

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

3 In the Matter of

4 **WALLACE K. NAKAGAWA, M.D.**
5 Holder of License No. 20760
6 For the Practice of Medicine
7 In the State of Arizona.

No. 96F-9558-MDX

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

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9 1. On September 24, 1999, this matter came before the Arizona Board of
10 Medical Examiners (Board) for oral argument and consideration of the Administrative Law
11 Judge's (ALJ) proposed Findings of Fact, Conclusions of Law and Recommended
12 Decision.¹ (Attached hereto is a copy of the ALJ's Findings of Fact, Conclusions of Law
13 and Recommended Decision.) Wallace K. Nakagawa, M.D. appeared and was
14 represented by counsel, Lyle D. Alridge, Esquire. The State was represented by
15 Assistant Attorney General Gordon S. Bueler. The Board was advised by Assistant
16 Attorney General Thomas Dennis of the Solicitor General and Opinions Section of the
17 Attorney General's Office.

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

22 **FINDINGS OF FACT**

- 23 1. BOMEX is the duly constituted authority for the regulation and control of the
24 practice of medicine in the State of Arizona.
- 25 2. Respondent is the holder of License No. 20760 issued by BOMEX for the
practice of medicine in the State of Arizona.

¹ The Administrative Hearing was held on June 16, 1999. The record was closed on July 22, 1999.

1 3. Respondent is also a registered Physician and Surgeon in the State of
2 Illinois. He is the holder of Certificate of Registration, License No. 036-062734, issued
3 by the Department of Professional Regulation of the State of Illinois (Illinois Dept.).

4 4. On January 12, 1994, the Illinois Dept. issued a Complaint against
5 Respondent alleging that he failed to pay the State of Illinois his individual income tax
6 liability for the tax year 1986. Further, it was alleged that Respondent failed to file IL-
7 1040 individual tax returns for tax years 1987, 1988 and 1989 as required by Illinois
8 Revised Statutes (1987), chapter 120, paragraph 120, et seq.

9 5. On August 3, 1994, the Medical Disciplinary board of the Illinois Dept.
10 found that Respondent had failed to pay the State of Illinois his individual income tax
11 liability for the tax year 1986, and had also failed to file IL-1040 individual income tax
12 returns for the tax years 1987, 1988 and 1989, as required by Illinois Revised Statutes
13 (1987), chapter 120, paragraph 120, et seq. The Medical Disciplinary Board concluded
14 that Respondent had therefore violated Illinois Revised Statutes (1991), Chapter 111,
15 paragraph 4400-22 (a)(38) and thereafter recommended to the Director of the Illinois
16 Dept. that the Certificate of Registration issued to Respondent be indefinitely
17 suspended. The Medical Disciplinary Board further recommended that prior to filing a
18 Petition for Restoration the Respondent should be required to submit proof that he has
19 paid the State of Illinois his full individual income tax liability for the tax year 1986, and
20 has also filed IL-1040 individual income tax returns for the tax years 1987, 1988 and
21 1989. It was further recommended that if Respondent's Illinois license is suspended for
22 more than three years, that he must also demonstrate that he has passed the SPEX
23 examination.

24 6. On October 26, 1994, the Director of the Illinois Dept. entered an order
25 indefinitely suspending the Certificate of Registration held by Respondent.

1 7. Although Respondent has resolved some of his tax problems relative to his
2 suspension to practice medicine in Illinois, he still has not satisfied all of the
3 requirements for the reinstatement of his Illinois license to practice medicine.

4 8. Respondent is actively seeking to resolve his tax issues with the State of
5 Illinois.

6 9. Respondent practices medicine in Arizona.

7 **CONCLUSIONS OF LAW**

8 1. The conduct and circumstances described in the above Findings of Fact
9 constitute unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(25)(o)

10 2. BOMEX should not ignore the action by the Illinois Dept. suspending
11 Respondent's license to practice medicine due to his failure to resolve income tax
12 requirements in the State of Illinois.

13 3. Respondent should not be allowed to avoid the Illinois Dept.'s suspension
14 of the medical license by crossing state lines and practicing medicine in the State of
15 Arizona.

16 4. If Respondent resolves his tax problems in Illinois and is reinstated to
17 practice medicine by the Illinois Dept., then, given the evidence of record in this matter,
18 he should not be restricted from the practice of medicine in Arizona.

19 **ORDER**

20 1. In view of the foregoing, it is ordered that Respondent's license to practice
21 medicine in the State of Arizona, License No. 20760, be suspended if Respondent fails to
22 resolve his above described tax issues with the State of Illinois within one (1) year of the
23 effective date of this Order.

24 2. The effective suspension date, if any, of Respondent's license to practice
25 medicine in Arizona shall be one (1) year from the effective date of this Order.

1 3. If Respondent resolves his tax issues with the State of Illinois prior to the
2 above described deadline date, then this matter shall be closed.

3 RIGHT TO PETITION FOR REVIEW

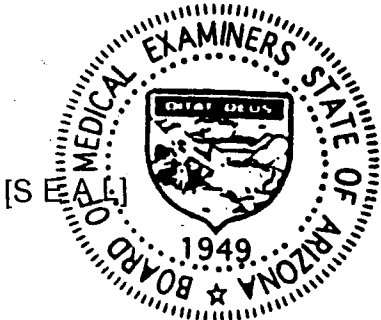
4 1. The parties are hereby notified that they have the right to petition for a
5 rehearing. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must
6 be filed with the Board's Executive Director within thirty (30) days after service of this
7 Order and pursuant to A.A.C. R4-16-102,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

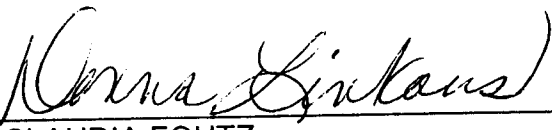
10 2. The parties are further notified that the filing of a petition for rehearing is
11 required to preserve any rights of appeal to the superior court that they may wish to
12 pursue.

13 * * * *

14 ISSUED this 29th day of September, 1999.

15 BOARD OF MEDICAL EXAMINERS
16 OF THE STATE OF ARIZONA



20 By: 
21 for CLAUDIA FOUTZ
22 Executive Director
23 TOM ADAMS
24 Deputy Director

25 * * * *

Original of the foregoing filed this
29th day of September, 1999, with:

The Arizona Board of Medical Examiners
1651 East Morten, Suite 210
Phoenix, Arizona 85020

1 Copies of the foregoing mailed
2 certified return receipt requested
3 this 29th day of September,
4 1999, to:

5 Lyle D. Aldridge, Esquire
6 Gabroy, Rollman & Bosse, P.C.
7 3507 North Campbell Avenue, Suite 111
8 Tucson, Arizona 85719

9 Wallace K. Nakagawa, M.D.
10 903 North Bowie
11 Wilcox, Arizona 85643

12 Copy of the foregoing hand-delivered
13 This 29th day of September, 1999, to:

14 Cliff Vanell, Executive Director
15 Office of Administrative Hearings
16 1400 West Washington, Suite 101
17 Phoenix, Arizona 85007

18 Gordon S. Bueler
19 Assistant Attorney General
20 1651 E. Morten, Suite 210
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