

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **JAMES W. EISENBERG, M.D.**

4 Holder of License No. 40512  
5 For the Practice of Medicine  
6 In the State of Arizona.

Case No. MD-12-0483A

**ORDER FOR SURRENDER OF  
LICENSE AND CONSENT TO THE  
SAME**

7 James W. Eisenberg, M.D. ("Respondent") elects to permanently waive any right to  
8 a hearing and appeal with respect to this Order for Surrender of License; 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 40512 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-12-0483A after receiving a complaint  
17 from a naturopathic physician alleging that Respondent "fraudulently tricked" patient GR  
18 into coming in to his office for a medical marijuana certification when it should have been  
19 clear that GR was to attend an appointment at the naturopathic physician's office. It was  
20 also alleged that at the time of GR's visit, Respondent was not on site, did not perform a  
21 physical exam and did not have access to GR's past medical records.

22 4. During the initial review of this case, Board staff attempted to obtain a  
23 Controlled Substances Prescription Monitoring Program (CSPMP) query regarding GR.  
24 Board staff was notified by the Assistant to the Director of the Prescription Monitoring  
25 Program that Respondent's access to the database had been turned off after the

1 Pharmacy Board received notification of Respondent's April 5, 2012 Decree of Censure  
2 and Five Year Practice Restriction which prohibited him from prescribing controlled  
3 substances.

4 5. Board staff spoke with Respondent and discussed the CSPMP database  
5 issue. He admitted that he did not have access, but continued to certify patients for  
6 medical marijuana despite being formally disciplined by the Board for the same issue in  
7 February of 2012. Respondent acknowledged that he was in violation of statute, but stated  
8 that he was told by someone at the Department of Health Services that he should continue  
9 attesting to review of the database.

10 6. This matter was reviewed by a Medical Consultant (MC) who observed that  
11 GR was seen by Respondent, who documented a cursory, but likely adequate medical  
12 history and physical examination. Respondent provided GR with certification for cannabis  
13 use, which required that he attest that he had obtained a CSPMP query on the patient.  
14 The MC determined that Respondent falsely attested that he had reviewed a CSPMP  
15 query after his CSPMP registration was deactivated. The MC stated that there appeared to  
16 be a two month period when Respondent had no access to the CSPMP, and yet during  
17 this time he admitted that he continued to attest that he had accessed the database prior  
18 to certifying patients for medical marijuana use. The Pharmacy Board advised that  
19 Respondent did not have an active CSPMP registration over that time period.

20 7. The standard of care requires a physician to obtain a CSPMP query in  
21 addition to performing a past medical history review and physical examination prior to  
22 certifying a patient for cannabis use.

23 8. Respondent deviated from the standard of care by providing certification for  
24 cannabis use in the absence of obtaining a CSPMP query.

25

1 9. Failing to review the CSPMP could result in certifying a patient for cannabis  
2 use who may have a pattern of prescription drug abuse; this in turn could increase the risk  
3 of combined drug toxicity, accidental overdose, and diversion.

4 10. Respondent admits to the acts described above and that they constitute  
5 unprofessional conduct pursuant to A.R.S. §32-1401(27)(q) ("[a]ny conduct that is or might  
6 be harmful or dangerous to the health of the patient or the public.") and A.R.S. §32-  
7 1401(27)(t) ("[k]nowingly making any false or fraudulent statement, written or oral, in  
8 connection with the practice of medicine or if applying for privileges or renewing an  
9 application for privileges at a health care institution.").

10 **CONCLUSIONS OF LAW**

11 1. The Board possesses jurisdiction over the subject matter hereof and over  
12 Respondent.

13 2. The Board possesses statutory authority to enter into a consent agreement  
14 with a physician and accept the surrender of an active license from a physician who  
15 admits to having committed an act of unprofessional conduct. A.R.S. § 32-1451(T)(2).

16 **ORDER**

17 IT IS HEREBY ORDERED THAT Respondent immediately surrender License  
18 Number 40512, issued to James W. Eisenberg, M.D. for the practice of allopathic  
19 medicine in the State of Arizona, and return his wallet card and certificate of licensure to  
20 the Board.

21 DATED and effective this 7<sup>th</sup> day of FEBRUARY, 2013.

22 ARIZONA MEDICAL BOARD

23  
24 By: 

25 Lisa S. Wynn  
Executive Director

1  
2 **CONSENT TO ENTRY OF ORDER**

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

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

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

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

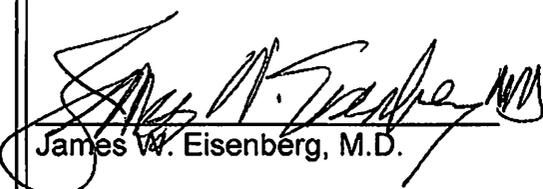
14 5. All admissions made by Respondent are solely for final disposition of this  
15 matter and any subsequent related administrative proceedings or civil litigation involving  
16 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
17 or made for any other use, such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

20 6. Upon signing this agreement, and returning this document (or a copy  
21 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the  
22 entry of the Order. Respondent may not make any modifications to the document. Any  
23 modifications to this original document are ineffective and void unless mutually approved  
24 by the parties.  
25

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

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

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

9  
10   
11 \_\_\_\_\_  
12 James W. Eisenberg, M.D.

Dated: \_\_\_\_\_

1/17/13

13 EXECUTED COPY of the foregoing mailed by  
14 US Mail this <sup>17</sup> day of Feb., 2013 to:

15 James W. Eisenberg, M.D.  
16 Address of Record

17 The Arizona Medical Board  
18 9545 East Doubletree Ranch Road  
19 Scottsdale, AZ 85258

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21 \_\_\_\_\_  
22 Arizona Medical Board Staff  
23  
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