

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. 25A-47404-MDX

3 **David H. Payne, M.D.**

4 **FINDINGS OF FACT,**  
5 **CONCLUSIONS OF LAW AND**  
6 **ORDER**  
7 **(License Revocation)**

8 Holder of License No. 47404  
9 For the Practice of Allopathic Medicine  
10 In the State of Arizona.

11 Respondent.

12 On March 5, 2025, this matter came before the Arizona Medical Board (“Board”) for consideration of the Administrative Law Judge’s (“ALJ”) proposed Findings of Fact, Conclusions of Law and Recommended Order with regarding to David H. Payne, M.D., (“Respondent”).

13 The Board, having considered the ALJ’s Decision and the entire record in this matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

14 **FINDINGS OF FACT**

15 1. The Arizona Medical Board (Board) has the authority for the regulation and control the practice of allopathic medicine in the State of Arizona.

16 2. Respondent David H. Payne, M.D. is the holder of License Number 47404 for the practice of allopathic medicine in Arizona.

17 3. On November 15, 2024, the Board issued a Complaint and Notice of Hearing to Dr. Payne alleging Dr. Payne had engaged in unprofessional conduct pursuant to A.R.S. § 32-1401(27)(a) “[v]iolating any federal or state laws, rules or regulations applicable to the practice of medicine”) and A.R.S. § 32-1401(27)(d) (“[c]ommitting a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission”). Specifically, with regard to A.R.S. § 32-1401(27)(a), the Board alleged that Dr. Payne’s conduct violated A.R.S. § 32-3208(A)

1 “[a] health professional who has been charged with a misdemeanor involving conduct  
2 that may affect patient safety or a felony after receiving or renewing a license or  
3 certificate must notify the health professional's regulatory board in writing within ten  
4 working days after the charge is filed”), as well as 18 U.S.C. §§ 371, 1343, 1346 and  
5 1952.

6 4. Nicole Samaradellis, Manager of Investigations for the Board, provided  
7 foundation for the admission of the Board’s exhibits.

8 5. On June 29, 2018, Dr. Payne submitted a renewal application to the Board  
9 within which he disclosed that he had been indicted on several federal charges.<sup>1</sup>

10 6. On September 12, 2018, the Board notified Respondent that it had  
11 opened an investigation.<sup>2</sup>

12 7. On September 18, 2018, Dr. Payne filed a response to the Board.<sup>3</sup>

13 8. The Board’s investigation revealed that on June 6, 2017, Dr. Payne was  
14 indicted on charges of 18 U.S.C. § 371 (Conspiracy), 18 U.S.C. §§ 1343, 1346 (Wire  
15 Fraud), 18 U.S.C. § 1952(a)(3) (Use of an Interstate Facility in Aid of Racketeering  
16 Enterprise), and 18 U.S.C. § 2 (Aiding and Abetting) in the U.S. District Court, Central  
17 District of California, case SA CR No. 17-53.<sup>4</sup>

18 9. On April 25, 2018, a First Superseding Indictment was issued in the U.S.  
19 District Court, Central District of California, case SA CR No. 17-53(A), indicting Dr.  
20 Payne on charges of 18 U.S.C. § 371 (Conspiracy), 18 U.S.C. §§ 1343, 1346 (Wire  
21 Fraud), 18 U.S.C. § 1952(a)(3) (Use of an Interstate Facility in Aid of Unlawful  
22 Activity), 18 U.S.C. § 2 (Aiding and Abetting), 18 U.S.C. §§ 982(a)(7), 981(a)(1)(C) and  
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25 <sup>1</sup> See Board’s Exhibit 1.

26 <sup>2</sup> See Board’s Exhibit 3.

27 <sup>3</sup> See Board’s Exhibit 4.

<sup>4</sup> See Board’s Exhibit 2.

1 28 U.S.C. § 2461(c) (Criminal Forfeiture) in the U.S. District Court, Central District of  
2 California.<sup>5</sup>

3 10. Regardless of which indictment date is used, Dr. Payne failed to report his  
4 criminal charges to the Board within ten (10) days as required.

5 11. On July 18, 2023, judgment was entered against Dr. Payne on Count 1 -  
6 U.S.C. § 371 (Conspiracy), Count 2 and 3 - 18 U.S.C. § 1343, 1346 (Wire Fraud), and  
7 Count 4 - 18 U.S.C. § 1952(a) (Use of an Interstate Facility; Aiding and Abetting).<sup>6</sup> Dr.  
8 Payne was sentenced to 33 months of imprisonment, three (3) years of probation, and  
9 fined \$20,000.00.<sup>7</sup>

10 12. Dr. Payne's license is currently suspended because it expired on  
11 November 8, 2024.

