

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **JAMES D. GADD, M.D.**

4 Holder of License No. 8696  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Board Case No. MD-05-0949A

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

(Probation and Practice Restriction)

7 The Arizona Medical Board ("Board") considered this matter at its public meeting on  
8 December 8, 2005. James D. Gadd, M.D., ("Respondent") appeared before the Board with legal  
9 counsel Calvin Raup for a formal interview pursuant to the authority vested in the Board by A.R.S.  
10 § 32-1451(H). The Board voted to issue the following Findings of Fact, Conclusions of Law and  
11 Order after due consideration of the facts and law applicable to this matter.

12 **FINDINGS OF FACT**

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

15 2. Respondent is the holder of License No. 8696 for the practice of allopathic  
16 medicine in the State of Arizona.

17 3. The Board initiated case number MD-05-0949A in September 2005 after receiving  
18 notification of Respondent's positive urine drug screen. In 1978 Respondent received psychiatric  
19 care for one year in a program offered by the Board under the guidance of the Physician's  
20 Rehabilitation Committee of the Arizona Medical Association. That program bears no  
21 resemblance to the Board's current rehabilitation program. In 2003 Respondent reported his use  
22 of Fentanyl, Lortab, and alcohol to the Board and underwent treatment at the Betty Ford Center.  
23 Upon Respondent's report to the Board it was determined he had relapsed and he was required  
24 to sign a consent agreement inactivating his license with cause. Upon his release from Betty  
25 Ford Respondent signed a consent agreement for reactivation of his license and probation. A

1 term of the consent agreement provided that if Respondent relapsed his license would be  
2 revoked after he was given the opportunity to appear before the Board. On August 3, 2005  
3 Respondent's urine specimen was positive for Fentanyl and he admitted using Fentanyl. In  
4 October 2005 the Board considered Respondent's case for the purpose of determining whether  
5 the positive drug screen was Respondent's third and final allowable incident that would result in  
6 the revocation of his license. Based on information developed at that meeting the Board invited  
7 Respondent for a formal interview.

8 4. Respondent testified that his issues in 1978 involved self-medicating for  
9 depression and he was not labeled an addict or an alcoholic. Respondent noted he had no  
10 specific treatment other than a requirement that he see a psychiatrist for six months. Respondent  
11 testified he recalls there was no specific treatment or safeguards regarding any issues with  
12 addiction or alcoholism. Respondent testified he was not cautioned not to drink and was not put  
13 in any twelve-step or any other program for the prevention of relapse. Respondent testified he  
14 underwent treatment at Betty Ford in 2003 for a little more than ninety days. Upon completion of  
15 treatment the Board's former Executive Director presented him with a consent agreement and  
16 told him he had to sign it if he wanted to return to practice. Respondent noted he did not have  
17 legal counsel to argue that the 2003 incident was not a relapse and request that the relapse  
18 language be stricken from the consent agreement. Respondent testified his use in 2003 of  
19 Fentanyl, Lortab and alcohol was a first-time episode that he reported to the Board. Respondent  
20 apologized to the Board for misplacing its trust in him and his isolated slip, or relapse, in August  
21 2005.

22 5. The Board recognized it had a considerable amount of material describing the  
23 circumstances in 1978, but noted it was difficult to get a clear picture of exactly what was going  
24 on. The Board asked Respondent to describe briefly the medications he was self-prescribing in  
25 1978. Respondent testified he was taking Dexedrine to counteract the depression he was

1 suffering and then, for the last few weeks or so, he was taking some Valium as a sleeping aid.  
2 Respondent acknowledged he was working as a practicing anesthesiologist during this time.  
3 Respondent was asked if it was his testimony that he was not using any anesthesia drugs such  
4 as Fentanyl or injectable opiates at the time. Respondent testified this was correct and that he  
5 first began using anesthesia drugs in 2002.

6         6. Respondent was asked what he believed triggered his relapse in 2005.  
7 Respondent testified that pursuant to his Board Order he was taking Naltrexone, an opiate  
8 blocker, for approximately a little less than one year. Respondent testified he was scheduled for  
9 surgery in August 2005 and was concerned the medications used during his procedure would be  
10 ineffective because of the Naltrexone. As a result, he stopped taking the Naltrexone five or six  
11 days before the procedure. Respondent noted he had a lapse of good judgment and decided he  
12 would try Fentanyl to be sure that the Naltrexone was gone from his system and he would be able  
13 to respond to any medications given him for the surgery. Respondent testified this was an  
14 isolated incident and he gathered from the use of Fentanyl that the Naltrexone was gone and he  
15 did not enjoy the experience at all. Respondent testified he was called the next day for a random  
16 urine specimen and he provided it believing that, because it was such a small dose and an  
17 isolated incident, the drug would be gone; otherwise he would have taken other measures.  
18 Respondent confirmed he was aware the urine screen would check for Naltrexone and Fentanyl  
19 and its metabolites.

