

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2011-000125-001 DT

04/19/2012

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT
K. Waldner
Deputy

LYNNE PIRIE

PAMELA J EATON

v.

ARIZONA BOARD OF OSTEOPATHIC
EXAMINERS (001)

CAMILA ALARCON

OFFICE OF ADMINISTRATIVE
HEARINGS
REMAND DESK-LCA-CCC

RECORD APPEAL RULING / REMAND

Plaintiff-Appellant Dr. Lynne Pirie asks this Court to review the December 24, 2010, Order of the Arizona Board of Osteopathic Examiners revoking her License. For the following reasons, this Court affirms the Order of the board.

I. FACTUAL BACKGROUND.

On July 2, 2008, Plaintiff-Appellant Dr. Lynne Pirie (Pirie) entered into a plea agreement in Cause Number CR-08-817-PHX-JAT, whereby she pled guilty to Unlawful Distribution of Human Growth Hormone, a Class D felony. (Record on Review #50.) That Plea Agreement was lodged in the United States District Court July 23, 2008. It gave as a factual basis that, on or about September 20, 2006, Pirie either prescribed or administered, or both, Somatropin to a patient who did not have any disease or other recognized medical condition for which Somatropin had been approved. (R.o.R. #50, at 9.) As a result of that felony conviction, Pirie was placed on supervised probation for 18 months and fined \$250. (R.o.R. #53, at p.2, ¶6.)

On May 20, 2010, the Arizona Board of Osteopathic Examiners (AzBOE) issued a Complaint and Notice of Hearing stating a hearing was set before Administrative Law Judge Brian Tully on June 29, 2010. (R.o.R. #2.) Prior to that hearing, Pirie's attorney filed a Motion To Continue stating she wished to call as witnesses DEA agent Steve Lampkin and AUSA Howard Sukenic, but they would not be able to testify until after a criminal trial scheduled for September 2010. (R.o.R. #11.) ALJ Tully granted that motion and continued the hearing to August 2, 2010. (R.o.R. #14.) The attorney for the AzBOE then filed a Motion To Continue, which the ALJ granted and set the hearing for September 15, 2010. (R.o.R. ##15, 17.)

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The ALJ held the hearing on September 15, 2010, and on October 5, 2010, issued a Decision containing Findings of Fact and Conclusions of Law, and a Recommended Order that Pirie's License No. 1878 be revoked. (R.o.R. #53.) On December 24, 2010, the AzBOE issued its Findings of Fact and Conclusions of Law, and its Order revoking Pirie's License No. 1878. (R.o.R. #54.) Pirie filed a Motion for Rehearing or Review, and on January 28, 2011, the AzBOE denied that Motion. (R.o.R. #63.) On March 1, 2011, Pirie filed an Appeal From the Decision of the Board of Osteopathic Examiners. This Court has jurisdiction pursuant to A.R.S. § 12-124(A) and A.R.S. § 12-905(A).

II. GENERAL STANDARDS FOR REVIEW:

The Arizona statutory authority and case law define the scope of administrative review:

The court may affirm, reverse, modify or vacate and remand the agency action. The court shall affirm the agency action unless after reviewing the administrative record and supplementing evidence presented at the evidentiary hearing the court concludes that the action is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion.

A.R.S. § 12-910(E).

In reviewing an administrative agency's decision, the superior court examines whether the agency's action was arbitrary, capricious, or an abuse of discretion. The court must defer to the agency's factual findings and affirm them if supported by substantial evidence. If an agency's decision is supported by the record, substantial evidence exists to support the decision even if the record also supports a different conclusion.

Gaveck v. Arizona St. Bd. of Podiatry Exam., 222 Ariz. 433, 215 P.3d 1114, ¶ 11 (Ct. App. 2009) (citations omitted).

[I]n ruling on the sufficiency of the evidence in administrative proceedings, courts should show a certain degree of deference to the judgment of the agency based upon the accumulated experience and expertise of its members.

Croft v. Arizona St. Bd. of Dent. Exam., 157 Ariz. 203, 208, 755 P.2d 1191, 1196 (Ct. App. 1988).

A trial court may not function as a "super agency" and substitute its own judgment for that of the agency where factual questions and agency expertise are involved.

DeGroot v. Arizona Racing Comm'n, 141 Ariz. 331, 336, 686 P.2d 1301, 1306 (Ct. App. 1984). The reviewing court must view the evidence in a light most favorable to upholding the agency's decision and affirm that decision if it is supported by any reasonable interpretation of the record. *Baca v. Arizona D.E.S.*, 191 Ariz. 43, 46, 951 P.2d 1235, 1238 (Ct. App. 1998). While the reviewing court is not bound by the agency's conclusions of law or statutory interpretations, an agency's interpretation of statutes or regulations that it implements is entitled to great weight.

