

1 BEFORE THE BOARD OF MEDICAL EXAMINERS  
2 OF THE STATE OF ARIZONA  
3

4 In the Matter of )  
5 ) DOCKET NO. 99F-11508-MDX  
6 ALLEN L. BROWNE, M.D. ) INVESTIGATION NO. 11508  
7 Holder of License No. 14411 )  
8 For the Practice of Medicine ) FINDINGS OF FACT,  
9 In the State of Arizona. ) CONCLUSIONS OF  
10 Re: Bomex Inquiry (12/4/97) ) LAW AND ORDER  
11 Inv. #11508 )  
12

13 On May 21, 1999, this matter came before the Arizona Board of Medical Examiners  
14 (Board) for oral argument and consideration of the Administrative Law Judge's (ALJ) proposed  
15 Findings of Fact, Conclusions of Law and Recommended Decision.<sup>1</sup> (Attached hereto is a copy  
16 of the ALJ's Findings of Fact, Conclusions of Law and Recommended Decision.<sup>2</sup>) Allen L.  
17 Browne, M.D. appeared and was represented by counsel, David G. Derickson. The State was  
18 represented by Assistant Attorney General Gordon S. Bueler. The Board was advised by  
19 Assistant Attorney General Thomas Dennis of the Solicitor General and Appeals Section of the  
20 Attorney General's Office.

21 The Board, having considered the ALJ's proposed Findings of Fact and Conclusions of  
22 Law and the entire administrative record in this matter, hereby issues the following Findings of  
23 Fact, Conclusions of Law and Order.

24 **FINDINGS OF FACT**

25 1. The Board of Medical Examiners ("BOMEX") is the duly constituted authority  
26 for the regulation and control of the practice of medicine in the State of Arizona  
27

28 \_\_\_\_\_  
The Administrative Hearing was held on March 22 & 23, 1999.

The ALJ's Findings of Fact and Conclusions of Law are incorporated herein by reference.

1           2.       The Respondent, Dr. Allen L. Browne, M.D., is the holder of License No. 14411  
2 for the practice of medicine. Dr. Browne has been licensed for approximately 15 years. He is  
3 not, nor ever has been, licensed to practice medicine in any other state.

4           3.       Dr. Browne is an Obstetrician/Gynecologist. He began his Mesa sole practice in  
5 1984

6           4.       Dr. Browne is 46 years old.

7           5.       Dr. Browne has privileges at Mesa Lutheran Hospital, Valley Lutheran and  
8 Desert Samaritan Hospital. He has never been sanctioned by those hospitals

9           6.       Dr. Browne has been married to his medical practice. During the period of  
10 March 1986 to August 1987, Dr. Browne was on call with no coverage from any other  
11 physician.

12           7.       During the summer of 1993, Dr. Browne developed a romantic relationship with  
13 one of his employees, named T.G.

14           8.       In December of 1994, T.G. moved into Dr. Browne's home with her two minor  
15 children, C.G. age 12 and C.P. age 6.

16           9.       By December of 1996, the relationship between Dr. Browne and T.G. had  
17 soured. She had moved out of Dr. Browne's house with her minor children.

18           10.      On Christmas Eve of 1996, Dr. Browne took T.G.'s minor daughter C.G. to  
19 Midnight Mass. While Dr. Browne took C.G. to her home after Mass he told C.G. that he no  
20 longer loved her mother. He continued by telling C.G. that he loved her beyond the stepfather-  
21 type relationship that they had to that point in time. Dr. Browne told C.G. that he was  
22 romantically interested in her. C.G. was upset with Dr. Browne's declarations.

23           11.      Upon her return home from Mass, C.G. informed her mother of the contents of  
24 Dr. Browne's declarations of affection for C.G. and non-affection for T.G.  
25  
26  
27  
28

1           12.     After the conversation with C.G., T.G. went over to Dr. Browne's home on  
2 Christmas Day to confront him about his expression of romantic feelings for her minor  
3 daughter.

4           13.     During the above-described period of time T.G. continued to work for Dr.  
5 Browne.

