

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 IN THE STATE OF ARIZONA

3 In the Matter of

4 **KIMBALL BARNES, M.D.**

5 Holder of License No. **11246**  
6 For the Practice of Medicine  
7 In the State of Arizona.

Board Case No. MD-00-0108  
MD-01-0026

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

(Letter of Reprimand)

8 This matter was considered by the Arizona Board of Medical Examiners ("Board")  
9 at its public meeting on February 6, 2002. Kimball Barnes, M.D., ("Respondent")  
10 appeared before the Board with legal counsel Michael Ryan, for a formal interview  
11 pursuant to the authority vested in the Board by A.R.S. § 32-1451(I). After due  
12 consideration of the facts and law applicable to this matter, the Board voted to issue the  
13 following findings of fact, conclusions of law and order.  
14

15 **FINDINGS OF FACT**

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

18 2. Respondent is the holder of License No. 11246 for the practice of medicine  
19 in the State of Arizona.

20 **MD-00-0108**

21 3. The Board initiated case number MD-00-0108 after receiving a complaint  
22 from a patient ("Patient") that had been referred to Respondent for a surgical consult that  
23 Respondent diagnosed Patient with an inguinal hernia without performing a physical  
24 examination.

25 4. Respondent performed surgery on Patient to repair the hernia on October  
14, 1999. Patient also complained that after the first surgery she complained to

1 Respondent of continued pain and Respondent diagnosed a femoral hernia and  
2 recommended additional surgery. Respondent did not perform a second surgery.

3 5. In his initial office evaluation Respondent did not record a physical  
4 examination indicating any landmarks to define where the hernia was and there was no  
5 adequate history or physical as expected for a surgical consultation.

6 6. At the formal interview before the Board, Respondent testified that Patient  
7 was referred by her physician and that Patient told him she had a right inguinal hernia.  
8 Respondent testified that he had Patient stand for an examination and he asked to  
9 perform a Valsalva maneuver, but Patient was reluctant to disrobe. Respondent noted  
10 that Patient eventually complied with his request.

11 7. Respondent further testified that Patient did not have any bulge below the  
12 inguinal ligament and at no point did Patient tell him she had discomfort below the  
13 inguinal ligament.

14 8. Respondent testified that the surgery proceeded normally and that Patient  
15 had no problems after the surgery. Respondent testified that he did not hear from Patient  
16 until she returned for her follow-up visit.

17 9. The only documentation of the initial office-visit with Patient was a drawing  
18 containing notes regarding the kind of surgery to be performed.

19 10. The physical examination to clear Patient for surgery was conducted by  
20 another physician.

21 **MD-01-0026**

22 11. The Board initiated case number MD-01-0026 after receiving a complaint  
23 from a patient ("Patient") that Respondent performed a laparoscopic cholecystectomy  
24 that resulted in an infection of a permanent pacemaker and pericardial leads.

25

1           12. On January 1, 1999, Patient presented to the emergency room at  
2 Scottsdale Healthcare Shea complaining of upper right quadrant pain. Patient was  
3 subsequently diagnosed with acute cholecystitis and secondary pancreatitis.

4           13. Respondent was asked to assess Patient. Patient had a history of cardiac  
5 surgery, including the placement of a permanent pacemaker in a subcutaneous pocket in  
6 the epigastrium. Respondent confirmed the earlier diagnosis of acute cholecystitis and  
7 secondary pancreatitis. Respondent started intravenous antibiotics and scheduled  
8 Patient for surgery the following day.

9           14. Respondent performed a laparoscopic cholecystectomy the next day.  
10 Patient underwent an uneventful recovery and was discharged a day later. Pathology of  
11 the removed gallbladder indicated it was gangrenous and the cultures indicated an  
12 Enterobacterial organism.

13           15. One week later, Patient followed up with Respondent who noted that there  
14 was no evidence of infection and discharged Patient from further surgical follow-up.

15           16. Approximately one month later Patient saw his cardiologist for pain and  
16 tenderness involving his pacemaker. Patient was subsequently seen by a cardiothoracic  
17 surgeon who determined that Patient's pacemaker was infected. Patient was readmitted  
18 to the hospital and the pacemaker removed. The surgeon who removed the pacemaker  
19 noted that one of the ports for the previous laparoscopic cholecystectomy was extremely  
20 close to the permanent pacemaker pocket.