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Siegel v. Arizona St. Liq. Bd., 167 Ariz. 400, 401, 807 P.2d 1136, 1137 (Ct. App. 1991); *Baca v. Arizona D.E.S.*, 191 Ariz. 43, 46, 951 P.2d 1235, 1238 (Ct. App. 1998).

However, the agency's interpretation is not infallible, and courts must remain final authority on critical questions of statutory construction.

U.S. Parking Systems v. City of Phoenix, 160 Ariz. 210, 211, 772 P.2d 33, 34 (Ct. App. 1989).

III. ISSUE: WAS THE ACTION OF THE AGENCY SUPPORTED BY SUBSTANTIAL EVIDENCE,
AND WAS IT CONTRARY TO LAW, ARBITRARY AND CAPRICIOUS, OR AN
ABUSE OF DISCRETION.

Pirie asks this Court either to reinstate her license or to remand this matter to the AzBOE for a new hearing. Pirie contends the procedure here denied her due process because the ALJ did not continue the Administrative Hearing to a time when DEA agent Steve Lampkin and AUSA Howard Sukenic could testify. In her Opening Brief, Pirie does not state what testimony she contends these two individuals would have given. *Cf.* Rule 103(a)(2), ARIZ. R. EVID. (A party may claim error in a ruling to . . . exclude evidence only if the error affects a substantial right of the party and . . . a party informs the court of its substance by an offer of proof . . .) The AzBOE responds that neither Agent Lampkin nor AUSA Sukenic could have provided any relevant evidence because (1) they could not have changed the fact that Pirie pled guilty to a felony and the Plea Agreement contained a factual basis that Pirie had unlawfully prescribed Somatropin, and (2) neither one was a medical expert, so neither one would have been able to give any opinion on whether Pirie provided the requisite level of care. This Court agrees with the authorities cited and arguments made by the AzBOE and this Court adopts those authorities and arguments in support of its decision. This Court therefore concludes the AzBOE acted properly.

IV. CONCLUSION.

Based on the foregoing, this Court concludes the action of the Arizona Board of Osteopathic Examiners was supported by substantial evidence, and its Decision was not contrary to law, nor was it arbitrary or capricious, nor was it an abuse of discretion. This Court further determines there is no just reason to delay entry of judgment.

If any party wishes to appeal this Court's Decision to the Arizona Court of Appeals, that party must do so pursuant to A.R.S. § 12-913 and Rule 9(a) of the Arizona Rules of Civil Appellate Procedure. *See Eaton v. AHCCCS*, 206 Ariz. 430, 79 P.3d 1044, ¶ 7 (Ct. App. 2003) ("The [Arizona Court of Appeals] will allow an administrative decision to stand if there is any credible evidence to support it, but, because we review the same record, we may substitute our opinion for that of the superior court." "And when consideration of the administrative decision involves the legal interpretation of a statute, this court reviews de novo the decisions reached by the administrative officer and the superior court.")

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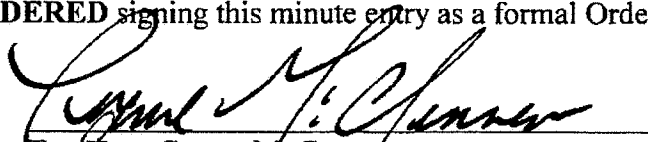
04/19/2012

IT IS THEREFORE ORDERED affirming the December 24, 2010, Order of the Arizona Board of Osteopathic Examiners revoking Dr. Lynne Pirie's License.

IT IS FURTHER ORDERED remanding this matter to the Arizona Board of Osteopathic Examiners.

IT IS FURTHER ORDERED vacating any stays previously entered in this matter.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of the Court.



THE HON. CRANE MCCLELLAN
JUDGE OF THE SUPERIOR COURT

041920121020

1 Respondent is hereby notified that she has exhausted her administrative remedies.
2 Respondent is advised that an appeal to Superior Court in Maricopa County may be taken from
3 this decision pursuant to title 12, chapter 7, article 6 of Arizona Revised Statutes.

4
5 DATED this 28th day of January, 2011.



