

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No.22A-29347-MDX

3 **HERBERT W. JONES, M.D.,**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
(License Revocation)**

4 Holder of License No. 29347
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

7 On February 1, 2023, this matter came before the Arizona Medical Board ("Board")
8 for consideration of Administrative Law Judge ("ALJ") Velva Moses-Thompson's proposed
9 Findings of Fact, Conclusions of Law and Recommended Order. Herbert W. Jones, M.D.,
10 ("Respondent") was not present; Assistant Attorney General Elizabeth Campbell
11 represented the State. Assistant Attorney General Jeanne Galvin was available to provide
independent legal advice to the Board.

12 The Board, having considered the ALJ's Decision and the entire record in this
13 matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

14 **FINDINGS OF FAT**

- 15 1. The AZ Board is the duly constituted authority for licensing and regulating the
16 practice of allopathic medicine in the State of Arizona.
- 17 2. On October 11, 2022, the AZ Board issued a Complaint and Notice of
18 Hearing setting this matter for hearing at 9:00 a.m. on November 21, 2022.
- 19 3. No representative appeared for Dr. Jones at the scheduled hearing-time and
the matter was convened in his absence at about 9:15 a.m.
- 20 4. The Board presented the testimony of its Physical Health Program Manager,
21 Erinn Downey, and submitted exhibits 1-10.
- 22 5. On September 11, 1999, Dr. Jones was licensed by the Minnesota Board of
23 Medical Practice (Minnesota Board) to practice medicine and surgery in the State of
Minnesota. See Exhibit 1, MED-003.
- 24 6. On December 6, 2018, Dr. Jones entered into a Participation Agreement and
25 Monitoring Plan with the Minnesota Board's Health Professionals Services Program (HPSP)

1 for the monitoring of his chemical dependency and mental health. See Exhibit 1, MED-003.
2 The terms of the Participation Agreement and Monitoring Plan, included, but were not
3 limited to, Dr. Jones will: abstain from alcohol, controlled substances, and any mood-
4 altering substances; refrain from practicing medicine; enter a residential assessment
5 program by December 10, 2018; and submit to unannounced toxicology screens on a
6 periodic basis as requested by HPSP. See id.

7 7. Dr. Jones failed to enter a residential program for assessment by December
8 10, 2018, as required by the Participation Agreement and Monitoring Plan. See Exhibit 1,
9 MED-003.

10 8. On December 19, 2018, Dr. Jones entered residential treatment in another
11 state. Dr. Jones was discharged and returned to Minnesota on January 22, 2019.
12 See Exhibit 1, MED-003.

13 9. On January 24, 2019, Dr. Jones took Xanax (a controlled substance to help
14 him sleep) despite the fact that his Xanax prescription had expired. See Exhibit 1, MED-
15 003.

16 10. Effective May 11, 2019, Dr. Jones entered into a Stipulation and Order for
17 Indefinite Suspension with the Minnesota Board related to substance abuse issues,
18 including Dr. Jones's acknowledgement that he had practiced medicine while under the
19 influence of chemicals and failed to complete chart reviews because of his use of
20 chemicals. See Exhibit 1.

21 11. On July 23, 2019, the Alabama Medical Board (Alabama Board) temporarily
22 suspended Dr. Jones's Alabama license based upon disciplinary action taken by the
23 Minnesota Board and substance abuse issues. See Exhibit 6.

24 12. Effective September 14, 2019, Dr. Jones entered into a second Stipulation
25 and Order with the Minnesota Board that permitted Dr. Jones to return to practice in
Minnesota subject to certain terms, including that Dr. Jones participate in and fully comply
with the Minnesota Board's HPSP. See Exhibit 2.

13. Effective September 4, 2020, Dr. Jones entered into a Consent Agreement
with the AZ Board in Case No. MD-19-0546A for a letter of reprimand and a probationary
period of 5 years, which was retroactive to March 9, 2020 (the "Arizona 2020 Consent"). As

1 part of the probationary terms, the Arizona 2020 Consent required that Dr. Jones comply
2 with the Minnesota HPSP. See Exhibit 3.

3 14. Effective February 26, 2021, Dr. Jones surrendered his California medical
4 license based upon actions by the Minnesota Board and the Alabama Board related to Dr.
5 Jones's substance abuse. See Exhibit 6.

6 15. On May 14, 2021, Dr. Jones tested positive for alcohol use. See Exhibit 4,
7 MED-034.

8 16. On June 9, 2021, the Minnesota Board's HPSP notified the AZ Board of the
9 positive test. See *id* at MED-031. After receiving the notification, the AZ Board began an
10 investigation of Dr. Jones. See Exhibit 9.