21           17. Respondent testified at the formal hearing that Patient's family asked that  
22 Respondent not remove Patient's pacemaker. Respondent did not document this  
23 request in Patient's chart.

24           18. Respondent's physical examination of Patient described an abdomen with  
25 no masses and did not describe anything that would lead someone reading the record to

1 believe that Respondent palpated the abdomen or realized that the were was an  
2 abdominal pacemaker pulse generator in Patient's abdominal wall.

3 19. Another physician reading the chart documenting Respondent's physical  
4 examination of Patient prior to surgery would be unable to tell that Patient had an  
5 abdominal wall pacemaker.

6 20. Respondent also did not document any special precautions taken to avoid  
7 the pacemaker pouch.

8 21. Respondent noted that he is scheduled to take a formal course in  
9 recordkeeping.

### 10 CONCLUSIONS OF LAW

11 1. The Board of Medical Examiners of the State of Arizona possesses  
12 jurisdiction over the subject matter hereof and over Respondent.

13 2. The Board has received substantial evidence supporting the Findings of  
14 Fact described above and said findings constitute unprofessional conduct or other  
15 grounds for the Board to take disciplinary action.

16 3. The conduct and circumstances above in paragraphs 5, 9 and 17 through  
17 20 constitute unprofessional conduct pursuant to A.R.S. § 32-1401 (25)(q) "[a]ny conduct  
18 or practice which is or might be harmful or dangerous to the health of the patient or the  
19 public."

### 20 ORDER

21 Based upon the foregoing Findings of Fact and Conclusions of Law,

22 IT IS HEREBY ORDERED that:

23 Respondent is issued a Letter of Reprimand for inadequate preoperative  
24 evaluation and failure to meet the standard of care for documentation.

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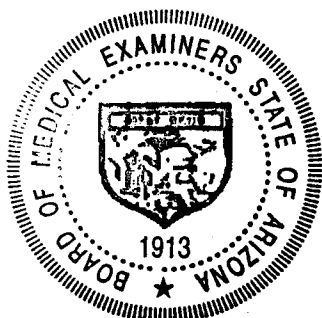
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**RIGHT TO PETITION FOR REVIEW**

Respondent is hereby notified that he has the right to petition for a rehearing. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with the Board's Executive Director within thirty (30) days after service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a rehearing. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing is required to preserve any rights of appeal to the Superior Court.

DATED this 10<sup>th</sup> day of April, 2002.



BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF ARIZONA

By Claudia Foutz  
CLAUDIA FOUTZ  
Executive Director

ORIGINAL of the foregoing filed this 10<sup>th</sup> day of April, 2002 with:

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

Executed copy of the foregoing  
mailed by U.S. Certified Mail this  
10<sup>th</sup> day of April, 2002, to:

Michael J. Ryan  
Broening Oberg Woods Wilson & Cass, P.C.  
1122 East Jefferson Street  
PO Box 20527

1 Phoenix, Arizona 85036-0527

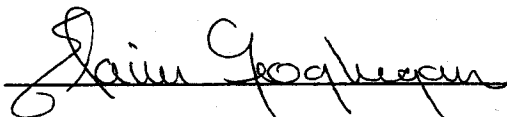
2 Executed copy of the foregoing  
3 mailed by U.S. Mail this

4 10<sup>th</sup> day of April, 2002, to:

5 Kimball Barnes, M.D.  
6 10250 North 92nd Street  
7 Suite 208  
8 Scottsdale, Arizona 85258-4519

9 Copy of the foregoing hand-delivered this  
10 10<sup>th</sup> day of April, 2002, to:

11 Christine Cassetta  
12 Assistant Attorney General  
13 Sandra Waitt, Management Analyst  
14 Lynda Mottram, Compliance Officer  
15 Investigations (Investigation File)  
16 Arizona Board of Medical Examiners  
17 9545 East Doubletree Ranch Road  
18 Scottsdale, Arizona 85258

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