6
7 ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
8 IN MEDICINE AND SURGERY

9 By: Elaine LeTarte

10 Elaine LeTarte, Executive Director

11
12 ORIGINAL of the foregoing filed this
13 28th day of January, 2011 with:

14 Arizona Board of Osteopathic Examiners
15 In Medicine and Surgery
16 9535 East Doubletree Ranch Road
17 Scottsdale AZ 85258-5539

18 Executed copy of the foregoing
19 mailed by U.S. Mail this 28th day of January 2011 to:

20 Pamela Eaton, Esq.
21 4158 W Beryl Avenue
22 Phoenix AZ 85051

23 Lynne B. Pirie, D.O.
24 711 E Carefree Highway #208
25 Phoenix AZ 85085

26 Camila Alarcon, Asst Attorney General
27 Office of the Attorney General
28 Civil Division / Licensing Enforcement Section
29 1275 W Washington
30 Phoenix, AZ 85007

1 **BEFORE THE BOARD OF OSTEOPATHIC EXAMINERS**

2 **IN MEDICINE AND SURGERY**

3 In the Matter of:

No. 10A-DO-08-4058A-OST

4 **LYNNE PIRIE, D.O.**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER FOR REVOCATION OF
LICENSE**

5 Holder of License No. 1878
6 For the Practice of Osteopathic Medicine
7 In the State of Arizona

8

9 *On November 20, 2010, this matter came before the Arizona Board of Osteopathic*
10 *Examiners in Medicine and Surgery ("Board") for oral argument and consideration of*
11 *the Administrative Law Judge ("ALJ") Brian B. Tully's proposed Findings of Fact and*
12 *Conclusions of Law and Recommended Order. Dr. Lynne Pirie ("Respondent") was*
13 *present, and was represented before the Board by legal counsel Pamela Eaton. Assistant*
14 *Attorney General Camila Alarcon represented the State. Christopher Munns, Assistant*
15 *Attorney General with the Solicitor General's Section of the Attorney General's Office,*
16 *was present to provide independent legal advice to the Board.*

17 *The Board, having considered the ALJ's decision, the arguments of the parties and*
18 *the entire record in this matter, hereby issues the following Findings of Fact, Conclusions*
19 *of Law and Order. The Board adopted the Findings of Fact with the following*
20 *modifications based on the grounds set forth by the State, which are hereby incorporated*
21 *by reference: Finding of Fact 5; change date of guilty plea from July 23, 2008 to July 23,*
22 *2009 (Exhibit B-14); Finding of Fact 24, change "DEHEA" to "DHEA" (Ex B-6 at 30);*
23 *Findings of Fact 44 and 48, add periods at end of sentences; Finding of Fact 47, interject*
24 *"deficiency" between "testosterone" and "syndrome" (Ex B-7); Finding of Fact 63,*
25 *change "high cholesterol" to "normal cholesterol" (Ex B-10); add new Finding 90;*
26 *supported by record (Ex B-2 at 25-26, Ex B-12, Tr 72 at ll. 12-17).*

1 *The Board adopted the recommended Conclusions of Law and Order, with the*
2 *modification that the Respondent be assessed the costs of the hearing based on the*
3 *serious nature of the conduct, the number of violations, and the clear pattern of the*
4 *conduct.*

5 **FINDINGS OF FACT**

- 6 1. The Arizona State Board of Osteopathic Examiners in Medicine and Surgery
7 (“Board”) is the authority for licensing and regulating the practice of osteopathic
8 medicine in the State of Arizona.
- 9 2. Lynne Pirie, D.O. is the holder of License No. 1878 issued by the Board for the
10 practice of osteopathic medicine.
- 11 3. Dr. Pirie is board-certified in family practice with a subspecialty of sports
12 medicine. Dr. Pirie is also board-certified in anti-aging medicine by the Academy
13 of Anti-Aging Medicine.
- 14 4. In March 2008, the Board initiated case number DO-08-4058A after receiving
15 notification that Dr. Pirie was under investigation by the U.S. Drug Enforcement
16 Administration (“DEA”).
- 17 5. As a result of the DEA’s investigation, Dr. Pirie pled guilty to Distribution of
18 Human Growth Hormone (“HGH”), a Class D felony, in the United States District
19 Court, District of Arizona, on July 23, 2008. According to Court documents, Dr.
20 Pirie admitted that she knowingly distributed, or possessed with an intent to
21 distribute, HGH for use in humans other than for treatment of a disease or other
22 recognized medical condition authorized by the Secretary of Health and Human
23 Services under 21 U.S.C. § 355. Dr. Pirie prescribed HGH to a patient who did not
24 have any disease or other recognized medical condition that would have authorized
25 Dr. Pirie’s treatment in prescribing or administering Somatropin, an HGH, in
26 violation of 21 U.S.C. § 333(e)(1).

