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7 **BEFORE THE ARIZONA STATE BOARD OF MEDICAL EXAMINERS**
8 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

9 In the Matter of:

No. MD-02-0193
(02F-17325-MDX)

10 **JOHN E. MURNANE III, M.D.**

11 Holder of License No. 17325
12 For the Practice of Allopathic Medicine
13 In the State of Arizona.

**CONSENT AGREEMENT FOR
SURRENDER OF ACTIVE LICENSE**

14 Respondent.

15
16 In the interest of a prompt and judicious settlement of the above-captioned matter
17 before the Arizona State Board of Medical Examiners (Board) and consistent with the public
18 interest, statutory requirements and responsibilities of the Board and pursuant to A.R.S. §
19 41-1092.07(F)(5) and A.R.S. § 32-1451(R), John E. Murnane III, M.D. (Respondent) and
20 the Board enter into this Consent Agreement and Order as the final disposition of this matter.

- 21
- 22 1. Respondent acknowledges that he has read and understands everything
23 contained in the Consent Agreement, Findings of Fact, Conclusions of Law,
24 and Order, and admits the Findings of Fact.
 - 25 2. Respondent understands that by entering into this Consent Agreement and
26 Order, Respondent voluntarily relinquishes any rights to challenge in state or
federal court this Consent Agreement and Order in its entirety as issued by the

IT IS Acknowledged That NOT

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Board and waives any other cause of action related thereto or arising from the Order.

3. Respondent acknowledges and understands that this Consent Agreement and Order will not become effective until approved by the Board and signed by the Board's Executive Director or designee.

4. All admissions made by Respondent in regards to these matters are solely for final disposition of these matters and any subsequently related administrative proceedings are civil litigation involving Board and Respondent. Therefore, admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal regulatory agency proceeding, civil or court proceeding, in the State of Arizona or any other state or federal court.

5. Respondent acknowledges and agrees that, upon signing this agreement and returning this document to the Board's Executive Director, Respondent may not revoke his acceptance of the Consent Agreement and Order or make any modifications to the document, regardless of whether the Consent Agreement and Order has been issued by the Executive Director. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

6. Respondent further understands that this Consent Agreement and Order, once approved and signed, shall constitute a public record which may be publicly disseminated as a formal action of the Board.

7. If any part of the Consent Agreement and Order is later declared void or otherwise unenforceable, the remainder of the Order in its entirety shall remain in force and effect.


8. Respondent agrees that he will not reapply for license to practice allopathic medicine in the State of Arizona from five (5) years after the effective date of

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this agreement and order.

9. The parties mutually understand and agree that this order constitutes a final decision in this matter under investigation by the Board and referenced above.

ACCEPTED BY:
DATED: 10-2-02



JOHN E. MURNANE III, M.D.
DATED: _____

RICHARD KLAUER
Attorney for Respondent

FINDINGS OF FACT

1. The Arizona State Board of Medical Examiners ("Board") is the duly constituted authority for licensing and regulating the practice of allopathic medicine in the State of Arizona.
2. John E. Murnane, M.D. ("Respondent") is the holder of a License No. 17325 for the practice of allopathic medicine in the State of Arizona.
3. The Board initiated an investigation in March, 2002, after receiving a notice that Respondent had a positive urine test for alcohol on March 23, 2002.
4. Respondent entered into a Stipulated Rehabilitation Agreement (SRA) with the Board on December 15, 2000, and began participating, on a confidential basis, in the Board's Monitored Aftercare Program (MAP). At the time Respondent signed the SRA, he was living in Virginia and participating in the Virginia Health Practitioner's Intervention Program.

