

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

3 In the Matter of

4 **LEE LABADIE, M.D.**

5 Holder of License No. **19078**  
6 For the Practice of Medicine  
7 In the State of Arizona.

Board Case No. MD-01-0398

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

(Letter of Reprimand & Probation)

8 On June 6, 2002, Lee Labadie, M.D., ("Respondent") appeared before a Review  
9 Committee ("Review Committee") of the Arizona Board of Medical Examiners ("Board")  
10 with legal counsel, Dan Jantsch, for a formal interview pursuant to the authority vested in  
11 the Review Committee by A.R.S. § 32-1451(Q). The matter was referred to the Board for  
12 consideration at its public meeting on August 8, 2002. After due consideration of the  
13 facts and law applicable to this matter, the Board voted to issue the following findings of  
14 fact, conclusions of law and order.  
15

16 **FINDINGS OF FACT**

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

19 2. Respondent is the holder of License No. 19078 for the practice of medicine  
20 in the State of Arizona.

21 3. The Board initiated case number MD-01-0398 after receiving a complaint  
22 regarding Respondent's care and treatment of a 41 year-old female patient ("Patient").

23 4. Patient presented to the emergency room of Mesa General Hospital  
24 ("Hospital") shortly before midnight on April 8, 2000 with pain in her lower right quadrant  
25 radiating into the upper abdomen. Respondent assessed Patient as having a right  
ovarian cyst, probably ruptured. At approximately 1:00 a.m. on April 9, 2000,

1 Respondent ordered IV Demerol and Phenergan for pain relief and discharged Patient at  
2 2:20 a.m. with instructions to return if she had increased pain, fever, vomiting or  
3 dizziness.

4 5. Patient left the Phoenix area later in the day by mobile home to return to her  
5 Minnesota home. Patient stopped at Payson Regional Medical Center ("Medical Center")  
6 in Payson, Arizona where she was admitted and underwent emergency surgery at 4:00  
7 p.m. for a ruptured appendix. Patient experienced life threatening post-operative  
8 complications and remained at the Medical Center for 8 days and thereafter had an  
9 extended recovery period.

10 6. In his response to the Board Respondent indicated that Patient complained  
11 only of sharp pain in her lower right abdomen and Patient had a history of ovarian cysts  
12 and endometriosis. Respondent also indicated that he suspected appendicitis, but found  
13 no rebound tenderness on examination. Respondent stated that he found tenderness,  
14 not one-third of the way between the anterior superior iliac spine and the umbilicus  
15 ("McBurney's Point"), but rather lower down toward the pelvis. Respondent stated that  
16 he performed a bimanual examination and assessed Patient as having a possible  
17 ruptured ovarian cyst and Patient was discharged after she improved while in the  
18 emergency room.

19 7. The Board's Medical Consultant stated that he was critical of Respondent's  
20 emergency room evaluation in that Respondent did not give proper attention to a three  
21 day history of progressive pain; Respondent failed to order what has become traditional  
22 screening tests, such as an ultrasound of the abdomen; and Respondent rendered an  
23 inappropriate course of treatment in that moderately high doses of analgesia were given  
24 which masked the diagnosis.

1           8.       At the interview Respondent was asked why he made of point of writing that  
2 the tenderness was not McBurney's Point and what that meant to Respondent.  
3 Respondent answered that he wrote that note because he was primarily considering a  
4 diagnosis of appendicitis when he initially examined Patient and his examination was  
5 clarified by going back to Patient and finding out that the tenderness was lower toward  
6 the pelvis in the inguinal region rather than higher up in the right lower quadrant at  
7 McBurney's Point. Respondent explained that the significance of McBurney's Point was  
8 that a classic case of appendicitis tends to have McBurney's Point tenderness.

9           9.       Respondent was asked how he differentiated his final diagnosis of ruptured  
10 ovarian cyst from appendicitis. Respondent testified that Patient had presented with  
11 three days or more of more or less constant right lower quadrant pain that had not shifted  
12 from anywhere down to the right lower quadrant and that this type of pain is not typical of  
13 appendicitis; that Patient had no fever on presentation and no recorded history of fever;  
14 and that Patient was somewhat anorexic and had nausea, but no vomiting or significant  
15 gastrointestinal symptoms. Respondent also stated that since movement exacerbated  
16 the pain he believed the pain had a pelvic origin. Respondent also indicated there were  
17 historical features of severe dysmenorrhea, probable prior ovarian cysts and possible  
18 endometriosis and that the triage nurse had written that Patient stated the pain was in her  
19 ovary. Respondent stated that his examination revealed pain that goes along with pain of  
20 a gynecologic origin and that the pelvic findings seemed consistent with the abdominal  
21 findings. Respondent indicated that Patient's laboratory studies were essentially normal.

22           10.      Respondent testified that he had access to a CT scanner and could have  
23 ordered a two-way contrast enhanced CT scan of the abdomen and that he had access  
24 to an ultrasound. Respondent testified that he did not order an ultrasound because he  
25 had been told not to order ultrasounds in cases of suspected appendicitis.

