

Public

BPMC No. 15-174

STATE OF NEW YORK DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

ROBERT W. SOMMER, M.D.
CO-15-02-0662A

COMMISSIONER'S
SUMMARY
ORDER

TO: Robert W. Sommer, M.D.


The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the State of Arizona, has made a finding substantially equivalent to a finding that the practice of medicine by **ROBERT W. SOMMER, M.D.**, Respondent, New York license number 079609, in that jurisdiction, constitutes an imminent danger to the health of its people, as is more fully set forth in the Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension of License, of the Arizona Medical Board, dated February 2, 2015, attached, hereto, as Appendix "A", and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **ROBERT W. SOMMER, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK IN VIOLATION OF THIS ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY DEFINED BY NEW YORK EDUCATION LAW §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in Arizona.


The hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Referral Proceeding to be provided to the Respondent after the final conclusion of the Arizona proceeding. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

RESPONDENT SHALL NOTIFY THE DIRECTOR OF THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, NEW YORK STATE DEPARTMENT OF HEALTH, RIVERVIEW CENTER, SUITE 355, 150 BROADWAY, ALBANY, NY 12204, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE

FINAL CONCLUSION OF THE PROCEEDING IMMEDIATELY UPON SUCH
CONCLUSION.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR
LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER
SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a.
YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN
THIS MATTER.

DATE: Albany, New York
July 2, 2015


Howard A. Zucker, M.D., J.D.
Commissioner of Health
New York State Department of Health

Inquires should be directed to:

David W. Quist
Associate Attorney
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

Appendix A

BEFORE THE ARIZONA MEDICAL BOARD

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In the Matter of
ROBERT W. SOMMER, M.D.
Holder of License No. 31443
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No: MD-14-1593A
**INTERIM FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
FOR SUMMARY SUSPENSION OF
LICENSE**

INTRODUCTION

The above-captioned matter came on for discussion before the Arizona Medical Board ("Board") at its Summary Action meeting on February 2, 2015. After reviewing relevant information and deliberating, the Board voted to consider proceedings for a summary action against Robert W. Sommer, M.D. ("Respondent"). Having considered the information in the matter and being fully advised, the Board enters the following Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension of License, pending formal hearings or other Board action. A.R.S. § 32-1451(D).

INTERIM FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.
2. Respondent is the holder of License No. 31443 for the practice of allopathic medicine in the State of Arizona.
3. On or about December 4, 2014, the Board received a complaint from a person wishing to remain confidential alleging that Respondent is or may be physically or mentally unable to safely engage in the practice of medicine. Specifically, the complainant alleged that:
 - i. Respondent has been hospitalized with mental and cognitive impairments.
 - ii. Respondent has been found to have neuropsychological deficits.

1 iii. Respondent has recently lost his motor vehicle driver's license privileges
2 following several accidents.

3 iv. Respondent has been prescribing medication to himself and to a person
4 or persons living with him without establishing a medical record or normal
5 doctor-patient relationship.

6 4. Respondent was referred for a health assessment with the Board's Physician
7 Health Program ("PHP"). Respondent cancelled his first appointment for the assessment
8 and failed to present for the second scheduled assessment.

9 5. During a phone conversation with Board staff, Respondent admitted to
10 prescribing medication to a person without documenting that treatment in a medical
11 record.

12 6. The aforementioned information was presented to the investigative staff, the
13 medical consultant and the lead Board member. All reviewed the information and
14 concurred that an Interim Consent Agreement to limit Respondent's practice would be
15 appropriate.

16 7. An Interim Consent Agreement for a Practice Limitation was mailed to
17 Respondent's address of record on January 15, 2015 and a signature was due to the
18 Board by January 23, 2015 at 5:00 p.m. Respondent failed to return the document, and
19 confirmed through a telephone call with Board staff on January 30, 2015 that he would not
20 be willing to sign it.

21 8. Respondent stated during the phone conversation on January 30, 2015 that
22 he experiences problems with his memory.

23 9. Respondent has failed to submit evidence that he is currently fit to practice
24 medicine.

25 **INTERIM CONCLUSIONS OF LAW**

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

1 Respondent, holder of License No. 31443 for the practice of allopathic medicine in the
2 State of Arizona.

3 2. The conduct and circumstances described above constitute unprofessional
4 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be
5 harmful or dangerous to the health of the patient or the public.").

6 3. The conduct and circumstances described above constitute unprofessional
7 conduct pursuant to A.R.S. § 32-1401(27)(dd) ("[f]ailing to furnish information in a timely
8 manner to the board or the board's investigators or representatives if legally requested by
9 the board.").

10 4. Based on the foregoing Interim Findings of Fact and Conclusions of Law, the
11 public health, safety or welfare imperatively requires emergency action. A.R.S. § 32-
12 1451(D).

13 ORDER

14 Based on the foregoing Interim Findings of Fact and Conclusions of Law, set forth
15 above,

16 IT IS HEREBY ORDERED THAT:

17 1. Respondent's license to practice allopathic medicine in the State of Arizona,
18 License No. 31443, is summarily suspended. Respondent is prohibited from practicing
19 medicine in the State of Arizona and is prohibited from prescribing any form of treatment
20 including prescription medications or injections of any kind until receiving permission from
21 the Board to do so.

22 2. The Interim Findings of Fact and Conclusions of Law constitute written notice
23 to Respondent of the charges of unprofessional conduct made by the Board against him.
24 Respondent is entitled to a formal hearing to defend these charges as expeditiously as
25 possible after the issuance of this Order.

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

5 DATED this 2nd day of February, 2015.

6 ARIZONA MEDICAL BOARD

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8 By: 
9 Patricia E. McSorley
Interim Acting Executive Director

10 ORIGINAL of the foregoing filed this
11 2nd day of February, 2015, with:

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

15 Executed copy of the foregoing mailed by Certified
16 Mail this 2nd day of February, 2015, to:

17 Robert W. Sommer, M.D.
18 Address of Record

19 Executed copy of the foregoing mailed this
20 2nd day of February, 2015, to:

21 Carrie H. Smith, Esq.
22 Assistant Attorney General
23 1275 West Washington, CIV/LES
24 Phoenix, AZ 85007
25


Board Staff)