- 1 5. Respondent moved to Arizona in May 2001 and began participating in the Arizona
2 MAP.
- 3 6. The "Relapse, Violation" term of the SRA provided that if Respondent had a chemical
4 dependency relapse, used drugs or alcohol in violation of the SRA, Respondent would
5 agree to not practice medicine until such time as he successfully completed an
6 inpatient or residential treatment program for chemical dependency designated by the
7 Board or staff and obtained the affirmative approval of the Board to return to the
8 practice of medicine.
- 9 7. On March 23, 2002, Respondent submitted to a random biological fluid testing as
10 required by the SRA.
- 11 8. Southwest Laboratories, Inc. confirmed the March 23, 2002 biological fluid test as
12 positive for Ethanol.
- 13 9. On March 26, 2002, the MAP Medical Director informed Respondent of the positive
14 biological fluid drug screen and advised him to immediately stop practicing medicine
15 and to enter into a staff approved treatment center for evaluation and/or treatment
16 within fourteen days as required by the SRA.
- 17 10. Respondent acknowledged to the Medical Director that he drank alcohol in violation
18 of the SRA and agreed not to practice medicine.
- 19 11. On May 1, 2002, the Board ordered that John E. Murnane, M.D., the holder of a
20 License No. 17325 to practice allopathic medicine in the State of Arizona is
21 suspended pending a formal hearing before a hearing officer from the Office of
22 Administrative Hearings.
- 23 12. Respondent, subsequent to the positive biological fluid test, ceased practicing
24 allopathic medicine in the State of Arizona and moved to Virginia.
- 25 13. Respondent admits that these acts, described in the foregoing paragraphs 1 - 12,
26 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(r) (violating a

1 formal order, probation, consent agreement or stipulation issued or entered into by the
2 Board or its executive director under the provisions of this chapter).

3 **CONCLUSIONS OF LAW**

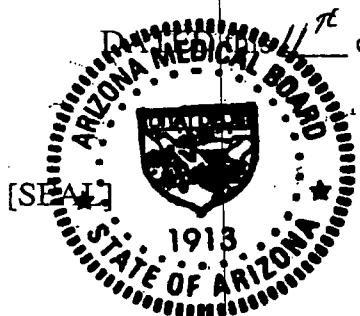
- 4 1. The Board possesses jurisdiction over the subject matter and over Respondent
5 pursuant to A.R.S. § 32-1432.02.
- 6 2. The Board possesses statutory authority to enter into a consent agreement with a
7 physician and accept the surrender of an active license from a physician who admits
8 to having committed an act of unprofessional conduct as contemplated by A.R.S. §
9 32-1451(U)(2).

10 **ORDER**

11 Based on the above findings of fact and conclusions of law and pursuant to the
12 authority granted to the Board by A.R.S. § 32-1451(U),

13 IT IS HEREBY ORDERED, that license number 17325, issued to John E. Murnane,
14 M.D., for the practice of allopathic medicine in the State of Arizona, be deemed surrendered
15 and that he immediately return his wallet card and certificate of licensure to the Board.

16 11th day of December, 2002.



17 BOARD OF MEDICAL EXAMINERS
18 OF THE STATE OF ARIZONA

19 By: Benny Alvarado
20 Executive Director

21 Original of the foregoing filed this
22 11th day of December 2002, with:

23 Board Operations
24 Arizona Board of Medical Examiners
25 9545 E. Doubletree Ranch Road
26 Scottsdale, Arizona 85258

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1 Executed copy of the foregoing
mailed by U.S. Certified Mail
2 this 11th day of December, 2002, to:

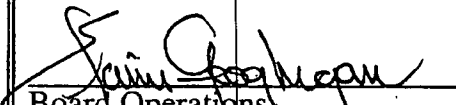
3 John A. Murnane III, M.D.
952 Royal Oak Close
4 Virginia Beach, VA 23452

5 COPY of the foregoing mailed
this 11th day of December, 2002, to:

6 ~~Richard Klauer, Esq.~~
7 ~~301 E. Bethany Home Road, C250~~
~~Phoenix, Arizona 85012~~
8 ~~Attorney for Respondent~~

9 Office of Administrative Hearings
1400 W. Washington, Ste. 101
10 Phoenix, Arizona 85007

11 Dean E. Brekke
Assistant Attorney General
12 Attorney General's Office
1275 W. Washington, CIV/LES
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Board Operations

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18 LES02-0453/369701.1

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20 Copy Filed with U.S. District Court
21 (Eastern District) Norfolk, VA
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