- 1 6. Pursuant to her plea agreement, Dr. Pirie was placed on supervised probation for
2 approximately 18 months, effective October 14, 2008, and was fined \$250.00. Dr.
3 Pirie also agreed to cooperate with the federal government on another case it was
4 investigating.
- 5 7. As part of its investigation, the DEA pulled the medical records of 10 of Dr. Pirie's
6 patients, which were reviewed by Thomas Perls, M.D., a federal medical expert.
7 As a result of his review of those patients' files, Dr. Perls alleged that Dr. Pirie
8 committed unprofessional conduct in several areas.
- 9 8. John O'Hair-Schattenberg is the Board's investigator who gathered information
10 for the Board's investigation of Dr. Pirie.
- 11 9. In 2001, the DEA investigated Cactus Pharmacy concerning HGH. During that
12 investigation, it was discovered that Dr. Pirie was a major purchaser of steroids
13 and HGH from Cactus Pharmacy.
- 14 10. Barbara Prah, D.O. is the Board's medical consultant assigned to the Board's
15 investigation. She is board-certified in family practice.
- 16 11. Dr. Prah described the standard of care as what a reasonable physician would do in
17 a similar situation.
- 18 12. Dr. Prah obtained and reviewed a complete set of medical records from Dr. Pirie
19 for each of the 10 patients whose records were reviewed by Dr. Perls in the DEA's
20 investigation. Those patients were C.A., H.N., G.G., M.J., R.L. #1, R.L. #2, P.N.,
21 J.J., S.P., and J.C.
- 22 13. As a result of the Board's investigation, the Board issued a Complaint and Notice
23 of Hearing in Case No. 10A-DO-08-4058A-OST on May 20, 2010. The Board
24 charged Dr. Pirie with acts of unprofessional conduct.
- 25 14. The Board referred Case No. 10A-DO-08-4058A-OST to the Office of
26 Administrative Hearings, an independent agency, for an evidentiary hearing.

Patient C.A.

15. Patient C.A., at the time a 47-year old male, began seeing Dr. Pirie in September 1997, for an anti-aging program.
16. C.A. had been taking HGH prescribed by another physician since 1996.
17. After a thorough physical examination, Dr. Pirie diagnosed C.A. with adult growth hormone deficiency syndrome by history, subclinical hypothyroidism by history, testicular hypofunction by history, adrenal insufficiency by history, and multiple nutritional deficiencies by history. Dr. Pirie placed C.A. on a treatment plan that included 4 units of synthetic HGH, which she increased to 6 units in the following 2 weeks.
18. Dr. Pirie thereafter saw C.A. sporadically.
19. In 2006, Dr. Pirie diagnosed C.A. with adrenal insufficiency, benign prostatic hypertrophy, drug maintenance therapy, hormone imbalance, hyperlipidemia, hypertension, hypothyroidism, and testicular hypofunction.
20. In 2007, Dr. Pirie diagnosed C.A. with adrenal insufficiency, adult growth hormone deficiency, drug maintenance therapy, hormone imbalance, hyperlipidemia, and testicular hypofunction.
21. After reviewing Dr. Pirie's patient records for C.A., Dr. Prah opined that Dr. Pirie had not performed any growth hormone testing on patient C.A.
22. The standard of care requires that a physician support a patient's diagnosis.
23. Dr. Pirie deviated from the standard of care in that C.A.'s patient records do not support a diagnosis of adrenal insufficiency.
24. Dr. Pirie deviated from the standard of care in that C.A.'s medical records do not support a diagnosis of hypertension because there is no evidence that C.A. had elevated blood pressure and C.A. was not otherwise prescribed any antihypertensive medications.

1 25. Dr. Pire deviated from the standard of care in that C.A.'s medical records do not
2 support a diagnosis of adult growth hormone deficiency syndrome.

3 *Patient H.N.*

4 26. On June 13, 2002, patient H.N., at the time a 56-year old male, began seeing Dr.
5 Pirie in order to pursue HGH treatment for improving his energy.

6 27. In October 2002, Dr. Pirie diagnosed H.H. with adult growth hormone deficiency
7 syndrome, sleep apnea, and hyperlipidemia. He was placed on DHEA 50 mg.

8 28. On or about October 1, 2002, Dr. Pirie started H.N. on HGH. H.N. continued to
9 take HGH until sometime after January 10, 2006.

10 29. Dr. Pirie deviated from the standard of care in that H.N.'s records do not support a
11 diagnosis of adult growth hormone deficiency syndrome.

