

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **MARVIN L. GIBBS, M.D.**

4 Holder of License No. 13736
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-06-0207A

**INTERIM FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
FOR SUMMARY SUSPENSION OF
LICENSE**

7 **INTRODUCTION**

8 The above-captioned matter came on for discussion before the Arizona Medical Board
9 ("Board") on August 24, 2006. After reviewing relevant information and deliberating, the Board
10 considered proceedings for a summary action against the license of Marvin L. Gibbs, M.D.
11 ("Respondent"). Having considered the information in the matter and being fully advised, the
12 Board enters the following Interim Findings of Fact, Conclusions of Law and Order for Summary
13 Suspension of License, pending formal hearing or other Board action. A.R.S. § 32-1451(D).

14 **INTERIM FINDINGS OF FACT**

15 1. The Board is the duly constituted authority for licensing and regulating the practice
16 of allopathic medicine in the State of Arizona.

17 2. Respondent is the holder of License No. 13736 for the practice of allopathic
18 medicine in the State of Arizona.

19 3. The Board initiated case number MD-06-0207A after receiving a complaint from
20 another physician regarding Respondent's care and treatment of a 35-year old male patient
21 ("JZ"). The complaint alleged Respondent failed to appropriately treat JZ's erectile dysfunction
22 leading to priapism lasting for one week.

23 4. On January 3, 2006 Respondent evaluated JZ. In his medical history JZ stated he
24 maintained an erection for thirteen minutes after penetration and he desired the time to be two
25

1 hours. Respondent diagnosed JZ with premature ejaculation. Respondent prescribed penile
2 injection therapy. Respondent did not offer JZ any conventional alternative treatments.

3 5. Respondent's prescribed a test dose of .24 ccs of **what Respondent calls a**
4 **"trimix" consisting of 5.9 mcg of PGE1/ml, 17.65 mg of papaverine/mg, and .59 mg of**
5 **phentolamine** resulting in JZ maintaining an erection lasting between three hours and twenty
6 minutes and five hours. JZ required 240 mg of oral Sudafed to resolve the erection. Based on
7 this event, Respondent prescribed a dose of .15 ccs with a target erection time of two hours. JZ
8 presented to Respondent with a history of having injected himself twice on January 11 and
9 having a sixteen hour erection. Respondent maintained JZ on the same dose. On January 18
10 Respondent added more saline to the injections, but continued the same total dose of
11 medication.

12 6. On January 26 JZ presented to Respondent at 10:30 a.m. Respondent's records
13 reflect JZ had priapism of thirteen and one-half hours duration that developed after he took the
14 prescribed dose. However, the complaining physician states JZ's priapism lasted one week.
15 Respondent treated JZ with injection and aspiration and the priapism appeared to resolve. JZ
16 had recurrent priapism and returned to Respondent at 4:40 p.m. Respondent again injected and
17 aspirated JZ, but without good result. At 7:14 p.m. Respondent arranged for JZ's transfer to the
18 emergency room. By this time it was at least twenty-two hours after JZ's erection began. In his
19 response to the Board, Respondent states this event must have been precipitated by JZ's
20 overuse of the medication, but this is not documented in the chart.

21 7. JZ sought care from a urologist who states JZ will likely have permanent erectile
22 dysfunction. The Board's Medical Consultant opined that penile injection is not therapy for
23 premature ejaculation. Respondent filed an extensive response with multiple documents he
24 claimed supported his treatment. The Medical Consultant reviewed the response and concluded
25 Respondent is in effect prescribing priapism and there is no valid literature to support this

1 treatment plan. The Medical Consultant provided literature supporting his position. The Medical
2 Consultant also criticized Respondent's failure to offer the patient common treatment options and
3 concluded Respondent lacks a basic understanding of the treatment of premature ejaculation
4 and lacks the ability to understand or follow established treatment guidelines.

5 8. An aggravating factor is the Medical Consultant's concerns are very similar to the
6 Board's concerns regarding Respondent's practice patterns. Specifically, in 2003 the Board
7 issued a Decree of Censure for internet prescribing and restricted Respondent's prescribing of
8 Schedule II and III controlled substances. In its 2003 Order the Board expressed "concern that
9 Respondent appeared to have a relatively poor understanding of the management of chronic
10 pain . . . and relatively little understanding of the basic pharmacology of the drugs he was
11 prescribing." An additional aggravating factor is the Drug Enforcement Agency's ("DEA")
12 February 20, 2004 Order revoking Respondent's prescribing certificate and finding Respondent
13 practiced beyond the scope of his expertise solely for the purpose of financial gain. An additional
14 aggravating factor is that when Respondent lost hospital obstetrical privileges he turned to the
15 internet prescribing (for which he was disciplined in 2003). Respondent then lost prescribing
16 privileges and turned to treating sexual dysfunction in addition to his obstetrics practice.

17 9. If Respondent was restricted from treating sexual dysfunction he may turn to
18 another area of medicine in which he is not qualified to practice.

19 10. The facts as presented demonstrate that the public health, safety or welfare
20 imperatively requires emergency action.

21 **INTERIM CONCLUSIONS OF LAW**

22 1. The Board possesses jurisdiction over the subject matter hereof and over
23 Respondent, holder of License No. 13736 for the practice of allopathic medicine in the State of
24 Arizona.

25 2. The conduct and circumstances described above constitute unprofessional

1 conduct pursuant to A.R.S. § 32-1401(27)(e) (“[f]ailing or refusing to maintain adequate records
2 on a patient”); 32-1401(27)(q) (“[a]ny conduct or practice that is or might be harmful or dangerous
3 to the health or the patient or the public”); and 32-1401(27)(ll) (“[c]onduct that the board
4 determines is gross negligence, repeated negligence or negligence resulting in harm to or the
5 death of a patient”).

6 3. Based on the foregoing Interim Findings of Fact and Conclusions of Law, the public
7 health, safety or welfare imperatively requires emergency action. A.R.S. § 32-1451(D).

8 **ORDER**

9 Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth above,
10 IT IS HEREBY ORDERED THAT:

11 1. Respondent's license to practice allopathic medicine in the State of Arizona,
12 License No. 13736, is summarily suspended pending a formal hearing before an Administrative
13 Law Judge from the Office of Administrative Hearings.

14 2. The Interim Findings of Fact and Conclusions of Law constitute written notice to
15 Respondent of the charges of unprofessional conduct made by the Board against him.
16 Respondent is entitled to a formal hearing to defend these charges as expeditiously as possible
17 after the issuance of this order.

18 3. The Board's Executive Director is instructed to refer this matter to the Office of
19 Administrative Hearings for scheduling of an administrative hearing to be commenced as
20 expeditiously as possible from the date of the issuance of this order, unless stipulated and agreed
21 otherwise by Respondent.

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1 DATED this 25th day of August 2006.



ARIZONA MEDICAL BOARD

5
6 By *Timothy C. Miller*
7 Timothy C. Miller, J.D.
8 Executive Director

9 ORIGINAL of the foregoing filed this
10 25th day of August, 2006, with:

11 Arizona Medical Board
12 9545 East Doubletree Ranch Road
13 Scottsdale, Arizona 85258

14 EXECUTED COPY of the mailed by
15 First Class mail this 25th day of
16 August 2006 to:

17 Marvin Leo Gibbs, M.D.
18 (Address of record):

19 Dean Brekke
20 Assistant Attorney General
21 Arizona Attorney General's Office
22 1275 West Washington, CIV/LES
23 Phoenix, Arizona 85007

24
25 *Jim Moran*