ste. 101
25 Phoenix, AZ 85007

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Executed copy of the foregoing mailed
by Certified Mail this
3~~rd~~ day of October, 2002, to:

Benjamin Licup, M.D.
540 S West Rd
Wickenburg AZ 85390-1167

Executed copy of the foregoing mailed
this 3~~rd~~ day of October, 2002, to:

Dawn Bergin
Attorney for the State
Lewis and Roca, LLP
40 N Central Ave.
Phoenix, Arizona 85004-4429

Executed copy of the foregoing hand delivered
this 3~~rd~~ day of October, 2002, to:

Christine Cassetta, Assistant Attorney General
Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, AZ 85258
Legal Advisor to the Board

