

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON
Deputy Attorney General
4 State Bar No. 116564
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5544
6 Facsimile: (415) 703-5480
E-mail: Janezack.simon@doj.ca.gov
7 *Attorneys for Complainant*
Medical Board of California
8

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 24 2013
BY: *[Signature]* ANALYST

9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12
13 **JOHN J. McGROARTY, M.D.**
10614 Riverside Drive
North Hollywood, CA 91602
14
15 Physician's and Surgeon's
Certificate No. G12938
16
17 Respondent.
18

Case No. 16-2012-224717

FIRST AMENDED ACCUSATION

19 The Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Interim Executive Officer of the Medical Board of California, Department of
23 Consumer Affairs.

24 2. On February 23, 1967, Physician's and Surgeon's Certificate No. G12938 was issued
25 by the Medical Board of California (Board) to John J. McGroarty, M.D. (Respondent.) The
26 certificate is renewed and current with an expiration date of January 31, 2014.

27 ///
28 ///

1 JURISDICTION

2 3. This First Amended Accusation is brought before the Medical Board of California¹,
3 under the authority of the following sections of the California Business and Professions Code
4 (“Code”) and/or other relevant statutory enactment:

5 A. Section 2227 of the Code provides that the Board may revoke, suspend for a
6 period not to exceed one year, or place on probation, the license of any licensee who has been
7 found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

8 B. Section 2305 of the Code provides that the revocation, suspension, or other
9 discipline, restriction or limitation imposed by another state upon a license to practice medicine
10 issued by that state, that would have been grounds for discipline in California under the Medical
11 Practice Act, constitutes grounds for discipline for unprofessional conduct.

12 C. Section 141 of the Code provides:

13 “(a) For any licensee holding a license issued by a board under the jurisdiction
14 of a department, a disciplinary action taken by another state, by any agency of the
15 federal government, or by another country for any act substantially related to the
16 practice regulated by the California license, may be ground for disciplinary action
17 by the respective state licensing board. A certified copy of the record of the
18 disciplinary action taken against the licensee by another state, an agency of the
19 federal government, or by another country shall be conclusive evidence of the
20 events related therein.

21 “(b) Nothing in this section shall preclude a board from applying a specific
22 statutory provision in the licensing act administered by the board that provides for
23 discipline based upon a disciplinary action taken against the licensee by another
24 state, an agency of the federal government, or another country.”

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Restriction, or Limitation Imposed by Another State)**

27 4. On June 19, 2012, the Arizona Medical Board issued an Interim Order for Practice
28 Limitation and Consent to the Same (Arizona Interim Order.) The Arizona Interim Order
contains findings that Respondent has recognized that he has a medical condition that may limit
his ability to safely engage in the practice of medicine, and that the Interim Order was necessary
to mitigate imminent danger to the public health and safety. Under the terms of the Arizona

¹ The term “Board” means the Medical Board of California; “Division of Medical Quality” shall also be deemed to refer to the Board.

1 Interim Order Respondent was prohibited from practicing medicine in Arizona and from
2 prescribing any form of treatment including prescription medications and the writing of Medical
3 Marijuana Certifications until he applies to the Arizona Medical Board and receives permission to
4 do so. A copy of the Interim Order for Practice Limitation and Consent to the same issued by the
5 Arizona Medical Board is attached as Exhibit A.

6 On June 10, 2013, the Arizona Medical Board issued an Order for Practice Restriction and
7 Consent to the Same (Arizona Order for Practice Restriction.) The Arizona Order for Practice
8 Restriction contains factual findings which include: Respondent issued Medical Marijuana
9 Certifications which contained false attestations and which violated the Arizona Medical Practice
10 Act; Respondent underwent a neuropsychological evaluation on June 6, 2012 which concluded
11 that he was unsafe to practice as a physician; a review of some or Respondent's patient charts
12 revealed that he deviated from the standard of care in prescribing narcotic pain medication. Under
13 the terms of the Arizona Order for Practice Restriction, Respondent shall not practice medicine
14 and is prohibited from prescribing any form of treatment, including prescription medications, in
15 Arizona. In addition, Respondent shall not seek to renew his Arizona medical license and shall
16 not reapply for an Arizona medical license for a period of five years from the effective date of the
17 Arizona Order for Practice Restriction. A copy of the Arizona Order for Practice Restriction and
18 Consent to the Same is attached as Exhibit B.