12 *Patient G.G.*

13 30. On July 30, 2002, patient G.G., at the time a 54-year old male, began seeing Dr.
14 Pirie. Dr. Pirie did not take a physical examination of G.G., but labs were taken in
15 August 2002.

16 31. In May 2006, patient G.G. expressed interest in seeking HGH treatment from Dr.
17 Pirie. Dr. Pirie diagnosed G.G. with adrenal insufficiency, drug maintenance
18 therapy, hormone imbalance, adult growth hormone deficiency syndrome, arthritis,
19 benign prostatic hypertrophy, hypothyroidism, multiple nutritional deficiencies,
20 testicular hypofunction, urinary tract infection, hyperlipidemia, and glucose
21 intolerance. Dr. Pirie placed G.G. on testosterone gel, HGH 0.4 mg, HGH 0.2 mg,
22 and DHEA.

23 32. Dr. Prah opined that Dr. Pirie deviated from the standard of care in that the Dr.
24 Pirie's patient records for G.G. do not support diagnoses of adrenal insufficiency,
25
26

1 anemia, glucose intolerance, hypothyroidism, urinary tract infection, or multiple
2 nutritional deficiencies.¹

3 ***Patient M.J.***

4 33. On February 6, 2003, patient M.J., then a 63-year old male, began seeing Dr. Pirie
5 to discuss an anti-aging program. M.J. was a retired radiologist.

6 34. Dr. Pirie diagnosed M.J. with testosterone deficiency syndrome, adult growth
7 hormone deficiency syndrome, adrenal insufficiency, hypothyroidism, and history
8 of hyperlipidemia. Dr. Pirie started M.J. on HGH replacement 0.2 mg, DHEA, saw
9 palmetto, and melatonin.

10 35. Dr. Pirie saw M.J. again March 6, 2006, for a follow-up regarding hormone
11 replacement therapy and his laboratory results, which were not available in his
12 records.

13 36. Dr. Pirie deviated from the standard of care in that the medical records for M.J. do
14 not support diagnoses of adult growth hormone deficiency syndrome or adrenal
15 insufficiency.

16 ***Patient R.L. #1***

17 37. In November or December of 2004, patient R.L. #1, at the time a 47-year old male,
18 began seeing Dr. Pirie to discuss anti-aging and comprehensive hormone
19 replacement therapy.

20 38. R.L. #1's medical records indicate that he was an athletic, 6'3" tall, 240-pound
21 individual. He admitted to weight training four times a week.

22 39. After a consultation and a review of laboratory work, Dr. Pirie diagnosed R.L. #1
23 with adrenal insufficiency, anemia, adult growth hormone deficiency syndrome,
24 benign prostatic hypertrophy, hepatic dysfunction, hormone imbalance,

25
26 ¹ Dr. Pire testified that she used the code for adrenal insufficiency, but did not intend for it to become a
diagnosis for this patient or the other patients in this case.

1 hyperlipidemia, hypothyroidism, multiple hormone deficiencies, and testicular
2 hypofunction. Dr. Pirie started R.L. #1 on a hormone replacement therapy that
3 included testosterone, HGH, DHEA, and saw palmetto.

4 40. Dr. Pirie's medical records for R.L. #1 do not support her diagnoses of adult
5 growth hormone deficiency syndrome, adrenal insufficiency, benign prostatic
6 hypertrophy, hypothyroidism, or testicular hypofunction.

7 41. Dr. Pirie deviated from the standard of care in that she started R.L. #1 on
8 testosterone therapy, which increases cardiovascular risk, even though he had a
9 family history of heart disease.

10 42. Dr. Pirie deviated from the standard of care in that R.L. #1's medical records do
11 not support diagnoses of adult growth hormone deficiency syndrome, adrenal
12 insufficiency, benign prostatic hypertrophy, hypothyroidism, or testicular
13 hypofunction.

14 43. Dr. Pirie's medical records for R.L. #1 also contain a diagnosis of menopause,
15 which Dr. Prah opined was an inadvertent error.

16 *Patient R.L. #2*

17 44. On December 14, 2004, patient R.L. #2, at the time a 61-year old male, began
18 seeing Dr. Pirie.

19 45. R.L. #2 had laboratory work done previously, but the laboratory work was not
20 available in his records.

21 46. Dr. Pirie performed a physical examination and history of R.L. #2.

22 47. Without ordering new laboratory work, Dr. Pirie diagnosed R.L. #2 with
23 testosterone deficiency syndrome, adult growth hormone deficiency syndrome,
24 adrenal insufficiency, hyperestrogenemia, borderline hyperinsulinemia,
25 hyperlipidemia, low dihydroxytestosterone, family history of CVA, family history
26

1 of cancer, status post right shoulder rotator cuff repair, degenerative disc disease,
2 and multiple althralgias.

