

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for)	
Termination of Probation of:)	
)	Case No. 8002014009095
)	
KHRISTINE ELAINE EROSHEVICH, M.D.))	OAH No. 2015090270
)	
Physician's and Surgeon's)	
Certificate No. C37980)	
)	
Respondent)	
_____)	

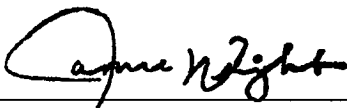
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 6, 2016.

IT IS SO ORDERED April 7, 2016.

MEDICAL BOARD OF CALIFORNIA

By: 
Jamie Wright, J.D.
Chair, Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Termination
of Probation of:

KHRISTINE EROSHEVICH, M.D.,

Physician's and Surgeon's Certificate
Number C 37980,

Petitioner.

Case No. 800-2014-009095

OAH No. 2015090270

PROPOSED DECISION

Administrative Law Judge Ralph B. Dash heard this matter on February 24, 2016, at Los Angeles, California.

Bradley W. Brunon, Attorney at Law, represented Kristine Eroshevich, M.D. (Petitioner).

E.A. Jones III, Deputy Attorney General, represented the Attorney General of the State of California pursuant to the provisions of Government Code Section 11522.

Oral and documentary evidence having been received and the matter having been submitted, the Administrative Law Judge makes the following Proposed Decision.

FINDINGS OF FACT

1. The Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number C 37980 to Petitioner on May 8, 1978. The certificate is renewed and current with an expiration date of November 30, 2017.
2. By its Decision effective March 30, 2012, the Board revoked the certificate, stayed the revocation and placed Petitioner on probation for a period of five years on terms and conditions including an actual suspension of 90 days, completion of ethics and prescribing courses, a psychiatric evaluation, and supervision by a practice/billing monitor.
3. The Board discipline was based on two separate and distinct incidents.

a. In 2006 Petitioner signed a Qualified Medical Evaluation: Psychiatry, where she falsely claimed that she personally had taken the patient's history and performed the evaluation. This report was delivered to the State Compensation Insurance Fund. In 2007 Petitioner issued a supplemental report in which she admitted that other healthcare professionals had gathered the patient information and prepared the 2006 report.

b. In 2010, Petitioner was convicted after a jury trial, of one felony count of having obtained a controlled substance (hydrocodone) by fraud, deceit, misrepresentation or concealment of a material fact. This conviction was based on Petitioner's having prescribed hydrocodone in 2006 using a false patient name but providing her husband's birthdate to the pharmacy filling the prescription. In January 2011, the court reduced the felony count to a misdemeanor and placed Petitioner on probation for one year on condition that she pay a fine of \$170.

4. For almost four years Petitioner has scrupulously complied with all probationary terms. She completed the ethics and prescribing courses. She has worked closely with her practice monitor who found fault only with her handwriting. Petitioner offered to have her charts typed but her probation monitor declined on the basis that it might constitute the alteration of a medical record. The practice monitor ultimately conceded that he could read Respondent's handwriting.

5. The Board's probation has served Petitioner well. She has reduced her patient caseload so that she no longer feels "overwhelmed." She is able to do all of her work herself and has no need, nor desire, to "farm out" her work to others. She is meticulous in obtaining all relevant patient information before writing any prescriptions, "especially for tranquilizers." She makes use of the Attorney General's CURES system to help her weed out "doctor shoppers." Respondent stated that she "will not bend the rules for anyone anymore."

6. In support of the Petition, Petitioner submitted a letter from Shahab Mahboudian, D.O. Dr. Mahboudian is an orthopedic surgeon who, in addition to his general orthopedic surgical practice serves as a Primary Treating Physician in the Worker's Compensation field. Dr. Mahboudian wrote, in part:

I have referred to Dr. Eroshevich my patients that have suffered emotional problems because of their orthopedic injuries or because they revealed they have experienced stress on the job. She evaluates and treats patients and sends me reports of her findings for my review in a very satisfactory and coherent manner. In addition, I have asked patients about their experience with Dr. Eroshevich in the treatment setting and they confirm to me that she has been respectful to them in resolving their psychological problems.

I also am aware that Dr. Eroshevich has been on probation because her case was publicized. I observed that this was a hardship for her and understandably

involved shame and embarrassment and she had to overcome these obstacles in the process of rehabilitating herself. Because I have worked with her and observed her, I can attest to the fact that she has a good and professional disposition. We have met in person at the clinic to talk about our cases. She is well regarded by her colleagues and office staff alike. She has made great strides to continue to conduct herself professionally.

I feel confident that based upon my personal experience in working with Dr. Eroshevich these past four years, and being familiar with her problems, that I can recommend that the Medical Board consider her rehabilitated and can in good conscience terminate her probation early.