19 5. Respondent's conduct and the actions of the Arizona Medical Board as set forth in
20 paragraph in paragraph 4, above, constitute unprofessional conduct within the meaning of section
21 2305 and conduct subject to discipline within the meaning of section 141(a).

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board issue a decision:


25 1. Revoking or suspending Physician's and Surgeon's Certificate Number G12938
26 issued to respondent John J. McGroarty, M.D.;

27 2. Revoking, suspending or denying approval of Respondent's authority to supervise
28 physician assistants;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Ordering Respondent, if placed on probation, to pay the costs probation monitoring;
- and
4. Taking such other and further action as the Board deems necessary and proper.

DATED: July 24, 2013


KIMBERLY KIRCHMEYER
Interim Executive Officer
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SF2012403373
40728869.doc

EXHIBIT A

BEFORE THE ARIZONA MEDICAL BOARD

1 In the Matter of
 2 JOHN J. MCGROARTY, M.D.
 3 Holder of License No. 6345
 4 For the Practice of Allopathic Medicine
 5 In the State of Arizona.

Case No. MD-11-1135A

INTERIM ORDER FOR PRACTICE
LIMITATION AND CONSENT TO THE
SAME

(NON-DISCIPLINARY)

CONSENT AGREEMENT

6
 7
 8 John J. McGroarty, M.D. ("Physician") elects to permanently waive any right to a
 9 hearing and appeal with respect to this Interim Order for Practice Limitation; admits the
 10 jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this
 11 Interim Order by the Board.

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. Physician is the holder of License No. 6345 for the practice of allopathic
 15 medicine in the State of Arizona.
 16 3. Physician has recognized that he has a medical condition that may limit his
 17 ability to safely engage in the practice of medicine.

CONCLUSIONS OF LAW

- 18
 19 1. The Board possesses jurisdiction over the subject matter hereof and over
 20 Physician.
 21 2. The Executive Director has authority to enter into this consent agreement to
 22 limit the physician's practice based upon evidence that he is unable to safely engage in
 23 the practice of medicine pursuant to A.R.S. § 32-1405(C)(25) and § 32-1451(F); A.A.C.
 24 R4-16-504.
 25

1 Interim Order ("Interim Order"). Physician acknowledges he has the right to consult with
2 legal counsel regarding this matter.

3 2. Physician acknowledges and agrees that this Interim Order is entered into
4 freely and voluntarily and that no promise was made or coercion used to induce such
5 entry.

6 3. By consenting to this Interim Order, Physician voluntarily relinquishes any
7 rights to a hearing or judicial review in state or federal court on the matters alleged, or to
8 challenge this Interim Order in its entirety as issued, and waives any other cause of action
9 related thereto or arising from said Interim Order.

10 4. The Interim Order is not effective until approved and signed by the Executive
11 Director.

12 5. All admissions made by Physician are solely for final disposition of this
13 matter and any subsequent related administrative proceedings or civil litigation involving
14 the Board and Physician. Therefore, said admissions by Physician are not intended or
15 made for any other use, such as in the context of another state or federal government
16 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
17 any other state or federal court.

18 6. Upon signing this agreement, and returning this document (or a copy
19 thereof) to the Board's Executive Director, Physician may not revoke the consent to the
20 entry of the Interim Order. Physician may not make any modifications to the document.
21 Any modifications to this original document are ineffective and void unless mutually
22 approved by the parties.

23 7. This Interim Order is a public record that will be publicly disseminated as a
24 formal *non-disciplinary* action of the Board.