3 48. Dr. Pirie started R.L. #2 on Nolvadex, testosterone replacement, saw palmetto,
4 DHEA, HGH, and Crestor.

5 49. Dr. Pirie deviated from the standard of care in that the medical records for R.L. #2
6 records do not support diagnoses of adult growth hormone deficiency syndrome or
7 adrenal insufficiency.

8 50. Dr. Pirie deviated from the standard of care in that her other diagnoses for R.L #2
9 were not supported because his laboratory results were missing.

10 *Patient P.N.*

11 51. On November 29, 2004, patient P.N., at the time a 37-year old male, started seeing
12 Dr. Pirie.

13 52. According to his medical records, P.N. was athletic, 6'4" tall, and weighed 236
14 pounds. P.N. weight trained three to four times a week.

15 53. Dr. Pirie diagnosed P.N. with testicular deficiency syndrome, fatigue, hormone
16 imbalance, and erectile dysfunction.

17 54. P.N.'s laboratory work from December of 2004 indicated normal levels for IGF-1,
18 TSH, T3, testosterone, free testosterone, and dihydroxytestosterone. P.N.'s
19 cholesterol was slightly elevated.

20 55. In 2004, Dr. Pirie started P.N. on HGH and testosterone gel.

21 56. In January 2006, P.N.'s laboratory results showed elevated dihydroxytestosterone
22 and low DHEA. Dr. Pirie diagnosed P.N. with adrenal insufficiency, fatigue,
23 glucose intolerance, hyperlipidemia, hypothyroidism, multiple nutritional
24 deficiencies, and testicular hypofunction.

25 57. By letter dated May 31, 2007, P.N. informed Dr. Pirie that there had been a long-
26 term issue in receiving his testosterone cream and HGH from her office after

1 paying for them, and that he had not received his treatment that he ordered on May
2 1, 2007.

3 58. Dr. Pirie deviated from the standard of care in that P.N.'s medical records do not
4 support Dr. Pirie's diagnoses of adrenal insufficiency or testosterone deficiencies.
5 For example, P.N.'s testosterone levels were within normal limits.

6 59. Dr. Pirie deviated from the standard of care in that her diagnoses of glucose
7 intolerance and hypothyroid were not fully investigated.

8 *Patient J.J.*

9 60. On March 24, 2005, patient J.J., at the time a 53-year old male, started seeing Dr.
10 Pirie for a consultation on HGH.

11 61. J.J. had more medical problems than the other patients in this case.

12 62. J.J.'s medical history revealed elevated cholesterol, an increase of abdominal fat,
13 hypertension, and a decreased libido.

14 63. J.J.'s subsequent laboratory results revealed a normal CBC, normal cholesterol,
15 elevated triglycerides, low HDL, elevated glucose, elevated ALT, elevated TSH,
16 normal IGF-1, high hemoglobin, elevated fasting insulin, normal testosterone, and
17 low DHEA unconjugated.

18 64. Dr. Pirie did not perform a physical examination of J.J.

19 65. Dr. Pirie diagnosed J.J. with testosterone deficiency syndrome, adult growth
20 hormone deficiency syndrome, adrenal insufficiency, hyperlipidemia, hepatic
21 dysfunction, diabetes mellitus uncontrolled, hypothyroidism, and a family history
22 of diabetes.

23 66. Dr. Pirie started J.J. on Avandia, testosterone replacement therapy, Armour
24 thyroid, and HGH.

1 67. Dr. Pirie deviated from the standard of care in that her diagnoses of and treatment
2 of J.J. for adult growth hormone deficiency and adrenal insufficiency were
3 unsubstantiated.

4 68. Dr. Pirie deviated from the standard of care in that she diagnosed and treated J.J.
5 for a testosterone deficiency when he had a normal testosterone level.

6 69. Dr. Pirie deviated from the standard of care when she requested that J.J. follow up
7 in two to three months, and not significantly sooner, when the patient started a new
8 hypoglycemic agent and thyroid replacement.

9 70. Dr. Pirie deviated from the standard of care by not mentioning J.J.'s obesity or
10 weight loss program in her diagnosis.

11 71. Dr. Pirie deviated from the standard of care by failing to conduct a physical
12 examination of J.J.

13 *Patient S.P.*

14 72. On March 10, 2003, patient S.P., at the time a 41-year old female, began seeing
15 Dr. Pirie for a consultation of insomnia.

16 73. Dr. Pirie performed a brief physical examination of S.P.

17 74. At that time, Dr. Pirie diagnosed S.P. with insomnia and perimenopausal
18 syndrome. Dr. Pirie sent S.P. for laboratory studies.

19 75. On March 27, 2003, Dr. Pirie saw S.P. again. S.P.'s laboratory results revealed
20 slightly elevated cholesterol, normal DHEA, normal testosterone, normal FSH, low
21 C-reactive protein, normal insulin light growth, normal TSH and free T3.

22 76. Dr. Pirie diagnosed S.P. with insomnia and adult growth hormone deficiency
23 syndrome. She advised S.P. to take pro-HGH or HGH-3x.

24 77. At a subsequent visit in June of 2006, S.P. was placed on bioidentical hormones.

25 78. S.P.'s medical records are unclear as to when S.P. was prescribed Estrase and
26 DHEA.

- 1 79. In September of 2006, Dr. Pirie saw S.P. for anti-aging and cosmetic surgery,
2 including CO² facial laser treatment, a TCA peel of 30% to her neck, and Botox
3 injections.
- 4 80. Dr. Pirie started S.P. on HGH for re-epithelialization.
- 5 81. The use of HGH for healing is not an approved use.
- 6 82. Dr. Pirie diagnosed S.P. with adrenal insufficiency, anemia, fatigue, hormone
7 imbalance, hyperlipidemia, hypothyroidism, and multiple nutritional deficiencies.
- 8 83. Dr. Pirie deviated from the standard of care in that her diagnoses and treatments of
9 S.P. for adult growth hormone deficiency and adrenal insufficiency were
10 unsubstantiated.
- 11 84. Dr. Pirie deviated from the standard of care in that her diagnoses of anemia and
12 hypothyroidism for S.P. are unsupported.
- 13 85. Dr. Pirie deviated from the standard of care by prescribing S.P. HGH for re-
14 epithelialization when such use is not scientifically or legally approved.

15 *Patient J.C.*

- 16 86. On November 30 2006, patient J.C., at the time a 41-year old male, began seeing
17 Dr. Pirie for HGH and testosterone. J.C. had been using AndroGel.
- 18 87. J.C.'s medical records indicate that he had run four marathons in the past year and
19 was interested in competing in the Iron Man competition.
- 20 88. J.C.'s laboratory results revealed normal CBC, lipid profile, glucose, BUN and
21 creatine, electrolytes, liver enzymes, TSH, thyroid studies, PSA, and DHEA. J.C.'s
22 testosterone, dihydroxytestosterone and IGF-1 were elevated.
- 23 89. J.C.'s medical records do not indicate that Dr. Pirie performed a physical
24 examination of J.C. Dr. Pirie testified that a physical had been performed, but that
25 the documentation was later found in a "To Be Filed" file in her office.
- 26

- 1 90. Dr. Pirie diagnosed J.C. with adult growth hormone deficiency, adrenal
2 insufficiency, benign prostatic hypertrophy, drug maintenance therapy, hepatic
3 dysfunction, hormonal imbalance, hyperlipidemia, hypothyroidism, multiple
4 nutritional deficiencies, testicular hypofunction and urinary tract infection.
- 5 91. Dr. Pirie deviated from the standard of care in that her diagnoses and treatment of
6 J.C. for adult growth hormone deficiency and adrenal insufficiency were
7 unsubstantiated.
- 8 92. Dr. Pirie deviated from the standard of care in that J.C.'s medical records do not
9 support a diagnosis of benign prostatic hypertrophy.
- 10 93. Dr. Pirie deviated from the standard of care in that J.C.'s records do not indicate a
11 change in his liver enzymes to support a diagnosis of hepatic dysfunction.
- 12 94. Dr. Pirie deviated from the standard of care in that J.C.'s records do not indicate
13 that he had hyperlipidemia or hypothyroidism.
- 14 95. Dr. Pirie deviated from the standard of care in that J.C. did not present symptoms,
15 nor was there laboratory work conducted, to support a diagnosis of a urinary tract
16 infection.
- 17 96. Dr. Pirie deviated from the standard of care in that she continued to have J.C. on
18 testosterone therapy even though his testosterone levels were elevated.
- 19 97. Dr. Pirie deviated from the standard of care in that she did not properly assess
20 whether J.C.'s history indicated that he was seeking hormones to enhance his
21 athletic performance.

CONCLUSIONS OF LAW

- 23 1. The Board has jurisdiction over Dr. Pirie and the subject matter of these
24 complaints.
25
26

1 2. Pursuant to A.R.S. § 41-1092.07(G) (2) and A.A.C. R2-19-119(B), the Board has
2 the burden of proof in this matter. The standard of proof is preponderance of the
3 evidence. A.A.C. R2-19-119(A).

4 3. Dr. Pirie committed unprofessional conduct in violation of A.R.S. § 32-1854(2),
5 which prohibits the following: "Committing a felony, whether or not involving
6 moral turpitude, or a misdemeanor involving moral turpitude. In either case
7 conviction by any court of competent jurisdiction is conclusive evidence of the
8 commission." The evidence of record supports this conclusion. A matter in strong
9 aggravation is that Dr. Pirie's felony conviction pertained to her practice of
10 osteopathic medicine.

11 4. Dr. Pirie committed unprofessional conduct in violation of A.R.S. § 32-1854(5),
12 which prohibits the following: "Prescribing, dispensing or administering controlled
13 substances or prescription only drugs for other than accepted therapeutic
14 purposes." The evidence of record supports this conclusion.

15 5. Dr. Pirie committed unprofessional conduct in violation of A.R.S. § 32-1854(6),
16 which prohibits the following: "Engaging in the practice of medicine in a manner
17 that harms or may harm a patient or that the board determines falls below the
18 community standard." The evidence of record supports this conclusion.

19 6. Dr. Pirie committed unprofessional conduct in violation of A.R.S. § 32-1854(21)
20 (a), which prohibits the following:

21 Failing or refusing to establish and maintain adequate records on a
22 patient as follows:

23 (a) If the patient is an adult, for at least seven years after the last date the
24 licensee provided the patient with medical or health care services.

25
26 The evidence of record supports this conclusion.

- 1 7. Dr. Pirie committed unprofessional conduct in violation of A.R.S. § 32-1854(38),
2 which prohibits the following: “Any conduct or practice that endangers a patient’s
3 or the public’s health or may reasonably be expected to do so.” The evidence of
4 record supports this conclusion.
- 5 8. Dr. Pirie committed unprofessional conduct in violation of A.R.S. § 32-1854(44),
6 which prohibits the following: “Conduct that the board determines constitutes
7 gross negligence, repeated negligence or negligence that results in harm or death
8 of a patient.” Dr. Pirie’s conduct constituted repeated negligence as described in
9 the above-provided Findings of Fact.
- 10 9. Pursuant to A.R.S. 32-1855(I), the Board has the authority to impose discipline
11 upon Dr. Pirie’s license for the above-described violations.

12 **ORDER**

13 Based on the foregoing Findings of Fact and Conclusions of Law,

14 IT IS HEREBY ORDERED:

- 15 1. Respondent’s license, License No. 1878 for the practice of osteopathic
16 medicine in the State of Arizona is revoked on the effective date of this Order.
- 17 2. Respondent is assessed the cost of formal hearing. Those costs shall be
18 paid on or about thirty-five (35) days from the date the Board issues an invoice for those
19 costs, unless that deadline is extended by the Board or Executive Director.

20 **NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING**

21 Respondent has the right to request a rehearing or review of this matter pursuant to
22 A.R.S. § 41-1092.09. The motion for rehearing or review must be filed with the Arizona
23 Board of Osteopathic Examiners within thirty (30) days. If Respondent files a motion for
24 review or rehearing, that motion must be based on at least one of the eight grounds for
25 review or rehearing that are allowed under A.A.C. R4-22-106(D). Failure to file a motion
26 for rehearing or review within 30 days has the effect of prohibiting Respondent from

1 seeking judicial review of the Board's decision. Service of this order is effective five (5)
2 days after date of mailing. A.R.S. § 41-1092.09(C). If a motion for rehearing or review
3 is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
4 Respondent.

5
6 ISSUED THIS 24th DAY OF November, 2010.



STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Elaine LeTarte
Elaine LeTarte, Executive Director

11
12 Original filed this 24th day of
November, 2010 with the:

13
14 Arizona Board of Osteopathic Examiners
15 In Medicine and Surgery
16 9535 East Doubletree Ranch Road
17 Scottsdale AZ 85258-5539

18 Copy of the foregoing sent via certified mail,
19 return receipt requested this 24th
20 day of November, 2010 to:

Lynne Pirie
Address of Record

21
22 Pamela J. Eaton, Esq.
23 4158 W. Beryl Avenue
24 Phoenix, Arizona 85051
25 Attorney for Respondent

26 Copies of the foregoing sent via electronic mail
this 24th day of November, 2010 to:

Camila Alarcon, Asst Attorney General

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