6           14.     T.G. and Dr. Browne reconciled their differences and the romantic relationship  
7 between the two renewed. Late May of 1997 T.G. and her minor children moved back into Dr.  
8 Browne's home.

9           15.     The reconciliation of T.G. and Dr. Browne did not last long. T.G. broke off the  
10 romantic relationship and moved into a separate bedroom. She and her daughters continued to  
11 live at Dr. Browne's residence for financial reasons.

12           16.     Dr. Browne continued to be obsessed with C.G. Dr. Browne wanted to marry  
13 C.G. He researched the law and found out that he could marry her once she turned 18 years old  
14 or if he obtained her mother's permission. C.G. never indicated a desire either for a romantic  
15 relationship with Dr. Browne or to marry him. On the contrary, there is credible evidence that  
16 Dr. Browne's expression of romantic love for her distressed C.G.

17           17.     In October 1997 Dr. Browne purchased a security camera and video recorder.  
18 He placed the camera behind a vent cover located above shelving in the bathroom used by T.G.  
19 and her children. The camera was positioned to capture the images of persons using the  
20 bathroom. Dr. Browne put the video recorder and monitor in the attic. The video recorder  
21 taped images received from the camera.

22           18.     Dr. Browne installed the recording system in the bathroom used by T.G. and her  
23 children for the purposes of recording the minor C.G. in the bathroom

1           19       Dr. Browne installed a timer on the recording system with the intent to  
2 automatically activate the recording system when C.G. would normally use the bathroom, such  
3 as when she would be getting ready for school.

4           20       In November 1997, T.G. and her children traveled to New Mexico to spend the  
5 Thanksgiving Day with family.

6           21       On November 30, 1997, T.G. and her children returned from New Mexico to Dr.  
7 Brown's home.

8           22       After her return from New Mexico, T.G. was in the bathroom used by herself and  
9 her children. While getting a towel from the bathroom shelf, her attention was drawn to an  
10 object visible behind the vent cover. She immediately went to Dr. Browne and asked him about  
11 the object. Dr. Browne responded that the object was a smoke detector. Unconvinced, T.G.  
12 demanded an explanation of the object. Dr. Browne eventually admitted that it was a video  
13 camera. Dr. Browne also stated that there was a recording device and monitor in the attic.

14           23       When Dr. Browne admitted that there was a surveillance device in the bathroom,  
15 she demanded that Dr. Browne disconnect the recording system. Dr. Browne removed the  
16 security camera from the vent and the recorder and monitor from the attic.

17           24       T.G. then viewed a videotape which showed C.G. taking a shower.

18           25       T.G. called the Mesa Police Department to report the incident.

19           26       The Mesa Police Department arrived at Dr. Browne's residence and recovered 11  
20 videocassettes, which upon later inspection showed T.G. and her two minor children in various  
21 stages of dress and undress, and uses of the bathroom facilities. The police also discovered a  
22 small quantity of marijuana used by Dr. Browne.

23           27       A review of the 11 videocassettes by the Mesa Police Department revealed that  
24 C.G. was shown nude or partially disrobed on 19 occasions  
25  
26  
27  
28

1           28.     Dr. Browne admits that he installed the video recording system for the purpose of  
2 capturing C.G., the minor daughter of T.G. and the object of his affection, for his personal  
3 voyeuristic and masturbatory satisfaction.

4           29.     Dr. Browne did achieve masturbatory gratification from viewing images of C.G.  
5 captured on his recording device.

6           30.     T.G. on eight occasions and her minor child, C.P., on four occasions were also  
7 captured by Dr. Browne's recording system. Dr. Browne's insistence that he was not interested  
8 in the video images of those individuals does not mitigate his actions against those persons nor  
9 the impact Dr. Browne's actions caused upon them.

10           31.     On December 1, 1997, Dr. Browne was arrested by the Mesa Police Department.

11           32.     On December 19, 1997 BOMEX ordered the investigation (#11508) of Dr.  
12 Browne to a formal hearing.

13           33.     On December 19, 1997, BOMEX and Dr. Browne entered into an agreement  
14 concerning Dr. Browne's practice pending further order of BOMEX.

