

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

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

PHILLIP M. MILGRAM, M.D.)

Case No. 20-2003-152828

Physician's and Surgeon's)
Certificate No. A-35411)

OAH No. L2007120576

Petitioner.)
_____)

DECISION

The Proposed Decision of James Ahler, Administrative Law Judge, dated March 4, 2008 is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(C), to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follow:

1. Case No. 10-1995-50617 on page 1, is stricken and replaced with Case No. 20-2003-152828

The Proposed Decision as amended is hereby accepted and 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 30, 2008.

IT IS SO ORDERED April 30, 2008.

MEDICAL BOARD OF CALIFORNIA

By: _____

Barbara Yaroslavsky, Chair
Panel B

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

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

PHILLIP M. MILGRAM, M.D.,

Physician and Surgeon's Certificate No. A 35411

Petitioner.

Case No. 10-1995-50617

OAH No. L2007120576

PROPOSED DECISION

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this petition on February 19, 2008, in San Diego, California.

Petitioner Milgram, M.D. represented himself and was present throughout the proceeding.

Michael Cochrane, Deputy Attorney General, Office of the Attorney General, State of California, represented the Attorney General, State of California.

The matter was submitted on February 19, 2008.

FACTUAL FINDINGS

Certificate History

1. On June 23, 1980, the Medical Board of California (the Board), Department of Consumer Affairs, State of California, issued Physician's and Surgeon's Certificate No. A 35411 to Phillip M. Milgram, M.D. (Dr. Milgram).

The Surrender of the Certificate

2. On September 17, 1998, the Accusation in Case No. 10-1995-50617 (the accusation) was signed on behalf of complainant Ron Joseph, (then) the Board's Executive

Officer. The accusation charged Dr. Milgram with gross negligence (first cause for discipline), repeated negligent acts (second cause for discipline), incompetence (third cause for discipline), failure to maintain adequate medical records (fourth cause for discipline), and excessive treatment (fifth cause for discipline). These allegations arose out of Dr. Milgram's treatment of three patients from December 1992 through December 1993. The accusation and other required jurisdictional documents were served on Dr. Milgram, who timely filed a notice of defense.

On April 8, 1999, complainant signed a First Supplemental Accusation (the first supplemental accusation), which alleged that on an unspecified occasion, Dr. Milgram prescribed Xanax and Prozac to his girlfriend, patient AY, without a good faith examination and medical indication to support the prescription (sixth cause for discipline), that patient AY was an addict, and that Dr. Milgram was guilty of prescribing to an addict (seventh cause for discipline), and that Dr. Milgram himself used drugs and/or alcohol in a manner injurious to himself (eighth cause for discipline), and that he had practiced medicine while he was intoxicated (ninth cause for discipline).

The first supplemental accusation and other required jurisdictional documents were served on Dr. Milgram. New allegations were deemed controverted.

On October 14, 1999, Dr. Milgram and his attorney signed a Stipulation for Surrender of License (stipulation). In that stipulation, Dr. Milgram represented that he had relocated his practice to Nevada, where he had been actively practicing for more than two years, and that he had no intention of returning to California to resume his medical practice. Dr. Milgram stipulated that for purposes of resolving the accusation and the first supplemental accusation, he would surrender his certificate. Dr. Milgram specifically stipulated that while he continued to deny the charges, he agreed that "if he ever petitions the Division for relicensure or reinstatement of his license, the Division may, in its discretion, consider the charges true for determining whether to reinstate respondent's license to practice medicine in the state of California."

On November 15, 1999, the Board adopted the Stipulation for Surrender of License, which became effective on November 22, 1999. Dr. Milgram surrendered his certificate.

Petition for Reinstatement

3. On November 20, 2003, the Board received Dr. Milgram's Petition for Reinstatement of Surrendered Certificate. The matter was referred to Administrative Law Judge Greer D. Knopf (ALJ Knopf), Office of Administrative Hearings, State of California, for a hearing on the petition, which was conducted on June 22, 2004. Dr. Milgram was represented by counsel at that hearing and he presented documentary evidence and sworn testimony. Following the conclusion of the hearing, ALJ Knopf issued a Proposed Decision recommending that Dr. Milgram's certificate be reinstated on a probationary basis. In her Proposed Decision, ALJ Knopf found, among other matters:

"3. Petitioner was first licensed to practice medicine in 1980. Over the next several years, petitioner developed a thriving and successful practice as an OB/GYN specialist. Sometime in the late 1980's, petitioner began abusing drugs and alcohol as a method of coping with the pressure and stress of his demanding professional and private life. Petitioner was abusing the narcotic Demoral [sic]. In 1988, petitioner voluntarily entered the California Medical Board's Diversion Program for Physicians (hereinafter referred to as 'Diversion') in order to address his drug and alcohol abuse. He completed Diversion in 1992. Thereafter, petitioner continued his practice in California until 1996 when he moved to Nevada.

4. At some point after completion of Diversion, petitioner relapsed and resumed his drug and alcohol abuse. He continued to practice medicine in Nevada until the accusations were filed in California. At that time, petitioner's plans for a new medical office in Nevada fell apart and he became very depressed. On September 28, 1999, petitioner attempted suicide with a drug overdose. On October 1, 1999, petitioner checked into the Talbott Recovery Campus (hereinafter referred to as 'Talbott'), a drug abuse treatment center specializing in treatment of professionals, in Atlanta, Georgia. Petitioner remained at Talbott for 14 weeks. After his money ran out and he could no longer pay for his stay at Talbott, petitioner transferred to St. Jude's Recovery Home in Atlanta for further treatment. After nine months in treatment in Atlanta, petitioner was released from St. Jude's and he returned to San Diego.