20         7. Respondent was asked what "other measures" he would have taken if he knew the  
21 Fentanyl was still in his system. Respondent testified when he knew he had to take the test he  
22 was aware of what he had done and decided to go through with the test, but he could have  
23 refused to take the test or could have said he forgot to call and did not know he was supposed to  
24 take the test. Respondent testified he decided he had done what he had done and he would let  
25 happen whatever was going to happen.

1           8.       Respondent was asked if he consulted with Michel Sucher, M.D., the Board's  
2 contracted addiction medicine specialist, or any of his colleagues, regarding discontinuing the  
3 Naltrexone prior to the surgical procedure or was this an idea he came up with on his own.  
4 Respondent testified he did put a call into Dr. Sucher, but does not recall whether his call was  
5 returned. Respondent testified he did know from prior discussions with Dr. Sucher that it would  
6 be appropriate to discontinue Naltrexone prior to surgery, but certainly he should have made an  
7 attempt to contact Dr. Sucher or gotten other information regarding the bioavailability of the  
8 Naltrexone without having to test it himself. Respondent's discontinuing the Naltrexone for a  
9 surgical procedure and trying a little Fentanyl to test what the effect was represents classic  
10 addictive thinking. Respondent testified he believed the Board's analysis is correct and he cannot  
11 tell the Board what entered his mind at the time, but he certainly was not thinking clearly.  
12 Respondent testified that since August he has been and continues to be involved in the twelve-  
13 step program and, in his opinion, has been doing very well.

14           9.       Respondent was asked if he had any communication with his primary care  
15 physician who was overseeing the administration of Naltrexone regarding how long it would take  
16 for the Naltrexone to be out of his system. Respondent testified he discussed the upcoming  
17 procedure with his primary care physician, but did not recall specifically discussing the Naltrexone  
18 issue with him. Respondent was asked how he got the Fentanyl. Respondent testified he got it  
19 from the operating room. Respondent was asked if during the 1978 incidents he took any other  
20 non-prescribed narcotics. Respondent testified he did not. Respondent was asked if he had  
21 returned to Betty Ford or another facility for treatment since the August 2005 relapse.  
22 Respondent testified he returned for an evaluation, but did not remain for treatment. Respondent  
23 was asked what his plans would be if he were returned to the Board's Monitored Aftercare  
24 Program and allowed to return to work. Respondent testified he did not have any specific plans  
25 and he has been working very diligently on his twelve-step program and getting into an exercise

1 program. Respondent testified he would love to eventually get involved in administrative  
2 medicine and he realizes the possibility of his returning to anesthesia is very remote. Dr. Sucher  
3 noted in the case of anesthesiologists who use injectable drugs the relapse rate is very high and  
4 the rehabilitation success rate nationwide with these types of physicians has been dismal. The  
5 Board noted its preference that when Respondent completes treatment and applies to the Board  
6 to return to practice that he not practice anesthesia.

7 10. A requirement for entrance into the Monitored Aftercare Program is successful  
8 completion of a treatment program. Respondent testified that after his treatment at Betty Ford in  
9 2003 he was out of work for over one year and he worked a bit after that, but his financial  
10 situation is extremely dire regarding returning to treatment and this is why he prefers not to.  
11 Respondent noted treatment can cost anywhere from thirty to fifty thousand dollars, an amount  
12 he just does not have. Respondent testified over the past four months since his relapse he has  
13 maintained a strong program where he reviewed all the notes he took at Betty Ford and all the  
14 literature he received from Betty Ford. Respondent testified he realizes where his errors were and  
15 he does not think inpatient treatment would be a great benefit to him and it would just be a  
16 financial burden.

17 11. Respondent's 1978 incident was not an addiction issue and should not cause the  
18 automatic revocation of Respondent's license as provided in the 2003 consent agreement.

### 19 CONCLUSIONS OF LAW

20 1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof  
21 and over Respondent.

22 2. The Board has received substantial evidence supporting the Findings of Fact  
23 described above and said findings constitute unprofessional conduct or other grounds for the  
24 Board to take disciplinary action.

25





1 DATED this 9<sup>th</sup> day of February, 2006.



THE ARIZONA MEDICAL BOARD

By   
TIMOTHY C. MILLER, J.D.  
Executive Director

7 ORIGINAL of the foregoing filed this  
10<sup>th</sup> day of February, 2006 with:

8 Arizona Medical Board  
9 9545 East Doubletree Ranch Road  
10 Scottsdale, Arizona 85258

11 Executed copy of the foregoing  
12 mailed by U.S. Certified Mail this  
10<sup>th</sup> day of February, 2006, to:

13 Calvin L. Raup  
14 Shughart, Thompson & Kilroy, P.C.  
15 3636 North Central Avenue – Suite 1200  
16 Phoenix, Arizona 85012-0001

17 Executed copy of the foregoing  
18 mailed by U.S. this 10<sup>th</sup> day  
19 of February, 2006, to:

20 James D. Gadd, M.D.  
21 Address of Record

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