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

In the Matter of the Petition for Penalty)
Relief of:)
)
)
MAHLON D. CANNON)
)
Physician's and Surgeon's)
Certificate No. C-36460)
)
Respondent.)
_____)

File No. 20-1999-103645

OAH No. N-2000080467

DECISION

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

This Decision shall become effective at 5:00 p.m. on November 16, 2000.

IT IS SO ORDERED October 17, 2000.

MEDICAL BOARD OF CALIFORNIA

By: _____
Ira Lubell, M.D., Chair
Panel A
Division of Medical Quality

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

In the Matter of the Petition for Penalty
Relief of:

MAHLON D. CANNON
7125-K Ellerson Mill Road
Mechanicsville, VA 23111

Physician and Surgeon's Certificate
No. C-36460,

Petitioner.

File No. 20-1999-103645

OAH No. N-2000080467

PROPOSED DECISION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Medical Quality Hearing Panel, Office of Administrative Hearings, in Sacramento, California, on September 20, 2000.

Petitioner Mahlon D. Cannon appeared and was represented by Douglas B. Schwab, Esq.

The Attorney General of the State of California was represented by Stephen Boreman, Deputy Attorney General, Health Quality Enforcement Section, Department of Justice, State of California.

Evidence was received and the matter deemed submitted on September 20, 2000.

FACTUAL FINDINGS

1. On April 30, 1975, the Medical Board of California ("the Board") issued Physician and Surgeon's Certificate No. C-36460 to Petitioner Mahlon Douglas Cannon ("Petitioner").

2. On June 10, 1991, in *In the Matter of the Accusation Against: Mahlon Douglas Cannon, M.D.*, Case No. D-4228 (OAH No. L-50192), the Board revoked Petitioner's certificate and his supervision of physician assistants, effective July 10, 1991.

3. The facts and circumstances underlying Petitioner's discipline are that between 1986 and 1988, Petitioner, while engaged in activities requiring a physician and surgeon's certificate, engaged in multiple acts of unprofessional conduct involving gross negligence, repeated acts of negligence, and incompetence in the rendering of care to multiple patients.

4. Following the revocation of his certificate, Petitioner relocated to the Commonwealth of Virginia where, duly licensed, he commenced to practice medicine.

5. On August 26, 1992, Petitioner was noticed for a formal hearing before the Virginia Board of Medicine as a result of the discipline effected by the Medical Board of California as referenced in Finding 2. On September 16, 1992, Petitioner's hearing in the Commonwealth of Virginia was continued pending appeal of the revocation of his California license. On May 26, 1993, the Superior Court of California, County of Sacramento, affirmed the Board's revocation of Petitioner's certificate. He appealed further and, on February 21, 1996, the Third District Court of Appeal, State of California, affirmed the action of the Superior Court of California and the revocation of Petitioner's certificate by the Board.

6. On June 24, 1996, the Virginia Board of Medicine, having continued the proceeding pending his appeals in California as referenced in Finding 5, disciplined Petitioner's certificate and ordered, inter alia, that he take and successfully pass the Special Purpose Examination ("SPEX") offered by the Federation of State Medical Boards within one year.

- A. On March 23, 1997, Petitioner took the SPEX and, earning a score of 65, failed to achieve a passing score of 75.
- B. On November 24, 1997, Petitioner took the SPEX and, earning a score of 68, failed to achieve a passing score of 75.¹
- C. On July 30, 1998, Petitioner took the SPEX and, earning a score of 70, failed to achieve a passing score of 75.
- D. On June 16, 1999, Petitioner took the SPEX and failed to achieve a passing score of 75.

¹ Mindful of Petitioner's efforts to comply with its order, on January 26, 1998, the Virginia Board of Medicine extended the period for him to pass the SPEX.

7. Having failed to properly pass the SPEX, on August 18, 1999, Petitioner's certificate to practice medicine in the Commonwealth of Virginia was summarily suspended, pending hearing, by the Virginia Board of Medicine.

8. On September 30, 1999, Petitioner's certificate to practice medicine was ordered suspended by the Virginia Board of Medicine for not less than one year at which time Petitioner would be required to present evidence that he is capable of resuming the practice of medicine in a safe and competent manner.

9. On October 28, 1999, Petitioner filed his petition for penalty relief with the Medical Board of California seeking reinstatement of his revoked certificate.

10. Petitioner, since his departure from the State of California and until the summary suspension of his Virginia certificate to practice medicine, has been actively engaged in the practice of medicine. He has not engaged in any hospital practice since 1991. Admittedly trained in obstetrics and gynecology, Petitioner worked for the Virginia Department of Health, Three Rivers Health District, where he engaged in general medical practice and treated, without supervision, adults and children of both genders. He also provided supervision of a nurse practitioner and students and residents from the Medical College of Virginia, and worked part-time and as an independent contractor at three Richmond, Virginia women's clinics.

11. Petitioner, presently employed as a security officer, seeks re-licensure in California to both engage in the practice of medicine and relocate near his family.

12. Despite significant hours spent in continuing medical education and clinical experience derived from his practice in Virginia, Petitioner's self-proclaimed rehabilitation and capacity to practice medicine is belied by his failure to pass the SPEX. While Petitioner submits that the passing score in the Commonwealth of Virginia is arbitrarily high and that his score of 70 should function to establish his competency, it is not competently or credibly established that the State of California is obligated to impose a standard less rigid or less focused on public safety than Virginia's. What emerges is a physician who, revoked from the practice of medicine for incompetence, gross negligence, and repeated acts of negligence, is unable to establish current competency to practice medicine or surgery.

13. Petitioner is not fully rehabilitated.

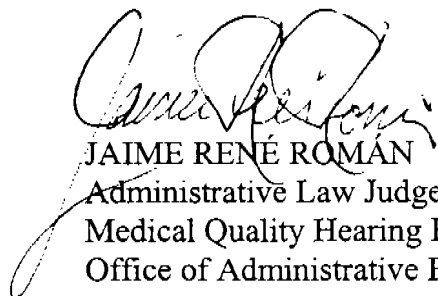
LEGAL CONCLUSIONS

Cause does not exist to grant the petition of Petitioner pursuant to Business and Professions Code Sections 2228, 2229 and 2307 and as set forth in Findings 2 – 13.

ORDER

The Petition for Penalty Relief of Petitioner Mahlon Douglas Cannon, Physician and Surgeon's Certificate No. C-36460, for reinstatement of revoked certificate is denied.

Dated: September 26, 2000



JAIME RENÉ ROMÁN
Administrative Law Judge
Medical Quality Hearing Panel
Office of Administrative Hearings