



Arizona Medical Board

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December 6, 2022

Christine Cassetta
Quarles & Brady, LLP
One Renaissance Square
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Phoenix, AZ 85004

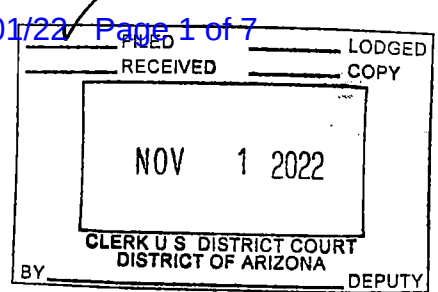
Dear Ms. Cassetta:

The Arizona Medical Board (Board) has been informed that, on or about November 1, 2022, the United States District Court for the District of Arizona ordered Sheldon E. Gingerich, MD to surrender his Arizona medical license following his plea agreement in CR 20-02703-TUC-RCC(LAB). Please be advised that the Board has implemented the Court's Order, and that the Board's record along with Dr. Gingerich's public profile has been updated to reflect the license status "Surrendered" effective November 1, 2022.

Sincerely,

A handwritten signature in black ink that reads "Patricia E. McSorley".

Patricia E. McSorley
Executive Director



1 GARY M. RESTAINO
2 United States Attorney
3 District of Arizona
4 STEFANI K. HEPFORD
5 Assistant U.S. Attorney
6 United States Courthouse
7 405 W. Congress Street, Suite 4800
8 Tucson, Arizona 85701
9 Telephone: 520-620-7300
10 Email: stefani.hepford@usdoj.gov
11 Attorneys for Plaintiff

12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF ARIZONA

15 United States of America,
16
17 Plaintiff,
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19 vs.
20
21 Sheldon Gingerich,
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23 Defendant.

CR 20-02703-TUC-RCC (LAB)
PLEA AGREEMENT

24 The United States of America and the defendant agree to the following disposition
25 of this matter:

26 PLEA

27 1. The defendant agrees to plead guilty to the Information, which charges the
28 defendant with Aiding and Abetting Simple Possession of a Controlled Substance, a
misdemeanor offense, in violation of 21 U.S.C. § 844 and 18 U.S.C. § 2. The government
will dismiss the Indictment at the time of sentencing.

Elements of the Offense

2. The elements of the offense are as follows:

a. The defendant aided or abetted the intentional or knowing possession
of a controlled substance;

//

1 Maximum Penalties

2 3. The defendant understands that the maximum penalties for the offense to
3 which he is pleading are one (1) year in custody, a \$1,000.00 to \$100,000.00 fine, one year
4 of supervised release, and a \$25 special assessment.

5 4. The defendant agrees to pay a fine of unless the defendant establishes the
6 applicability of the exceptions contained in § 5E1.2(e) of the Sentencing Guidelines.

7 5. The defendant understands and acknowledges that pleading guilty may result
8 in the termination or denial of certain food stamp, social security, and other benefits for
9 defendant and the defendant's immediate family pursuant to 21 U.S.C. §§ 862 and 862a.

10 6. The defendant recognizes that pleading guilty may have consequences with
11 respect to his/her immigration status if the defendant is a recently naturalized United States
12 citizen or is not a citizen of the United States. Under federal law, a broad range of crimes
13 are removable offenses, including the offense(s) to which defendant is pleading guilty.
14 Although there may be exceptions, the defendant understands that the defendant's guilty
15 plea and conviction for this offense make it practically inevitable and a virtual certainty
16 that the defendant will be removed or deported from the United States. The defendant
17 agrees that he/she has discussed this eventuality with his/her attorney. The defendant
18 nevertheless affirms that he/she wants to plead guilty regardless of any immigration
19 consequences that this plea entails, even if the consequence is the defendant's automatic
20 removal from the United States.

21 SENTENCING AGREEMENT

22 7. Pursuant to this plea agreement and Fed. R. Crim. P. 11(c)(1)(C), the
23 government and the defendant stipulate and agree to a sentence of two (2) years of
24 probation, subject to the standard conditions of probation for the District of Arizona in
25 General Order 17-18, which is adopted and incorporated as an exhibit to this plea
26 agreement. This term shall commence at the time of plea and sentencing. The parties
27 may withdraw from the plea agreement if the defendant does not receive a sentence of
28 two (2) years of probation.

