

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

3 In the Matter of

4 **BRYAN GUNNOE, M.D.**

5 Holder of License No. 22817
6 For the Practice of Medicine
7 In the State of Arizona.

Board Case No. MD-01-0377

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

(Letter of Reprimand & Probation)

8 This matter was considered by the Arizona Board of Medical Examiners ("Board")
9 at its public meeting on August 17, 2001. Bryan Gunnoe, M.D., ("Respondent") appeared
10 before the Board without legal counsel for a formal interview pursuant to the authority
11 vested in the Board by A.R.S. § 32-1451(I). After due consideration of the facts and law
12 applicable to this matter, the Board voted to issue the following findings of fact,
13 conclusions of law and order.

14 **FINDINGS OF FACT**

- 15
- 16 1. The Board is the duly constituted authority for the regulation and control of
17 the practice of allopathic medicine in the State of Arizona.
 - 18 2. Respondent is the holder of License No. 22817 for the practice of medicine
19 in the State of Arizona.
 - 20 3. In March of 2000, Respondent voluntarily entered the Board's Monitored
21 Aftercare Program ("Program") on a confidential basis pursuant to the terms of a
22 stipulated rehabilitation agreement ("Agreement") entered into between Respondent and
23 the Board.
 - 24 4. The terms of the Agreement required Respondent to provide biological fluid
25 specimens as requested by the Program coordinators.

1 5. On July 29, 2000, Respondent failed to provide a biological fluid sample in
2 accordance with the terms of the Agreement.

3 6. The Board sent Respondent a letter informing him that he failed to provide
4 biological specimens and that his failure to comply with the terms of his agreement was
5 discussed with the Program coordinator. Respondent was also informed that in the event
6 he again failed to provide a specimen the matter would be considered by the Board's
7 Diversion Committee with a possible recommendation to the Board for a disciplinary
8 action.

9 7. On November 24, 2000, Respondent was paged in order to send him to
10 provide a biological fluid sample.

11 8. Respondent did not respond to the page. Respondent's explanation for not
12 responding to the page was that he had changed his pager number and had not given
13 the Board the new pager number.

14 9. The terms of the Agreement require Respondent to provide current phone
15 and pager numbers.

16 10. The Diversion Committee discussed Respondent's failure to comply with
17 the terms of the Agreement and recommended that Respondent complete an inpatient
18 evaluation for chemical dependency.

19 11. Respondent was evaluated and no evidence of a relapse was found.

20 12. The Diversion Committee discussed the inpatient evaluation and
21 Respondent's noncompliance at its May 23, 2001 meeting and recommended that an
22 investigation be opened regarding Respondent's noncompliance.

23 13. The Diversion Committee noted that Respondent had violated the terms of
24 the Agreement, but had not relapsed.

25

1 March, June, September and December of each year, beginning on or before December
2 15, 2001.

3 b.1. **Participation.** Respondent shall promptly enroll in and participate in the
4 Board's substance abuse treatment and rehabilitation program (hereafter, "MAP"). As
5 part of said participation in MAP, Respondent shall cooperate with the Board's staff and
6 contracting MAP supervisors.

7 2. Respondent's participation in the program may be unilaterally terminated at
8 the discretion of the Board at any time after issuance of this Order, with or without cause
9 for termination.

10 3. If the Board (or its Executive Director) conclude that it is appropriate, this
11 matter may be referred for further proceedings or investigation to the extent authorized by
12 Board statutory authority or other applicable law to consider all relevant issues of
13 Respondent's professional conduct and ability to safely and ethically engage in the
14 practice of medicine.

15 4. Respondent's participation in the Monitored Aftercare Program will
16 terminate at the end of five (5) years unless the Board issues an Order authorizing earlier
17 termination or extending the time period.

18 5. **Group Therapy.** Respondent shall attend the program's group therapy
19 sessions one time per week for the duration of this Order, unless excused by the group
20 therapist for good cause such as illness or vacation. Respondent shall instruct the
21 program group therapist to release to the Board, upon its request, all records relating to
22 Respondent's treatment, and to submit monthly reports to the Board regarding
23 attendance and progress. The reports shall be submitted on or before the 10th day of
each month.

24 6. **Board-Approved Primary Care Physician.** Respondent shall promptly
25 obtain a primary care Physician and shall submit the name of the Physician to Board staff
in writing for approval.

1 7. The Board-approved primary care Physician shall be in charge of providing
2 and coordinating Respondent's medical care and treatment. Except in an *Emergency*,
3 Respondent shall obtain Respondent's medical care and treatment only from the Board-
4 approved primary care Physician and from health care providers to whom the Board-
5 approved primary care Physician refers Respondent from time to time. Respondent shall
6 request that the Board-approved primary care Physician document all referrals in the
7 medical record.

8 8. Respondent shall promptly inform the Board-approved primary care
9 Physician of Respondent's rehabilitation efforts and provide a copy of this Order to that
10 Physician. Respondent shall also inform all other health care providers who provide
11 medical care or treatment that Respondent is participating in the Board's rehabilitation
12 program.

13 9. Medication. Except in an *Emergency*, Respondent shall take no
14 *Medication* unless the *Medication* is prescribed by Respondent's Board-approved primary
15 care Physician or other health care provider to whom the Board-approved primary care
16 Physician makes a referral. Respondent shall not self-prescribe any *Medication*.

17 10. If a controlled substance is prescribed, dispensed, or is administered to
18 Respondent by any person other than the Board-approved primary care Physician,
19 Respondent shall notify the Board-approved primary care Physician in writing within 48
20 hours. The notification shall contain all information required for the medication log entry
21 specified in paragraph 13. Respondent shall request that the notification be made a part
22 of the medical record. This paragraph does not authorize Respondent to take any
23 *Medication* other than in accordance with paragraph 11.

24 11. Medication Log. Respondent shall maintain a current legible log of all
25 *Medication* taken by or administered to Respondent, and shall make the log available to
the Board and its staff upon request. For *Medication* (other than controlled substances)
taken on an on-going basis, Respondent may comply with this paragraph by logging the

1 first and last administration of the *Medication* and all changes in dosage or frequency.

2 The log, at a minimum, shall include the following:

- 3 a. Name and dosage of *Medication* taken or administered;
- 4 b. Date taken or administered;
- 5 c. Name of prescribing or administering Physician;
- 6 d. Reason *Medication* was prescribed or administered.

7 This paragraph does not authorize Respondent to take any *Medication* other than in
8 accordance with paragraph 11.

9 **12. No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or
10 any food or other substance containing poppy seeds.

11 **13. Biological Fluid Collection.** During all times that Respondent is physically
12 present in the State of Arizona and such other times as Board staff may direct,
13 Respondent shall promptly comply with requests from Board staff, the group therapist, or
14 the program director to submit to witnessed biological fluid collection. If Respondent is
15 directed to contact an automated telephone message system to determine when to
16 provide a specimen, Respondent shall do so within the hours specified by Board staff.
17 For the purposes of this paragraph, in the case of an in-person request, "promptly
18 comply" means "immediately". In the case of a telephonic request, "promptly comply"
19 means that, except for good cause shown, Respondent shall appear and submit to
20 specimen collection not later than two hours after telephonic notice to appear is given.
21 The Board in its sole discretion shall determine good cause.

22 **14.** Respondent shall provide Board staff in writing with one telephone number
23 that shall be used to contact Respondent on a 24 hours per day/seven days per week
24 basis to submit to biological fluid collection. For the purposes of this section, telephonic
25 notice shall be deemed given at the time a message to appear is left at the contact
telephone number provided by Respondent. Respondent authorizes any person or

1 organization conducting tests on the collected samples to provide testing results to the
2 Board and the program Director.

3 15. Respondent shall cooperate with collection site personnel regarding
4 biological fluid collection. Repeated complaints from collection site personnel regarding
5 Respondent's lack of cooperation regarding collection may be grounds for termination
6 from the program.

7 16. **Payment for Services.** Respondent shall pay for all costs, including
8 personnel and contractor costs, associated with participating in the Monitored
9 Aftercare Program (MAP) at time service is rendered, if required, or within 30 days
10 of each invoice sent to Respondent.