7. Dr. Sylvia de la Llana wrote the following on Petitioner's behalf:

Dr. Eroshevich is a physician that I feel has conducted herself professionally since her infractions. I have referred patients to her on a consistent basis for the last four years. This has given me the opportunity to observe her rehabilitation process.

I am both a general practice physician and a physical medicine and rehabilitation specialist with 31 years experience. In my capacity as Primary Treating Physician in the workers compensation area of practice I am responsible for the control of patient care and it is my responsibility to make referrals to specialists, where indicated. I refer a great majority of my patients for psychiatric evaluation and treatment to Dr. Eroshevich and continue to do so today. I have received good feedback from the patients regarding their experience with Dr. Eroshevich in her psychotherapy with them.

In addition to what my patients told me, I also meet with Dr. Eroshevich to discuss workers compensation cases as well as the current changes in the legal system. I personally have observed her demeanor with patients, colleagues, and staff alike. I feel she is knowledgeable, ethical, and sympathetic to her patients and she performs qualified work.

For these reasons, I think I am in a good position to recommend that Dr. Eroshevich be relieved of her probation. She has demonstrated that she has rehabilitated herself by her consistent good work and her professional growth.

8. Respondent spends approximately \$16,000 per year on probation and practice monitor costs. At a certain point, probation may become detrimental to any physician's self-esteem and financial well-being. If a doctor has "learned her lessons," probation is no longer needed. Based on all of the evidence adduced at the hearing, it is found that the chance of any recidivism by Petitioner is very low. The public interest would not be put at risk by terminating her probation one year before it is due to expire by its own terms.

CONCLUSIONS OF LAW

Statutory Authority

1. Business and Professions Code section 2307 provides, in part:
 - (a) A person whose certificate has been surrendered while under investigation or while charges are pending or whose certificate has been revoked or suspended or placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation.
 - (b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective date of the surrender of the certificate or the decision ordering that disciplinary action:
 - (1) At least three years for reinstatement of a license surrendered or revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.
 - (2) At least two years for early termination of probation of three years or more.
 - (3) At least one year for modification of a condition, or reinstatement of a license surrendered or revoked for mental or physical illness, or termination of probation of less than three years.
 - (c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.
 - (d) The petition may be heard by a panel of the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board or the California Board of Podiatric Medicine, as applicable, which shall be acted upon in accordance with Section 2335.

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(e) The panel of the board or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative law judge designated in Section 11371 of the Government Code finds necessary.

(f) The administrative law judge designated in Section 11371 of the Government Code reinstating a certificate or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

Regulatory Authority

2. California Code of Regulations, title 16, section 1360.2 provides in part:

When considering a petition for reinstatement of a license, certificate or permit holder pursuant to the provisions of Section 11522 of the Government Code, the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsections (a) or (b).

(d) In the case of a suspension or revocation based upon the conviction of a crime, the criteria set forth in Section 1360.1, subsections (b), (d) and (e).

(e) Evidence, if any, of rehabilitation submitted by the applicant.

The Burden and Standard of Proof

3. In a proceeding to restore a disciplined professional license or a petition for penalty relief, the burden rests on the petitioner to prove that she has rehabilitated herself and that she is entitled to have her license restored or be relieved from further requirements of probation. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.)

4. A person seeking reinstatement or penalty relief must present strong proof of rehabilitation and a sufficient showing of rehabilitation to overcome the Board's former adverse determination. (See *Hippard v. State Bar of California* (1989) 49 Cal.3d 1084, 1092-1093.)

5. The standard of proof is clear and convincing evidence. (*Hippard v. State Bar of California*, *supra*, 49 Cal.3d at p. 1092.)

Relevant Factors in Determining Rehabilitation

6. Petitioner has no other disciplinary record, which is a mitigating factor. (*Segretti v. State Bar of California* (1976) 15 Cal.3d 878, 888.)

7. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Petitioner has complied with all terms of her probation.

Cause Exists to Grant the Petition and Terminate Probation

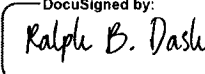
8. Petitioner's medical competence over the past four years has not been questioned and she has demonstrated herself to be a competent, well-liked physician. Respect within the medical community evidences that she is well along in the process of rehabilitation. (See *In re Dedman* (1976) 17 Cal.3d 229, 234.)

9. Cause exists under Business and Professions Code section 2307 and under California Code of Regulations, title 16, section 1360.2, to grant Petitioner's petition and to terminate the license probation that was imposed by the Board.

ORDER

The petition of Khristine Elaine Eroshevich, M.D. for termination of probation is granted. Physician's and Surgeon's Certificate Number C 37980 is fully restored.

Date: March 17, 2016

DocuSigned by:

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RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings