

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition of:)
)
BRUCE ELIOT FISHMAN, M.D.)
13103 Ventura Blvd.) OAH No. L-61422
Studio City, CA 91604)
)
Physician's and Surgeon's)
Certificate No. G49562)
)
Respondent/Petitioner.)
_____)

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on 4-1-94.

IT IS SO ORDERED 3-1-94.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By Theresa J. Claassen

btm

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the matter of the Petition) OAH No. L-61422
of:)
)
BRUCE ELIOT FISHMAN, M.D.)
13103 Ventura Blvd.)
Studio City, CA 91604)
)
Physician's and Surgeon's)
Certificate No. G49562)
)
Respondent/Petitioner.)
_____)

This matter came on regularly for hearing before Carolyn Dee Magnuson, Administrative Law Judge of the Office of Administrative Hearings on October 14, 1993, in Los Angeles, California.

The petitioner, Bruce E. Fishman, appeared personally and was represented by Edward Masry, attorney at law

The Attorney General was represented by Deputy Attorney General Cindy Lopez.

Oral and documentary evidence was received, and the matter was submitted for decision. The Administrative Law Judge makes the following findings of fact:

I

Petitioner was first licensed as a physician in California on February 7, 1983.

II

Effective February 26, 1985, respondent's license was revoked based on respondent's federal conviction of conspiracy to distribute controlled substances.

In August, 1987, respondent's first petition for reinstatement was denied. In June, 1990, respondent was granted a probationary license; probation was to last five years.

As conditions of probation, respondent was required, inter alia, to complete 45 hours of continuing medical education each year of probation, to take and pass oral and written clinical examinations, and to take and pass a course in Medical Ethics. Respondent has taken and passed all required courses and tests.

Further, respondent's practice was to be monitored by another doctor, and respondent was precluded from prescribing controlled substances.

III

On March 26, 1993, petitioner filed the instant petition requesting termination of his probation. At the time of hearing, there were 20 months remaining on respondent's probationary term.

IV

Since his reinstatement, respondent has been private practice, specializing in general medicine with an emphasis on orthopaedics. Because of his license status, respondent has been unable to obtain privileges at any hospital.

V

Respondent has been candid with his patients and colleagues about his criminal background. None-the-less, he appears to enjoy their deepest respect and greatest confidence.

Indeed, respondent seems to be devoted to the interests of the patients he treats. A substantial basis for respondent's desire to have his probation terminated is that he would be better able to care for his patients if he had hospital privileges and could prescribe for them without restriction.

VI

Respondent has been punctilious in more than meeting the terms of his probation. He has completed nearly 350 hours of continuing education, 75 of which are in the area of drugs, when he was required to take only 90. He has cooperated fully with the Board. He has made the required reports and appearances.

VII

Respondent's attitude toward drugs has radically changed over the years. Respondent has children of his own, and his present opinions reflect the changes in his life and responsibilities.

IX

Of particular significance, is the whole hearted support of respondent's petition by the doctor who has been monitoring respondent's practice for more than three years. One can repose great reliance in that opinion, since it is based on an ongoing and in depth review of respondent's professional competence and character.

X

As a very young man, respondent engaged in a criminal activity. He has served his prison sentence and completed parole. He has successfully returned to medical practice and has complied with all of the terms of his probation.

Respondent has worked so hard to rebuild his professional life, and his profession is so important to him, that it is highly improbable that he would ever again engage in any activity, including criminal conduct, which would jeopardize that profession.

XI

Respondent has demonstrated that he has the professional and ethical qualifications required of a departmental licensee and that he is capable of practicing medicine without special restriction.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Petitioner has made a satisfactory showing that it would not be contrary to the public interest to reinstate petitioner's certificate.

///
///
///
///
///
///
///

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The petition of Bruce E. Fishman for termination of probation is granted. The revocation of his certificate is set aside, and the certificate is reinstated without restriction.

Date: January 10, 1994



CAROLYN DEE MAGNUSON
Administrative Law Judge
Office of Administrative Hearings