

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

**In the Matter of the Petition for)
Penalty Relief of:)
)
)
NHAT CONG VO, M.D.)
)
Physician's and Surgeon's)
Certificate No. A 60568)
)
Respondent)
_____)**

Case No. 800-2016-023370


DECISION AND ORDER

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 June 23, 2017.

IT IS SO ORDERED May 26, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 
**Michelle Anne Bholat, M.D., Chair
Panel B**

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Petition for Penalty
Relief of:

NHAT CONG VO,

Physician's and Surgeon's
Certificate Number A60568,

Petitioner.

Case No. 800-2016-023370

OAH Case No. 2017010230

PROPOSED DECISION

This matter came on regularly for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on April 6, 2017.

Nhat Cong Vo (Petitioner) represented himself.

Nicholas B.C. Shultz, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Petitioner filed a Petition for Penalty Relief (Petition) seeking early termination of probation. Oral and documentary evidence was received at the hearing, and the matter was submitted for decision on April 6, 2017.

FACTUAL FINDINGS

1. The Petition was filed on June 6, 2016.
2. Petitioner obtained his medical degree in 1994 from the University of Minnesota Medical School, in Minneapolis, Minnesota. On July 1998, Petitioner completed a combined Internal Medicine and Pediatrics residency at the Los Angeles County/University of Southern California Medical Center (LAC/USC). He has been engaged in the practice of family medicine in Southern California for 19 years, the last 16 in the Moorpark area.

3. On July 10, 1996, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number A 60568 to Respondent, which certificate expires on July 31, 2018, unless renewed.

4. On January 23, 2014, Petitioner entered into a Stipulated Settlement and Disciplinary Order (Disciplinary Order), which became effective April 16, 2014, upon adoption by the Board. Under the terms of the Disciplinary Order, Respondent's medical certificate was revoked, which revocation was stayed for five years, subject to terms and conditions. Petitioner did not contest that at an administrative hearing complainant in a then-pending accusation could establish a prima facie case for discipline or that the allegations would constitute grounds for discipline. The accusation alleged that Petitioner possessed a controlled substance, methamphetamine, on October 13, 2010.

5. In addition to standard terms and conditions, the Disciplinary Order requires Petitioner to maintain records of all controlled substances ordered, prescribed, dispensed or administered, to abstain from using controlled substances and dangerous drugs unless lawfully prescribed by another physician, to submit to biological fluid testing, to provide 100 hours of free services to a community or non-profit organization, to complete an ethics course, and to undergo a psychiatric evaluation and adhere to any recommended treatment or practice restrictions.

6. The circumstances underlying Petitioner's possession of methamphetamine are as follows. Petitioner met someone in a dating website and the date came to Petitioner's home on October 13, 2010. Respondent and his date met someone else online, who invited them to "party" at his home. The third person asked the other two to bring drugs. Respondent's date procured a quantity of methamphetamine and the two went to the third person's home. Respondent and his date were arrested on the way to the party.

7. Petitioner expressed remorse for his actions on October 13, 2010. It was a vulnerable time for him, as a six-year relationship had just ended. Respondent acknowledges he exercised poor judgment. He was humiliated and embarrassed by his actions, and is determined not to repeat them. He has increased his dedication to his practice and his patients.

8. Petitioner does not use methamphetamines or other controlled substances, except as lawfully prescribed, and the October 13, 2010 possession incident was an isolated one. He has undergone biological fluid testing, on an average of four to six times per month, and all tests have been negative for controlled substances.

9. Respondent has complied with all terms and conditions of probation. He maintains the required controlled substances log. On June 28, 2014, he completed the two-day Medical Ethics and Professionalism course offered by the University of California, Irvine School of Medicine. He underwent the psychiatric evaluation on July 31, 2014, and there were

no recommended treatment or practice restrictions.

10. Respondent performed his community service obligation at the San Fernando Valley LGBT Community Center, where he continued to serve in leadership positions after discharging his community service obligation. He is also on the Board of Directors of the Moorpark Boys and Girls Club. He also provides free physical examinations to students in the local high school.

11. Respondent benefitted greatly from his participation in the Medical Ethics and Professionalism course, and had completed an additional 31.5 hours of continuing education courses as of the time the Petition was filed. He also regularly reads four to five medical journals per month.

12. James McHie III (McHie) testified at the hearing. He attended high school and college with Respondent and they have remained in contact. McHie testified that Respondent has emerged a stronger, better person after the incident. Respondent is able to relate better with others. Respondent is humble and enjoys a great reputation in the community.

13. Pazrica Cho, M.D. (Cho) and Fadel Abdulhai, M.D. (Abdulhai) submitted letters in support of the Petition. Dr. Cho has known Respondent since they were both in the LAC/USC residency program and Respondent works part-time in Dr. Cho's practice. Dr. Cho has seen Respondent practice medicine and attests to his skill and professionalism and good reputation in the community.

14. Respondent was Dr. Abdulhai's preceptor in 2007-2008 during his medical school residency. After completion of his training, Dr. Abdulhai worked with Respondent from August 2012 until August 2015. Dr. Abdulhai continues to work in Moorpark and has remained in contact with Respondent. Dr. Abdulhai is familiar with Respondent's increased focus on his practice since his arrest. In Dr. Abdulhai's opinion, Respondent is an excellent and caring physician who also serves his community.

15. By reason of the foregoing, Petitioner has established his rehabilitation, and continued probation is no longer necessary for the protection of the public.

LEGAL CONCLUSION

1. For purposes of a petition for reinstatement, Petitioner must present evidence of rehabilitation that is clear and convincing to a reasonable certainty, to the satisfaction of the Board that he is entitled to reinstatement. (*Housman v. Board of Med. Exam'rs* (1948) 84 Cal.App.2d 308; *Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1092.) The level of evidence necessary to establish rehabilitation has been described alternatively as compelling or

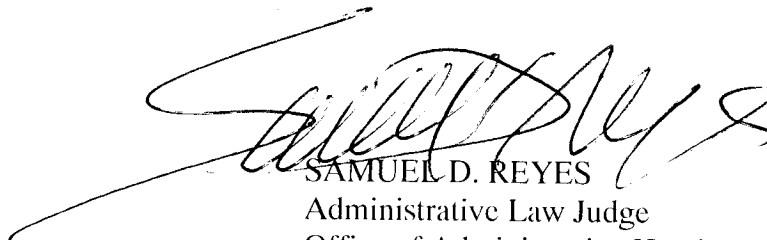
overwhelming. (*In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309, 315; *Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.). Petitioner has met his burden.

2. Cause exists pursuant to Business and Professions Code section 2307 and California Code of Regulations, title 16, section 1360.2, to terminate probation and to fully reinstate Petitioner's certificate, by reason of factual finding numbers 1 through 15.

ORDER

Petitioner Nhat Cong Vo's probation is terminated and Physician's and Surgeon's Certificate No. A60568 is fully restored.

DATED: 4/28/17


SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings