

1 3. On March 5, 2012, the Board received a complaint from the Department of
2 Health Services alleging that Respondent certified patients for medical marijuana cards without
3 querying the Arizona Board of Pharmacy prescription monitoring database and by physical
4 examinations using Skype.

5 4. The Board's medical consultant performed a chart audit on fifteen (15) of
6 Respondent's patients.

7 5. Respondent fell below the community standard of care in the evaluation and
8 treatment of chronic pain. The community standard involves an evaluation of past medical
9 history, presenting complaint, appropriate physical exam, review of previous diagnostic testing,
10 urine drug screens, and pharmacy queries.

11 6. Respondent failed to conduct appropriate examinations and correlate
12 examinations with diagnoses.

13 7. A.A.C. R9-17-202(F)(5)(g) and R9-17-202 (G)(8)(e) requires an in-person
14 examination and in at least one patient, this was not done.

15 8. Respondent provided a written certification for medical marijuana when
16 evaluations of patients did not indicate such a certification was appropriate.

17 9. All patients queried in the chart review conducted by the Medical Consultant
18 were provided a written certification for medical marijuana by Respondent. Respondent
19 estimated 95% of patients who sought a medical marijuana physician certification were
20 provided with such.

21 10. A large number of young patients were diagnosed with chronic pain.

22 11. The physical exams that were reviewed by the Board's Medical Consultant were
23 inadequate.

24 12. The Arizona Board of Pharmacy query showed patient M.A. had used controlled
25 substances for several months and had used seven different physicians for medications and

1 eight different pharmacies. Nonetheless, Respondent still provided the patient with a written
2 certification for medical marijuana.

3 13. A.R.S. § 36-2801(3) and A.A.C. R9-17-201 define debilitating medical conditions.

4 14. There were old medical records from a gastroenterologist stating patient S.M.
5 had been treated for chronic diarrhea, constipation, nausea, vomiting and rectal bleeding. The
6 medical records noted that the patient had a significant improvement and resolution of the
7 symptoms with a change in his oral medications. Respondent still provided the written
8 certification for medical marijuana.

9 15. Medical records from patient M.G.'s primary care physician were included in the
10 chart, which revealed the patient had been undergoing a workup for nausea and jaundice. The
11 medical record also documented the patient had a history of multiple drug abuse which
12 included opioids and marijuana which he had gotten both in his home environment as well as
13 from drug dealers. The patient had been in an outpatient treatment program. Laboratory
14 revealed the patient's total bilirubin and direct bilirubin were elevated. The patient was still
15 given a written certification for medical marijuana by Respondent.

16 16. A note from patient A.D.'s urologist indicated he had testicular pain which
17 improved and also had an epididymal cyst. The urologist recommended Aleve twice a day.
18 There is no evidence to suggest the patient would be expected to have chronic pain associated
19 with the epididymal cyst, nevertheless he was provided a written certification for medical
20 marijuana by Respondent.

21 CONCLUSIONS OF LAW

22 17. The conduct described above is a violation of unprofessional conduct pursuant
23 to A.R.S. § 32-1854(6), which states "Engaging in the practice of medicine in a manner that
24 harms or may harm a patient or that the board determines falls below the community
25 standard."

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2 18. The conduct described above is a violation of unprofessional conduct pursuant
3 to A.R.S. § 32-1854(38), which states "Any conduct or practice that endangers the public's
4 health or may reasonably be expected to do so."

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6 **ORDER**

7 Pursuant to the authority vested in the Board,

8 1. **IT IS HEREBY ORDERED** that John Manning, Jr. D.O, holder of osteopathic medical
9 License number 0935 is issued a **DECREE OF CENSURE**.

10 2. **IT IS HEREBY FURTHER ORDERED** that John Manning, Jr. D.O., holder of
11 osteopathic medical License number 0935 shall be restricted from providing or issuing a written
12 certification for medical marijuana as defined in A.R.S. §36-2801 (18), the recommendation of
13 medical marijuana.

14 3. **IT IS FURTHER ORDERED** Respondent shall undergo a neuropsychological
15 evaluation, by a provider approved by the Board's Executive Director, within 180 days of the
16 effective date of the Order at Respondent's cost. The report of the evaluation shall be
17 forwarded to the Board's Executive Director within thirty (30) days of the evaluation being
18 completed.

19 4. **Costs:** Respondent shall bear all costs incurred regarding compliance with this
20 Order.

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

23 6. **Ceasing Practice in the State of Arizona:** In the event that Respondent ceases
24 to practice medicine in the State of Arizona, by moving out of state, failing to renew his license,
25 or maintaining an Arizona license but ceasing to practice clinical medicine or administrative
medicine requiring licensure, Respondent shall notify the Board that he has ceased practicing in

1 Arizona, in writing, within 10 days of ceasing to practice. In its sole discretion, the Board may
2 stay the terms of this Order until such time as the Respondent resumes the practice of
3 medicine in Arizona, or may take other action to resolve the findings of fact and conclusions of
4 law contained in this Consent Agreement and Order for Probation.

5 **7. Failure to Comply / Violation:** Respondent's failure to comply with the
6 requirements of this Order shall constitute an allegation of unprofessional conduct as defined
7 at A.R.S. § 32-1854(25) and proven violations may be grounds for further disciplinary action
8 (e.g., suspension or revocation of license).



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ISSUED THIS 14th DAY OF FEBRUARY, 2014.
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Jenna Jones
Jenna Jones, Executive Director

NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING

Any party may request a rehearing or review of this matter pursuant to A.R.S. § 41-1092.09. The motion for rehearing or review must be filed with the Arizona Board of Osteopathic Examiners within thirty (30) days. If a party files a motion for review or rehearing, that motion must be based on at least one of the eight grounds for review or rehearing that are allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30 days has the effect of prohibiting judicial review of the Board's decision. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a motion for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

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Original "Findings of Fact, Conclusions of Law and Order for Decree of Censure and Restriction" filed this 14th day of February, 2014 with:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale AZ 85258-5539

Copy of the "Finding of Fact, Conclusions of Law and Order for Decree of Censure and Restriction" sent by certified mail, return receipt requested, this 14th day of February, 2014 to:

John Manning, Jr. D.O.
Address of Record

Copies of this "Findings of Fact, Conclusions of Law and Order for Decree of Censure and Restriction" filed/sent this 14th day of February, 2014 to:

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