11 17. **Examination.** Respondent shall submit to mental, physical, and medical
12 competency examinations at such times and under such conditions as directed by the
13 Board to assist the Board in monitoring Respondent's ability to safely engage in the
14 practice of medicine and compliance with the terms of this Order.

15 18. **Treatment.** Respondent shall submit to all medical, substance abuse, and
16 mental health care and treatment ordered by the Board, or recommended by the program
17 director.

18 19. **Obey All Laws.** Respondent shall obey all federal, state and local laws,
19 and all rules governing the practice of medicine in the State of Arizona.

20 20. **Interviews.** Respondent shall appear in person before the Board and its
21 staff and committees for interviews upon request, upon reasonable notice.

22 21. **Address and Phone Changes, Notice.** Respondent shall immediately
23 notify the Board in writing of any change in office or home addresses and telephone
24 numbers. Respondent shall provide Board staff at least three business days advance
25 written notice of any plans to be away from office or home for more than five (5)
consecutive days. The notice shall state the reason for the intended absence from home
or office, and shall provide a telephone number that may be used to contact Respondent.

1 **22. Relapse, Violation.** In the event of chemical dependency relapse by
2 Respondent or use of drugs or alcohol by Respondent in violation of this Order,
3 Respondent shall promptly enter into a Interim Stipulated Agreement that requires,
4 among other things, that Respondent not practice medicine until such time as
5 Respondent successfully completes an inpatient or residential treatment program for
6 chemical dependency designated by the Board or staff and obtains the affirmative
7 approval of the Board to return to the practice of medicine. Prior to approving
8 Respondent's request to return to the practice of medicine, the Diversion Committee may
9 require Respondent to submit to witnessed biological fluid collection, undergo any
10 combination of a physical examination, psychiatric or psychological evaluation and/or to
11 successfully pass the special purpose licensing examination or the Board may conduct
12 interviews for the purposes of assisting it in determining the ability of Respondent to
13 safely return to the practice of medicine. In no respect shall the terms of this paragraph
14 restrict the Board's authority to initiate and take disciplinary action for violation of this
15 Order.

16 **23. Notice Requirements.**

17 **(a)** Respondent shall immediately provide a copy of this Order to all
18 hospitals and free standing surgery centers at which Respondent has any
19 privileges. Within 30 days of the date of the Order, Respondent shall provide the
20 Board with a signed statement that the Respondent has complied with this
21 notification requirement.

22 **(b)** Respondent is further required to notify, in writing, all hospitals and free
23 standing surgery centers at which Respondent has any privileges of a chemical
24 dependency relapse, use of drugs or alcohol in violation of this Order and/or entry
25 into a treatment program. Respondent shall provide the Board, within seven days
of any of these events, written confirmation that Respondent has complied with
this notification requirement.

1 rehearing. Service of this order is effective five (5) days after date of mailing. If a motion
2 for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it
3 is mailed to Respondent.

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

6 DATED this 12th day of October, 2001.

8 BOARD OF MEDICAL EXAMINERS
9 OF THE STATE OF ARIZONA

10 By Claudia Foutz
11 CLAUDIA FOUTZ
12 Executive Director
13 TOM ADAMS
14 Deputy Director

15 ORIGINAL of the foregoing filed this
16 12 day of October, 2001 with:

17 The Arizona Board of Medical Examiners
18 9545 East Doubletree Ranch Road
19 Scottsdale, Arizona 85258

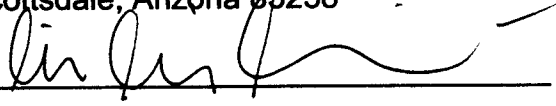
20 Executed copy of the foregoing
21 mailed by U.S. Certified Mail this
22 12 day of October, 2001, to:

23 Bryan Gunnoe, M.D.
24 1050 Gail Gardener Way #100
25 Prescott, Arizona 86305

26 Copy of the foregoing hand-delivered this
27 12 day of October, 2001, to:

28 Christine Cassetta
29 Assistant Attorney General
30 Sandra Waitt, Management Analyst
31 Lynda Mottram, Compliance Officer
32 Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
33 Arizona Board of Medical Examiners

1 9545 East Doubletree Ranch Road
2 Scottsdale, Arizona 85258

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