15           34.     On or about December 22, 1997, BOMEX issued an Interim Stipulation and  
16 Order requiring that Dr. Browne comply with the following conditions pending the final  
17 resolution of this case: he was to have a female chaperone present during all hospital and office  
18 examinations; the chaperone was to document her presence by signing the hospital or office  
19 record; Dr. Browne was not to see, treat or care for any patient under the age of eighteen year,  
20 except existing patients who have reviewed the Interim Stipulation and Order and consent in  
21 writing to continued treatment, and that Dr. Browne submit to random biological fluid testing as  
22 required by BOMEX.

23           35.     In March 1998 Dr. Browne admitted that he still loved C.G. and that he still  
24 continued to masturbate while fantasizing about her  
25  
26  
27  
28

1           36.     Dr. Browne has a panty fetish. He would take C.G.'s panties and use them for  
2 his sexual arousal.

3           37.     On January 14, 1999, Dr. Browne appeared before the Superior court of  
4 Maricopa County in Case No. CR97-95450. Dr. Browne, who was represented by legal  
5 counsel, waived his right to a trial with or without a jury, his right to confront and cross examine  
6 witnesses, his right to testify or remain silent and his right to present evidence and call his own  
7 witnesses. Dr. Browne entered a plea of Guilty to Count I of the indictment.  
8

9           38.     The Superior court entered a judgement that Dr. Browne was guilty of the crime  
10 of Sexual Exploitation of a Minor, a class 2 Felony, nondangerous and nonrepetitive offense in  
11 violation of A.R.S. §§ 13-3551, 13-3553, 13-3821, 13-701, 13-702 and 13-801 committed  
12 between September 1, 1997 and November 30, 1997.  
13

14           39.     The Superior Court ordered, among other punishment, that Dr. Browne be placed  
15 on lifetime probation commencing on January 14, 1999 under the supervision of the Court's  
16 Adult Probation Department, that he be incarcerated in the Maricopa County Jail for a period of  
17 ten months commencing February 12, 1999, that Dr. Browne be considered for placement in a  
18 furlough program, and that he is to comply with all restrictions on practice by BOMEX.  
19

20           40.     One of the conditions of Dr. Brown's lifetime probation is the requirement that  
21 he register as a sexual offender with the local police authorities.

22           41.     Dr. Browne continues to minimize his abnormal behavior by claiming to be in  
23 love with C.G., a minor child.

24           42.     Notwithstanding the evidence from colleagues, health care professionals and  
25 patients that Dr. Browne is an excellent physician, the totality of the evidence of record supports  
26 a finding that Dr. Browne's continued practice of medicine is found to be threat to the public  
27  
28

1 health, safety and welfare. Dr. Browne needs treatment for his obsession/compulsive behavior  
2 and his sexual deviancy.

3 43. Dr. Browne appears to be a good prospect for rehabilitation. Dr. Browne's  
4 rehabilitation will require his participation in sexual offender treatment programs and other  
5 therapies. Although no firm date can be set for the period of rehabilitation, if at all successful, it  
6 is determined that rehabilitation will take some time.

### 8 CONCLUSIONS OF LAW

9 1. Bomex has the power to discipline and rehabilitate physicians. A.R.S. § 32-1403  
10 (A)(5). There is no statutory mandate that BOMEX must rehabilitate a physician prior to  
11 contemplating disciplinary penalties.

12 2. The evidence of record is insufficient to establish that Dr. Browne has violated  
13 the provisions of A.R.S. § 32-1401 (25)(q) (any conduct or practice which is harmful or  
14 dangerous to the health of a patient or the public). While Dr. Browne's conduct has harmed  
15 T.G., C.G., and C.P., none of them were patients of Dr. Browne's during the period of his  
16 criminal activities.

17 3. The conduct and circumstances described in the above Findings of Fact  
18 constitute unprofessional conduct pursuant to A.R.S. § 32-1401 (25)(d).

19 4. Dr. Browne is guilty of unprofessional conduct which warrants the discipline.

