

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **MICHAEL J. FITZMAURICE, M.D.**

4 Holder of License No. 36511  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

**Case No. MD-18-0713A**

**ORDER FOR DECREE OF CENSURE;  
AND CONSENT TO THE SAME**

7 Michael J. Fitzmaurice, M.D. ("Respondent") elects to permanently waive any right  
8 to a hearing and appeal with respect to this Order for a Decree of Censure; admits the  
9 jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order  
10 by the Board.

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of  
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 36511 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-18-0713A after receiving notification of  
17 a malpractice settlement regarding Respondent's care and treatment of a 49 year-old male  
18 patient ("BH") alleging negligent wrist arthroplasty with subsequent fungal infection and  
19 mid-forearm amputation.

20 4. On December 12, 2013, BH presented to Respondent's office with the chief  
21 complaint of a left wrist work related injury. Respondent noted tenderness to palpation  
22 over the extensor carpi ulnaris ("ECU") tendon. Respondent planned for release of the  
23 ECU tendon with implantation of "biological empire to improve the strength and enhance  
24 the recovery of the repair".

25 5. On February 14, 2014, an MRI was performed that demonstrated early  
tenosynovitis involving the first extensor compartment. The remaining extensor

1 compartments were noted to be intact with a high-grade partial to full-thickness  
2 communicating defect of the triangular fibrocartilage complex ("TFCC").

3 6. On February 19, 2014, Respondent performed a first compartment release  
4 with debridement of TFCC injury and placement of human transplant allograft.

5 7. On March 6, 2014, BH was seen for his first post-operative appointment.  
6 Respondent administered a Kenalog injection and noted that the incisions were intact and  
7 clean without erythema or drainage.

8 8. On April 8, 2014, BH reported worsening 8/10 pain in the left wrist.  
9 Respondent prescribed a Medrol pack. On April 15, 2014, Respondent administered  
10 another injection (a PIN nerve block). An x-ray of the wrist was read as normal.

11 9. On May 30, 2014, BH complained of wrist swelling and severe pain.  
12 Respondent prescribed Augmentin, Bactrim, and Keflex. An incision and drainage ("I&D")  
13 was planned.

14 10. On June 2, 2014, Respondent performed the planned I&D on BH. A culture  
15 showed coccidiomycosis. On June 16, 2014, Respondent performed a second I&D and  
16 prescribed BH itraconazole.

17 11. Respondent performed additional I&Ds on August 13, 22 and 23, 2014.  
18 During the course of these procedures a culture confirmed methicillin resistant  
19 staphylococcus aureus ("MRSA"). Respondent additionally confirmed osteomyelitis.

20 12. BH continued to be seen by Respondent, and on January 16, 2015  
21 Respondent performed a left wrist arthroplasty.

22 13. On March 6, 2015, an I&D was performed by Respondent on BH.

23 14. On April 28, 2015, Respondent documented that BH's left wrist incisions  
24 were healing well with minimal pain on palpation.

25

1           15.   BH subsequently sought treatment from other providers who performed a left  
2 mid forearm amputation.

3           16.   The standard of care requires a physician to address and appropriately treat  
4 an infection. Respondent deviated from this standard of care by failing to address and  
5 appropriately treat the patient's severe infections. .

6           17.   The standard of care prohibits a physician from performing a left wrist  
7 arthroplasty on a patient with a severe infection and osteomyelitis present. Respondent  
8 deviated from the standard of care performing a left wrist arthroplasty on a patient with a  
9 severe infection and osteomyelitis present.

10          18.   The standard of care requires a physician to refer a patient with a persistent  
11 and severe infection to an infectious disease specialist. Respondent deviated from the  
12 standard of care by failing to refer the patient to an infectious disease specialist for MRSA  
13 and osteomyelitis.

14          19.   Actual patient harm was identified in that the severe left wrist fungal and  
15 MRSA infection eventually required a left mid forearm amputation. There was potential for  
16 patient harm in that there was a delay in treatment of BH's life threatening infection.

