

1 use or misuse of any chemical substance?" Respondent indicated that he had been
2 treated for alcohol abuse.

3 5. Respondent entered into a Stipulated Rehabilitation Agreement (SRA) with the
4 Board on December 15, 2000, and began participating, on a confidential basis, in the
5 Board's Monitored Aftercare Program (MAP). At the time Respondent signed the
6 SRA, he was living in Virginia and participating in the Virginia Health Practitioner's
7 Intervention Program.

8 6. Respondent moved to Arizona in May 2001 and began participating in the Arizona
9 MAP.

10 7. The "Relapse, Violation" term of the SRA provided that if Respondent had a
11 chemical dependency relapse, used drugs or alcohol in violation of the SRA,
12 Respondent would agree to not practice medicine until such time as he successfully
13 completed an inpatient or residential treatment program for chemical dependency
14 designated by the Board or staff and obtained the affirmative approval of the Board
15 to return to the practice of medicine.

16 8. On March 23, 2002, Respondent submitted to a random biological fluid testing as
17 required by the SRA.

18 9. Southwest Laboratories, Inc. confirmed the March 23, 2002 biological fluid test as
19 positive for Ethanol.

20 10. On March 26, 2002, the MAP Medical Director informed Respondent of the positive
21 biological fluid drug screen and advised him to immediately stop practicing medicine
22 and to enter into a staff approved treatment center for evaluation and/or treatment
23 within fourteen days as required by the SRA.

24 11. Respondent acknowledged to the Medical Director that he drank alcohol in violation
25 of the SRA and agreed not to practice medicine.

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- 1 12. An Interim Consent Agreement and Order was prepared and sent to Respondent. On
2 April 12, 2002, the Board received a letter from Respondent's attorney requesting
3 that the Order be modified to allow Respondent to attend a treatment facility that is
4 not Board approved and to delay treatment until June, 2002.
- 5 13. The Board did not approve the modifications and Respondent refused to sign the
6 agreement.
- 7 14. On April 22, 2002, the Board's Compliance department left a message on
8 Respondent's 24-hour telephone number instructing him to provide a urine sample
9 within 2 hours. There is no record at Southwest Laboratories that Respondent
10 complied with this requirement of the SRA.
- 11 15. On April 22, 2002, Compliance spoke with Respondent's group therapist and was
12 advised that Respondent had not attended group therapy sessions for the preceding
13 two weeks although weekly attendance was required by the SRA.
- 14 16. Based upon the foregoing paragraphs 1 - 15, the Board finds that it has been
15 presented with sufficient substantial and reliable information concerning
16 Respondent's professional conduct to conclude that, pending formal administrative
17 hearing, the public health, safety and welfare imperatively requires emergency action
18 by the Board against Respondent's license to practice medicine in the State of
19 Arizona.

20 **INTERIM CONCLUSIONS OF LAW**

- 21 1. The Board possesses jurisdiction over the subject matter and over Respondent
22 pursuant to A.R.S. § 32-1432.02.
- 23 2. The Respondent's conduct and the circumstances described above constitute
24 unprofessional conduct pursuant to A.R.S. § 32-1401(25)(r) (violating a formal
25 order, probation, consent agreement or stipulation issued or entered into by the Board

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or its executive director under the provisions of this chapter).

- 3. Pursuant to A.R.S. § 32-1451(D), and based upon the foregoing Interim Findings of Fact and Conclusions of Law, the public health, safety and welfare imperatively require emergency action.

ORDER

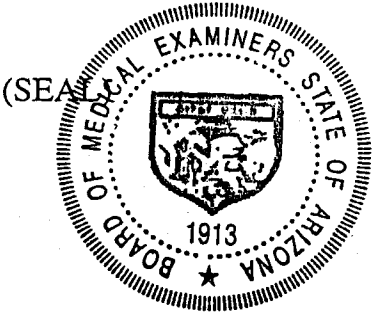
Based upon the foregoing Interim findings of Fact and Conclusions of Law, set forth above:

IT IS HEREBY ORDERED THAT:

- 1. John E. Murnane, M.D., the holder of a License No. 17325 to practice allopathic medicine in the State of Arizona is suspended pending a formal hearing before a hearing officer from the Office of Administrative Hearings.
- 2. The Interim Findings of Fact and Conclusions of Law constitute written notice to Respondent of the charges of unprofessional conduct made by the Board against him. Respondent is entitled to a formal hearing to defend these charges within sixty (60) days of the issuance of this Order.
- 3. The Board's Executive Director is instructed to refer this matter to the Office of Administrative Hearings for scheduling of an administrative hearing to be commenced no later than sixty (60) days from the date of the issuance of this Order, unless stipulated and agreed otherwise by Respondent.

DATED this 19th day of May, 2002.

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA



By: Claudia Foutz
 CLAUDIA FOUTZ
 Executive Director

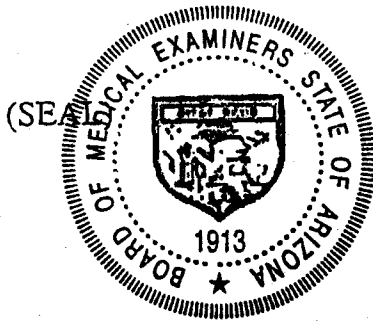
1 material allegations of the Complaint are admitted.

2 The Office of Administrative Hearings requires that the following notice be included
3 in the Notice of Hearing:

4 Pursuant to Arizona Revised Statutes 41-1092.01, your hearing
5 will be conducted through the Office of Administrative
6 Hearings, an independent agency. Please find enclosed a copy
7 of the procedures to be followed.

8 DATED AND EFFECTIVE this 2nd day of May, 2002.

9 BOARD OF MEDICAL EXAMINERS
10 OF THE STATE OF ARIZONA



13 By: Claudia Foutz

14 CLAUDIA FOUTZ
15 Executive Director

16 Original of the foregoing mailed for filing
17 this 2nd day of May, 2002, with:

18 Office of Administrative Hearings
19 1400 W. Washington, Suite 101
20 Phoenix, Arizona 85007

21 COPY of the foregoing mailed by U.S.
22 Certified Mail this 2nd day
23 of May, 2002, to:

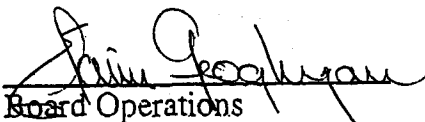
24 John A. Murnane III, M.D.
25 3204 E. Desert Cove Avenue
26 Phoenix, Arizona 85028-2736
Respondent

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8 Court Reporter

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~~Board Operations~~

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