25

EXHIBIT B

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **JOHN J. MCGROARTY, M.D.**

4 Holder of License No. 6345
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

Case No. MD-11-1135A

**ORDER FOR PRACTICE RESTRICTION
AND CONSENT TO THE SAME**

7 John J. McGroarty, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Practice Restriction; 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 6345 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-11-1135A after receiving notification
17 that Respondent wrote 496 Medical Marijuana Certifications in which he attested to
18 reviewing the qualifying patient's profile on the Arizona Board of Pharmacy Controlled
19 Substances Prescription Monitoring Program (CSPMP) database prior to ever accessing
20 the database through the Arizona Board of Pharmacy (Pharmacy Board) website.

21 4. Board staff was further informed that Respondent had registered with the
22 database as of August 12, 2011, but had not made any queries of the CSPMP.

23 5. Respondent admitted that he failed to access the database prior to issuing
24 the Medical Marijuana Certifications. In addition, he conceded that he checked a box on
25 the certification form submitted to the Department of Health Services falsely attesting that

1 he had, in fact, reviewed the patient's profile on the CSPMP database. He explained that
2 he was new to Arizona and misinterpreted what he considered a confusing form.

3 6. Respondent appeared before the Board on April 4, 2012 for a Formal
4 Interview. He told the Board he had made a mistake but would comply with the
5 requirements of Arizona law going forward. The Board voted to return the case for further
6 investigation of possible quality of care issues

7 7. The Board's Medical Consultant interviewed Respondent on May 17, 2012.
8 During the interview, Respondent admitted to several violations of the Medical Practice
9 Act. Specifically, Respondent admitted to the continued and/or past failure to check the
10 CSPMP database when certifying patients for medical marijuana use, and failure to obtain
11 previous medical records on patients prior to issuing medical marijuana certifications
12 and/or controlled substances. Additionally, Respondent admitted to failing to maintain
13 adequate medical records on at least one patient by prescribing controlled substances
14 without a documented examination.

15 8. The Medical Consultant determined that Respondent should participate in a
16 neuropsychological evaluation in light of some of Respondent's observed behaviors during
17 the interview; therefore, on May 21, 2012, the Board's Executive Director issued an Interim
18 Order for Neuropsychological Evaluation.

19 9. On June 6, 2012, Respondent underwent a neuropsychological evaluation.
20 The evaluator concluded that, in view of all the available information, Respondent is
21 currently unsafe to practice as a physician.

22 10. On June 19, 2012, Respondent entered into an Interim Order for Practice
23 Limitation.

24 11. A Medical Consultant (MC) subsequently reviewed some of Respondent's
25 patient medical records. The MC observed that Respondent had prescribed medical

1 marijuana and opioids inappropriately and that Respondent had failed to detect addiction
2 and/or non-compliance due to his failure to query the CSPMP.

3 12. The Board has substantial evidence which, if accepted by the finder of fact,
4 would support a finding that:

5 a. Respondent deviated from the standard of care by providing ongoing
6 narcotic treatment for non-malignant pain and without appropriate evaluation.

7 b. Respondent deviated from the standard of care by providing medical
8 marijuana certificates without appropriate evaluation.

9 c. Respondent deviated from the standard of care by providing a one-time
10 narcotic prescription without querying the CSPMP which would have alerted him
11 that the patient was receiving narcotics from another provider.

12 d. Respondent's conduct had the potential to cause harm to patients by
13 perpetuating drug abuse due to failure to adequately assess the risk factors in each
14 patient prior to providing medical marijuana certificate and/or narcotic medication.

15 e. Respondent's conduct had the potential to cause accidental combined
16 drug toxicity (marijuana and narcotic) resulting in overdose and death due to failure
17 to adequately assess the risk factors (including CSPMP review) in each patient prior
18 to providing medical marijuana certification and/or narcotic medication.

19 f. No actual patient harm was identified.