12 13. Dr. Payne argued that he did not receive proper notice of the hearing  
13 because he is in federal prison and has been moved to various locations while  
14 incarcerated. However, the Board mailed the Complaint and Notice of Hearing to Dr.  
15 Payne's address of record with the Board via U.S. mail and Certified mail as is required  
16 of the Board, and emailed the Complaint and Notice of Hearing to Dr. Payne's email  
17 address of record. At the time of hearing, Dr. Payne was in possession of the  
18 Complaint and Notice of Hearing, as his wife had mailed him a copy of it, and he  
19 participated in the hearing.  
20

21 14. Dr. Payne argued that he has appealed his conviction, and therefore, the  
22 case is "ongoing" and "not resolved."

23 15. Dr. Payne asserted that he was indicted in April 2018, and that he hired  
24 attorneys to represent him and notify the Board of the indictment. Dr. Payne blamed his  
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26 <sup>5</sup> *Id.*

27 <sup>6</sup> *See* Board's Exhibit 5.

<sup>7</sup> *Id.*

1 attorneys for failing to timely notify the Board.

2 16. Dr. Payne testified that “he thought everything was okay” and that he  
3 “made a good faith effort to report.” Dr. Payne testified that he “intended” to inform the  
4 Board after his appeal.

5 **CONCLUSIONS OF LAW**

6 1. The Board has jurisdiction over Dr. Payne and the subject matter in this  
7 case.<sup>8</sup>

8 2. Pursuant to A.R.S. § 41-1092.07(G)(2) and A.A.C. R2-19-119(B), the  
9 Board has the burden of proof in this matter. The standard of proof is by clear and  
10 convincing evidence.<sup>9</sup>

11 3. The legislature created the Board to protect the public. *See* Laws 1992, Ch.  
12 316, § 10.

13 4. Pursuant to A.R.S. § 32-1435(A), “[e]ach active licensee shall promptly  
14 and in writing inform the board of the licensee's current residence address, office address  
15 and telephone number and of each change in residence address, office address or  
16 telephone number that may later occur.” Dr. Payne did not inform the Board of a change  
17 in address and the Board properly sent the Complaint and Notice of Hearing to Dr.  
18 Payne’s address of record with the Board, and Dr. Payne, did in fact, receive the  
19 Complaint and Notice of Hearing.  
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21 5. Pursuant to A.R.S. 32-1401(27)(a) “unprofessional conduct” includes  
22 “[v]iolating any federal or state laws, rules or regulations applicable to the practice of  
23 medicine.” A.R.S. § 32-3208(A) requires that “[a] health professional who has been  
24 charged with a misdemeanor involving conduct that may affect patient safety or a felony  
25 after receiving or renewing a license or certificate must notify the health professional's  
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27 <sup>8</sup> A.R.S. § 32-1403.



1 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B).  
2 The petition for rehearing or review must set forth legally sufficient reasons for granting  
3 a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5)  
4 days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or  
5 review is not filed, the Board's Order becomes effective thirty-five (35) days after it is  
6 mailed to Respondent.

7 Respondent is further notified that the filing of a motion for rehearing or review  
8 is required to preserve any rights of appeal to the Superior Court.

9 **DATED** this 18<sup>th</sup> day of March 2025.

10 THE ARIZONA MEDICAL BOARD

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15 By \_\_\_\_\_  
16 Patricia E. McSorley  
17 Executive Director  
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1 ORIGINAL of the foregoing filed this  
2 18<sup>th</sup> day of March, 2025 with:

3 Arizona Medical Board  
4 1740 W. Adams, Suite 4000  
5 Phoenix, Arizona 85007

6 COPY of the foregoing filed  
7 this 18<sup>th</sup> day of March, 2025 with:

8 Tammy Eigenheer, Interim Director  
9 Office of Administrative Hearings  
10 1740 W. Adams  
11 Phoenix, AZ 85007

12 Executed copy of the foregoing  
13 mailed by U.S. Mail and emailed  
14 this 18<sup>th</sup> day of March, 2025 to:

15 David H. Payne, MD  
16 Address of Record

17 David H. Payne  
18 \*LEGAL MAIL\*  
19 Inmate Number 76493112  
20 Federal Satellite Prison Camp  
21 5880 State Hwy. 67 South  
22 P.O. Box 5000  
23 Florence, CO 81226

24 Elizabeth A. Campbell  
25 Assistant Attorney General  
26 Elizabeth.Campbell@azag.gov

27 

By: \_\_\_\_\_  
Arizona Medical Board