1           11. Respondent stated that, although calling for a surgical consult and admitting  
2 Patient would have been a reasonable resolution, he did not ask for a surgical consult  
3 because his findings tended to point toward a gynecologic source of the pathology or as  
4 the origin of Patient's pain rather than a surgical course.

5           12. At the conclusion of Respondent's testimony, the Medical Consultant stated  
6 that when a physician considers appendicitis as a diagnosis when the pain has been  
7 present for three days the physician is aware that the patient is right at the limit of when a  
8 rupture or complications can occur. The Medical Consultant also stated that from  
9 listening to the questions and answers offered during the interview he believed that  
10 Respondent's information about the progression of appendicitis and other associated  
11 illnesses is deficient and that Patient was not well served by the time she spent in the  
12 emergency room.

13           13. The Review Committee indicated that the standard of care required, at a  
14 minimum, that Patient be admitted and examined by a surgeon. Respondent fell below  
15 the standard of care in his understanding of appendicitis and surgical pathology and  
16 because he failed to diagnosis appendicitis while Patient was present in the emergency  
17 room. Patient was harmed by Respondent's failure when her appendix subsequently  
18 ruptured, requiring emergency surgery to repair and an extended hospital stay.

### 19                           CONCLUSIONS OF LAW

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

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

1           3.     The conduct and circumstances above in paragraphs 4, 7, 9, and 11  
2 through 13 constitute unprofessional conduct pursuant to A.R.S. § § 32-1401(25)(q)  
3 “[a]ny conduct or practice which is or might be harmful or dangerous to the health of the  
4 patient or the public;” and 32-1401(25)(ll) “[c]onduct that the board determines is gross  
5 negligence, repeated negligence or negligence resulting in harm to or the death of a  
6 patient.”

7   **ORDER**

8           Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS  
9 HEREBY ORDERED that:

10           1)     Respondent is issued a Letter of Reprimand for failure to diagnose acute  
11 appendicitis and for failure to order appropriate imaging studies and/or consultations.

12           2)     Respondent is placed on probation for one year with the following terms  
13 and conditions:

14           a)     Respondent shall, within one year of the effective date of this Order, obtain  
15 20 hours of Board Staff pre-approved Category I Continuing Medical Education (“CME”)  
16 in reference to evaluation of an acute abdomen. The CME hours shall be in addition to  
17 the hours required for the biennial renewal of Respondent’s medical license. Respondent  
18 may petition the Board for termination of probation when the CME is completed.

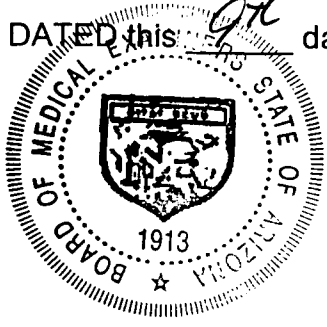
19   **RIGHT TO PETITION FOR REHEARING OR REVIEW**

20           Respondent is hereby notified that he has the right to petition for a rehearing or  
21 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or  
22 review must be filed with the Board’s Executive Director within thirty days after service of  
23 this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons  
24 for granting a rehearing or review. Service of this order is effective five days after date of  
25

1 mailing. If a motion for rehearing or review is not filed, the Board's Order becomes  
2 effective thirty-five days after it is mailed to Respondent.

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

5 DATED this 9<sup>th</sup> day of August, 2002.



6 BOARD OF MEDICAL EXAMINERS  
7 OF THE STATE OF ARIZONA

8 By Barry A. Cassidy  
9 BARRY A. CASSIDY, Ph.D., PA-C  
10 Executive Director

11 ORIGINAL of the foregoing filed this  
12 9 day of August, 2002 with:

13 The Arizona Board of Medical Examiners  
14 9545 East Doubletree Ranch Road  
15 Scottsdale, Arizona 85258

16 Executed copy of the foregoing  
17 mailed by U.S. Certified Mail this  
18 9 day of August, 2002, to:

19 Dan Jantsch, Esquire  
20 Olson Jantsch Bakker & Blakey, PA  
21 7243 North 16<sup>th</sup> Street  
22 Phoenix, Arizona 85020-5203

23 Executed copy of the foregoing  
24 mailed by U.S. Mail this  
25 9 day of August, 2002, to:

Lee L. Labadie, M.D.  
515 North Mesa Drive  
Mesa, Arizona 85201-5914

Copy of the foregoing hand-delivered this  
9 day of August, 2002, to:

1 Christine Cassetta  
Assistant Attorney General  
2 Sandra Waitt, Management Analyst  
Lynda Mottram, Senior Compliance Officer  
3 Investigations (Investigation File)  
Arizona Board of Medical Examiners  
4 9545 East Doubletree Ranch Road  
5 Scottsdale, Arizona 85258

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