20 5. BOMEX, in addition to any other disciplinary action which may be taken, may  
21 impose an administrative penalty in the amount of not less than three hundred dollars nor more  
22 than then thousand dollars for each statutory violation committed by a licensee. A.R.S. § 32-  
23 1451 (l). It is determined that a significant assessment of an administrative penalty by BOMEX  
24 against Dr. Browne is appropriate.  
25  
26  
27  
28

1 **ORDER**

2 Based upon the Findings of Fact and Conclusions of Law as adopted the Board hereby  
3 enters the following Order:

4 1. Respondent is issued a Decree of Censure.

5 2. Respondent is assessed a civil penalty in the amount of FIVE THOUSAND AND  
6 00/100 DOLLARS (\$5,000.00). Civil penalty shall be paid within sixty (60) days of the date  
7 this Order is issued.

8 3. Respondent is placed on probation for life with the following terms:

9 a. That Respondent shall always have a female chaperone present and  
10 observing all visits with female patients. Chaperone shall sign patient chart  
11 authenticating her presence for the entire examination or visit.

12 b. That Respondent shall make available any and all records to BOMEX for  
13 their review and determination of compliance with this Order.

14 c. That Dr. Brown shall be evaluated by a Board approved psychiatrist for a  
15 minimum of two years, commencing the date this Order is issued. In addition, the  
16 treating psychiatrist shall submit quarterly status reports to the Board for review  
17 commencing at the end of the third after this Order is issued and consecutively  
18 thereafter.  
19  
20  
21

22 **RIGHT TO PETITION FOR REVIEW**

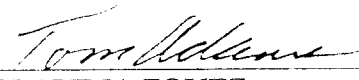

23 The parties are hereby notified that they have the right to petition for a rehearing.  
24 Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with the  
25 Board's Executive Director within thirty (30) days after service of this Order and pursuant to  
26 A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a rehearing. Service  
27 of this Order is effective five (5) days after the date of mailing  
28



1 The parties are further notified that the filing of a petition for rehearing is required to  
2 preserve any rights of appeal to the superior court that they may wish to pursue.

3 DATED THIS 26<sup>TH</sup> DAY OF MAY, 1999.

4 BOARD OF MEDICAL EXAMINERS  
5 OF THE STATE OF ARIZONA

6  
7  
8 By:   
9  CLAUDIA FOUTZ  
Executive Director

10  
11 Original "Findings of Fact, Conclusions  
12 of Law and Order" filed this 26<sup>th</sup> day  
of May, 1999, with the:

13 Arizona Board of Medical Examiners  
14 1651 E. Morten, Suite 210  
Phoenix, Arizona 85020

15 Copies of the foregoing mailed by  
16 certified, return receipt requested  
17 this 26<sup>th</sup> day of May, 1999, to:

18 Allen L. Browne  
19 560 W. Brown Road, Suite 2002  
Mesa, Arizona 85201-3221

20 David G. Derickson, Esquire  
21 3636 North Central, Suite 1050  
Phoenix, Arizona 85012

22 Copies of the foregoing via interagency  
23 mail this 26<sup>th</sup> day of May, 1999, to:

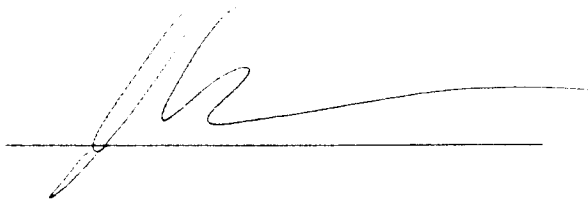
24 Cliff J. Vanell, Director  
25 Office of Administrative Hearings  
26 1700 W. Washington, Suite 602  
Phoenix, Arizona 85007

27

28

1 Gordon S. Bueler, Assistant Attorney General  
2 Office of the Attorney General  
3 1651 E. Morten, Suite 210  
4 Phoenix, Arizona 85020

4 Tom Dennis, Assistant Attorney General  
5 Civil Appeals Section  
6 1275 W. Washington  
7 Phoenix, Arizona 85007

8  
9   
10

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28