- 1 8. The parties further agree and stipulate to the following terms:
- 2 a. The defendant shall surrender his license to practice medicine in the State
- 3 of Arizona to the issuing authority (Arizona Medical License No. 14436);
- 4 b. The defendant shall surrender his Drug Enforcement Administration
- 5 (DEA) Controlled Substance Registration Number AG3291351;
- 6 c. The defendant shall pay a fine in the amount of \$75,000.00 payable at the
- 7 time of plea and sentencing;
- 8 9. The parties waive a Pre-Sentence Investigation Report and agree that
- 9 sentencing will occur on the date of the change of plea.
- 10 10. This agreement is expressly conditioned on the defendant's criminal history
- 11 falling within Category I of the Sentencing Guidelines. If the defendant's criminal history
- 12 exceeds Category I, the government reserves its right to withdraw from the plea agreement.
- 13 11. If the Court, after reviewing this plea agreement, concludes any provision is
- 14 inappropriate, it may reject the plea agreement, giving the defendant, in accordance with
- 15 Rule 11(c)(5), Fed. R. Crim. P., an opportunity to withdraw defendant's guilty plea.
- 16 12. The defendant and the government agree that this agreement does not in any
- 17 manner restrict the actions of the government in any other district or bind any other United
- 18 States Attorney's Office.
- 19 13. The defendant waives any and all motions, defenses, probable cause
- 20 determinations, and objections that the defendant could assert to the information or
- 21 indictment, or to the petition to revoke, or to the Court's entry of judgment against the
- 22 defendant and imposition of sentence upon the defendant providing the sentence is
- 23 consistent with this agreement. The defendant further waives: (1) any right to appeal the
- 24 Court's entry of judgment against defendant; (2) any right to appeal the imposition of
- 25 sentence upon defendant under Title 18, United States Code, Section 3742 (sentence
- 26 appeals), so long as the sentence does not exceed the applicable guidelines range. This
- 27 waiver shall not be construed to bar an otherwise-preserved claim of ineffective assistance
- 28

1 of counsel or of “prosecutorial misconduct” (as that term is defined by Section II.B of Ariz.
2 Ethics Op. 15-01 (2015)).

3 14. If the defendant’s guilty plea is rejected, withdrawn, vacated, or reversed by
4 any court in a later proceeding, the government will be free to prosecute the defendant for
5 all charges as to which it has knowledge, and any charges that have been dismissed because
6 of this plea agreement will be automatically reinstated. In such event, the defendant waives
7 any objections, motions, or defenses based upon the Speedy Trial Act or the Sixth
8 Amendment to the Constitution as to the delay occasioned by the later proceedings.

9 15. Pursuant to this agreement, the United States further agrees to forego any
10 civil forfeiture proceedings and any civil proceedings based upon the conduct alleged in
11 the Indictment which may be appropriate now or in the future.

12 AGREEMENT AS TO FORFEITURE

13 a. Defendant, Sheldon Gingerich, knowingly and voluntarily agrees to forfeit
14 all right, title and interest in Arizona Medical License number 14436, and Drug
15 Enforcement Administration Controlled Substance number AG329135.

16 b. Defendant knowingly and voluntarily agrees not to pursue any filed claims,
17 and to waive all interest in the asset listed above, in any administrative, civil or criminal
18 judicial proceeding, whether state or federal, which may be initiated.

19 c. Defendant knowingly and voluntarily agrees to consent to the entry of orders
20 of forfeiture for the forfeitable assets and waives the requirements of Federal Rules of
21 Criminal Procedure, Rule 32.2 regarding notice of the forfeiture in the charging instrument,
22 announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the
23 judgment.

24 d. The defendant acknowledges that he understands that the forfeiture of assets
25 is part of the sentence that may be imposed in this case and waives any failure by the Court
26 to advise him of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J), at the
27 time his guilty plea is accepted.

28

1 e. Defendant knowingly and voluntarily agrees to waive all constitutional,
2 legal, and equitable defenses to all constitutional and statutory challenges in any manner
3 (including direct appeal, habeas corpus, any jeopardy defense or claim of double jeopardy,
4 or any other means), and knowingly and voluntarily agrees to waive any claim or defense
5 under the Eighth Amendment to the United States Constitution, including any claim of
6 excessive fine or punishment, to any forfeiture carried out in accordance with this plea
7 agreement on any grounds.

8 f. Defendant warrants that he is the owner or has an interest in the property
9 listed above, and knowingly and voluntarily agrees to hold the United States, its agents and
10 employees harmless from any claims whatsoever in connection with the seizure or
11 forfeiture of the above-listed asset covered by this agreement.

12 g. Defendant knowingly and voluntarily agrees and understands the forfeiture
13 of the assets listed above shall not be treated as satisfaction of any assessment, fine,
14 restitution, cost of imprisonment, or any other penalty this Court may impose upon the
15 defendant in addition to the forfeiture.

16 WAIVER OF DEFENDANT'S RIGHTS AND FACTUAL BASIS

17 Waiver of Rights

18 I have read each of the provisions of the entire plea agreement with the assistance
19 of counsel and understand its provisions. I have discussed the case and my constitutional
20 and other rights with my attorney. I understand that by entering my plea of guilty I will be
21 giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and
22 compel the attendance of witnesses; to present evidence in my defense; to remain silent
23 and refuse to be a witness against myself by asserting my privilege against self-
24 incrimination; all with the assistance of counsel; to be presumed innocent until proven
25 guilty beyond a reasonable doubt; and to appeal.

26 I agree to enter my guilty plea as indicated above on the terms and conditions set
27 forth in this agreement.
28

1 I have been advised by my attorney of the nature of the charge to which I am entering
2 my guilty plea. I have been advised by my attorney of the nature and range of the possible
3 sentence, and that I will not be able to withdraw my guilty plea if I am dissatisfied with the
4 sentence the court imposes.

5 My guilty plea is not the result of force, threats, assurances or promises other than
6 the promises contained in this agreement. I agree to the provisions of this agreement as a
7 voluntary act on my part, rather than at the direction of or because of the recommendation
8 of any other person, and I agree to be bound according to its provisions. I agree that any
9 Sentencing Guidelines range referred to herein or discussed with my attorney is not binding
10 on the Court and is merely an estimate.

11 I agree that this written plea agreement contains all the terms and conditions of my
12 plea and that promises made by anyone (including my attorney) that are not contained
13 within this written plea agreement are without force and effect and are null and void.

14 I am satisfied that my defense attorney has represented me in a competent manner.

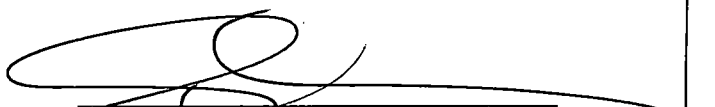
15 I am not now on or under the influence of any drug, medication, liquor, or other
16 intoxicant or depressant, which would impair my ability to fully understand the terms and
17 conditions of this plea agreement.

18 Factual Basis

19 I further agree that the following facts accurately describe my conduct in connection
20 with the offense to which I am pleading guilty and that if this matter were to proceed to
21 trial the government could prove the elements of the offense beyond a reasonable doubt:

22 On or about July 25, 2017, at or near Tucson, in the District of Arizona, the
23 defendant, Sheldon Gingerich, a physician, aided and abetted the possession
24 of a controlled substance by issuing a prescription for fentanyl to his patient,
25 S.M. At the time the defendant issued the prescription for fentanyl, he knew
26 or should have known that this specific form of fentanyl was only indicated
27 by the FDA for patients who had pain associated with cancer. The defendant
28 knew or should have known that patient S.M. did not have cancer.

11/1/22
Date



Sheldon Gingerich
Defendant

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DEFENSE ATTORNEY'S APPROVAL

I have discussed this case and the plea agreement with my client in detail and have advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea, including the defendant's waiver of the right to appeal. No assurances, promises, or representations have been given to me or to the defendant by the government or by any of its representatives which are not contained in this written agreement. I concur in the entry of the plea as indicated above and on the terms and conditions set forth in this agreement as in the best interests of my client. I agree to make a bona fide effort to ensure that the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R. Crim. P.

11/1/2022
Date


Hector J. Diaz, Esq.
Attorney for Defendant

GOVERNMENT'S APPROVAL

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth are appropriate and are in the best interests of justice.

GARY M. RESTAINO
United States Attorney
District of Arizona

11/1/2022
Date


STEFANI K. HEPFORD
Assistant U.S. Attorney