20 13. For purposes of resolution of this investigation only, Respondent admits to
21 the acts described above and acknowledges that they constitute unprofessional conduct
22 pursuant to A.R.S. § 32-1401(27)(e) ("failing or refusing to maintain adequate records on
23 a patient."); A.R.S. § 32-1401(27)(q) ("[a]ny conduct that is or might be harmful or
24 dangerous to the health of the patient or the public."); and A.R.S. § 32-1401(27)(t)
25 ("[k]nowingly making any false or fraudulent statement, written or oral, in connection with

1 the practice of medicine or if applying for privileges or renewing an application for
2 privileges at a health care institution.") Respondent's admission is made exclusively to
3 address issues of Arizona law. The full force and effect of his admission is exclusively
4 limited in scope and jurisdiction to the State of Arizona.

5 **CONCLUSIONS OF LAW**

6 1. The Board possesses jurisdiction over the subject matter hereof and over
7 Respondent.

8 2. Respondent has engaged in unprofessional conduct in violation of A.R.S. §
9 32-1401(27)(e)("[f]ailing or refusing to maintain adequate records on a patient."); A.R.S. §
10 32-1401(27)(q) ("[a]ny conduct that is or might be harmful or dangerous to the health of the
11 patient or the public."); and A.R.S. § 32-1401(27)(t) ("[k]nowingly making any false or
12 fraudulent statement, written or oral, in connection with the practice of medicine or if
13 applying for privileges or renewing an application for privileges at a health care
14 institution.").

15 **ORDER**

16 IT IS HEREBY ORDERED THAT:

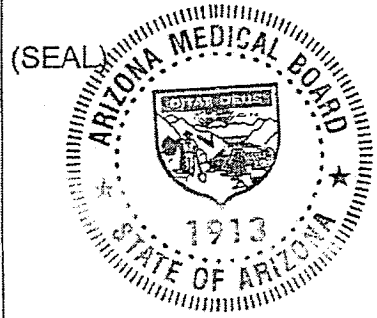
- 17 1. Respondent is issued a Practice Restriction.
- 18 2. As of the effective date of this Order, Respondent shall not practice medicine
19 and is prohibited from prescribing any form of treatment, including prescription
20 medications, in Arizona. In addition, Respondent shall not seek to renew his Arizona
21 medical license and shall not reapply for an Arizona medical license for a period of five
22 years from the effective date of this Order.
- 23 3. This Order vacates the Interim Practice Limitation dated June 19, 2012.

24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DATED AND EFFECTIVE this 10th day of JUNE, 2013.

ARIZONA MEDICAL BOARD



By *Lisa S. Wynn*
Lisa S. Wynn
Executive Director

CONSENT TO ENTRY OF ORDER

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

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

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

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

5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil 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 federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

1 6. Upon signing this agreement, and returning this document (or a copy thereof)
2 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
3 the Order. Respondent may not make any modifications to the document. Any
4 modifications to this original document are ineffective and void unless mutually approved
5 by the parties.

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

9 8. If any part of the Order is later declared void or otherwise unenforceable, the
10 remainder of the Order in its entirety shall remain in force and effect.

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

14 10. Any violation of this Order constitutes unprofessional conduct and may result
15 in disciplinary action. A.R.S. §§ 32-1401(27)(r) ("[v]iolating a formal order, probation,
16 consent agreement or stipulation issued or entered into by the board or its executive
17 director under this chapter") and 32-1451.

18

19 
20 John J. McGroarty, M.D.

June 26, 2013
Date

21 EXECUTED COPY of the foregoing mailed
22 this 10th day of June, 2013 to:

23 Calvin L. Raup, Esq.
24 BUCKLEY KING
25 Central Park Square
2020 North Central Ave., Suite 1120
Phoenix, AZ 85004
Attorney for Respondent

1 ORIGINAL of the foregoing filed
2 this 10th day of June, 2013 with:

3 Arizona Medical Board
4 9545 E. Doubletree Ranch Road
5 Scottsdale, AZ 85258

6 Mary Biles
7 Arizona Medical Board Staff
8 AF:yfl - #3293624

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25