17   **CONCLUSIONS OF LAW**

18          a.    The Board possesses jurisdiction over the subject matter hereof and over  
19 Respondent.

20          b.    The conduct and circumstances described above constitute unprofessional  
21 conduct pursuant to A.R.S. § 32-1401(27)(e)(“Failing or refusing to maintain adequate  
22 records on a patient.”).

23          c.    The conduct and circumstances described above constitute unprofessional  
24 conduct pursuant to A.R.S. § 32-1401(27)(r)(“Committing any conduct or practice that is or  
25 might be harmful or dangerous to the health of the patient or the public.”).

1 **ORDER**

2 IT IS HEREBY ORDERED THAT:

- 3 1. Respondent is issued a Decree of Censure.

4  
5 DATED AND EFFECTIVE this 4<sup>th</sup> day of December, 2020.

6 ARIZONA MEDICAL BOARD

7  
8 By Patricia E. McSorley  
9 Patricia E. McSorley  
10 Executive Director

11 **CONSENT TO ENTRY OF ORDER**

12 1. Respondent has read and understands this Consent Agreement and the  
13 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent  
14 acknowledges he has the right to consult with legal counsel regarding this matter.

15 2. Respondent acknowledges and agrees that this Order is entered into freely  
16 and voluntarily and that no promise was made or coercion used to induce such entry.

17 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to  
18 a hearing or judicial review in state or federal court on the matters alleged, or to challenge  
19 this Order in its entirety as issued by the Board, and waives any other cause of action  
20 related thereto or arising from said Order.

21 4. The Order is not effective until approved by the Board and signed by its  
22 Executive Director.

23 5. All admissions made by Respondent in this Order are solely for final  
24 disposition of this matter and any subsequent related administrative proceedings or civil  
25 litigation involving the Board and Respondent. Therefore, said admissions by Respondent  
are not intended or made for any other use, such as in the context of another state or

1 federal government regulatory agency proceeding, civil or criminal court proceeding, in the  
2 State of Arizona or any other state or federal court.

3 6. Notwithstanding any language in this Order, this Order does not preclude in  
4 any way any other State agency or officer or political subdivision of this state from  
5 instituting proceedings, investigating claims, or taking legal action as may be appropriate  
6 now or in the future relating to this matter or other matters concerning Respondent,  
7 including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent  
8 acknowledges that, other than with respect to the Board, this Order makes no  
9 representations, implied or otherwise, about the views or intended actions of any other  
10 state agency or officer or political subdivisions of the State relating to this matter or other  
11 matters concerning Respondent.

12 7. Upon signing this agreement, and returning this document (or a copy thereof)  
13 to the Board's Executive Director, Respondent may not revoke the consent to the entry of  
14 the Order. Respondent may not make any modifications to the document. Any  
15 modifications to this original document are ineffective and void unless mutually approved  
16 by the parties.

17 8. This Order is a public record that will be publicly disseminated as a formal  
18 disciplinary action of the Board and will be reported to the National Practitioner's Data  
19 Bank and on the Board's web site as a disciplinary action.

20 9. If the Board does not adopt this Order, Respondent will not assert as a  
21 defense that the Board's consideration of the Order constitutes bias, prejudice,  
22 prejudgment or other similar defense.

23 10. ***Respondent has read and understands the terms of this agreement.***

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MICHAEL J. FITZMAURICE, M.D.

DATED: 11/16/2020

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EXECUTED COPY of the foregoing mailed  
this 4<sup>th</sup> day of December, 2020 to:

Steve Myers, Esq.  
Mitchell Stein Carey Chapman, PC  
One Renaissance Square  
2 North Central Avenue, Suite 1450  
Phoenix, Arizona 85004  
Attorney for Respondent

ORIGINAL of the foregoing filed  
this 4<sup>th</sup> day of December 2020 with:

Arizona Medical Board  
1740 West Adams, Suite 4000  
Phoenix, Arizona 85007

Michelle Rodes  
Board staff