11 17. On June 24, 2021, Dr. Jones entered into an Interim Consent Agreement for
12 Practice Restriction (Interim Consent Agreement) with the AZ Board pending final
13 administrative action of the AZ Board's investigation. See Exhibit 9. Through the June 24,
14 2021 Interim Consent Agreement, the AZ Board notified Dr. Jones of its investigation. See
15 Exhibit 9.

16 18. On September 14, 2021, Dr. Jones surrendered his Alabama medical
17 license. See Exhibit 7.

18 19. On December 2, 2021, the Minnesota Board indefinitely suspended
19 Dr. Jones's medical license based upon findings including the positive alcohol test and Dr.
20 Jones's subsequent withdrawal from the Minnesota Board's HPSP without fulfilling the
21 terms for successful completion of the program.

22 20. On December 12, 2021, the Missouri Board of Registration for the Healing
23 Arts revoked Dr. Jones's medical license. See Exhibit 8.

24 21. On December 30, 2021, Dr. Jones's license issued by the AZ Board expired.

25 22. On or about October 11, 2022, Dr. Jones received the October 11, 2022
Notice of Complaint and Hearing by e-mail. See Exhibit 10.

23 23. On October 12, 2022, Dr. Jones responded to the e-mail and denied that he
24 practiced medicine under the influence of alcohol or drugs. See Exhibit 10. Dr. Jones
25 stated in his e-mail response, "Thanks for your help but I am done with medicine." See *id*.

CONCLUSIONS OF LAW

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2 1. The Board has jurisdiction over Dr. Jones and the subject matter in this case
3 under Arizona Revised Statutes § 32-3202.

4 2. Pursuant to A.R.S. § 41-1092.07(G)(2) and A.A.C. R2-19-119(B), the Board
5 has the burden of proof in this matter. The standard of proof is by clear and convincing
6 evidence. A.R.S. § 32-1451.04.

7 3. The Board established by clear and convincing evidence that Dr. Jones
8 engaged in unprofessional conduct, in violation of A.R.S. § 32-1401(27)(f), by practicing
9 medicine while under the influence of chemicals and failed to complete chart reviews
10 because of his use of chemicals.

11 4. The Board established by clear and convincing evidence that Dr. Jones
12 engaged in unprofessional conduct, in violation of A.R.S. § 32-1401(27)(f), by taking an
13 expired Xanax (a controlled substance to help him sleep) after entering into a Participation
14 Agreement and Monitoring Plan with the Minnesota Board's Health Professionals Services
15 Program wherein he agreed to abstain from controlled substances.

16 5. The Board established by clear and convincing evidence that Dr. Jones
17 engaged in unprofessional conduct, as described in findings of fact 5-12, 13-15, and 18-20,
18 in violation of A.R.S. § 32-1401(27)(p).

19 6. The Board established by clear and convincing evidence that Dr. Jones
20 engaged in unprofessional conduct, as described in findings of facts 13, 15-17, and 19, in
21 violation of A.R.S. § 32-1401(27)(s).

22 7. Because Dr. Jones has committed acts of unprofessional conduct, the Board
23 has authority to discipline his license. A.R.S. § 32-1451(M). This authority exists even
24 though Dr. Jones did not renew his license when it was due to expire on December 30,
25 2021. See A.R.S. § 32-3202.

 8. Clear and convincing evidence shows that Dr. Jones is not amenable to
regulation by the Board. Consequently, Dr. Jones's license should be revoked.

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ORDER

Based on the foregoing, it is ordered that on the effective date of the final order in this matter, Herbert W. Jones, M.D.'s License No. 29347 for the practice of allopathic medicine in the State of Arizona shall be revoked.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

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

DATED this 6th day of January, 2023.

THE ARIZONA MEDICAL BOARD

By Pat E McSorley
Patricia E. McSorley
Executive Director

1 ORIGINAL of the foregoing filed this
2 10th day of January, 2023 with:

3 Arizona Medical Board
4 1740 W. Adams, Suite 4000
5 Phoenix, Arizona 85007

6 COPY of the foregoing filed
7 this 10th day of January, 2023 with:

8 Greg Hanchett, Director
9 Office of Administrative Hearings
10 1740 W. Adams
11 Phoenix, AZ 85007

12 Executed copy of the foregoing
13 mailed by U.S. Mail and emailed
14 this 10th day of January, 2023 to:

15 Herbert W. Jones, M.D.
16 Address of Record

17 Elizabeth Campbell
18 Assistant Attorney General
19 Office of the Attorney General
20 SGD/LES
21 2005 N. Central Avenue
22 Phoenix, AZ 85004

23 By: Michelle Podes
24 Arizona Medical Board
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