Upon his return to San Diego, petitioner immediately contacted Duane Rogers, Marriage and Family Therapist who had previously worked with petitioner in Diversion. Petitioner worked out a continued recovery program under the care of Mr. Rogers and Dr. John Milner, M.D., a psychiatrist specializing in addiction recovery.

Petitioner enrolled in the Recovering Professionals Group in San Diego (hereinafter referred to as 'the Professionals Group') that is a recovery program for professionals such as physicians who are not otherwise eligible to participate in Diversion. Over the last four years, petitioner has continued a rigorous recovery routine that has included weekly visits with Dr. Milner, weekly sessions with the Professionals Group, random drug testing, and four to five 12-step meetings a week.

Petitioner has worked through all of the 12 steps, continues to do so, and maintains regular contact with his sponsor. Petitioner also volunteers at Volunteers of America helping to counsel other alcoholics and drug addicts who cannot afford treatment. Petitioner helps others by relating his own story to drug and alcohol abusers and giving them hope by his example of continuing recovery.

5. Petitioner's second effort at rehabilitation from drug and alcohol abuse during the last four years has been a successful one. He now realizes he made many mistakes in his life and he has been willing to completely change his ways in order to maintain his recovery. He also realizes he made mistakes during his first effort at recovery in the 1990's and seems to understand why that first effort failed.

Petitioner has impressed this administrative court with his insight into his problems and his determination to do whatever it takes to maintain a sober and healthy lifestyle. Petitioner has taken many jobs since returning to San Diego in order to be a productive citizen and support his family. He has shown a willingness to take even menial jobs that he would have considered beneath him when he was practicing medicine and living his old life. Petitioner worked for a time as a grounds keeper at a country club he once belonged to as a member. He has most recently worked as a secretary in a medical office, doing telephone work for Comprehensive Pharmacy Services, and as an insurance salesman. He holds a valid license with the Department

of Insurance. He also works part-time as a self-employed alcohol and drug counselor and he is pursuing a masters' degree in nutrition. He wants to obtain additional training in preventative medicine and addiction medicine if his medical license is reinstated. Over the last four years, petitioner has completed numerous continuing education courses in the field of medicine with an emphasis on substance abuse studies. He is now happily married to his third wife who has stayed by his side through the loss of his career as a physician and through his drug and alcohol abuse recovery. He has a well-established support system to help him maintain his sobriety.

This time petitioner's recovery is different because he has given up trying to be perfect and he has embraced a much more humble approach to his life. He recognizes his mistakes and accepts his own culpability for his actions. He demonstrates sincere remorse for all his wrongdoing and for the harm he has caused others with his previous destructive lifestyle. Petitioner now deserves a second chance. He has demonstrated he no longer poses a threat to public safety. It would not be against the public interest if he is allowed to resume practicing medicine subject to strict terms and conditions of probation."

ALJ Knopf recommended the issuance of a seven-year probationary license on terms and conditions of probation including: A total restriction from ordering, prescribing, dispensing, administering, or possessing controlled substances; a prohibition against reapplying for a DEA permit without first obtaining written consent from the Division; abstaining from the use of controlled substances unless lawfully prescribed by another health care practitioner for a bona fide illness or condition; abstaining completely from the use of products or beverages containing alcohol; submitting to random biological fluid testing; enrolling and participating in the Board's Diversion Program; successfully completing educational courses in specified areas in addition to completing those CME courses required to renew his certificate, a prescribing practices course, a clinical training program equivalent to that offered by PACE, and an oral or written competency examination; successfully undergoing a psychiatric examination and participating in psychotherapy until relieved of the obligation to do so; permitting the monitoring of his medical practice, a prohibition against engaging in a solo medical practice and against supervising physician assistants; and complying with probationary conditions requiring him to obey all laws, to submit quarterly declarations, to cooperate with the Board's probation program, to submit to interviews, and to provide various notices regarding residency and practice.

On August 3, 2004, the Board adopted ALJ Knopf's Proposed Decision as its Decision in the matter. The Decision became effective on September 2, 2004.

The Petition for Modification/Early Termination of Probation

4. On December 18, 2006, Dr. Milgram signed a petition for termination of probation that was filed with the Board on January 3, 2007. At that time, Dr. Milgram was scheduled to serve approximately 58 more months on probation. In his narrative statement, Dr. Milgram represented that he had complied with all terms and conditions of his probation, and he requested that he be allowed to apply for a DEA permit and that the duration of his period of probation "be reduced to a lesser amount . . ." Dr. Milgram asked to apply for a DEA permit because he completed the required prescribing course, because he had not used mind or mood altering chemicals for many years, because he had been subject to continuous

monitoring since March 1988, and because he could not practice surgery or have staff privileges without such a permit. In support of his request for termination of probation, Dr. Milgram noted that "there never were any findings of fact" to support the clinical allegations, that considerable time had passed since those alleged acts, that no clinical misconduct had occurred in the interim, that he sat on several well-being committees, that he was a changed person, that he was extremely grateful for the opportunity to practice medicine, and that he wanted to be of maximum service.

Numerous attachments were provided including: The 2004 Decision and Order; the Accusation, First Supplemental Accusation, and Stipulation, and certificates of completion for a two-day prescribing course taken in April 2005, for 24 hours of education in the field of pain management, and for 56-hour clinical education course. Letters of recommendation were written by Dr. William Koltun (who knew of Dr. Milgram's sobriety and involvement in 12-step work), Dr. David Priver (who knew of Dr. Milgram's professional competence and his efforts to overcome his personal difficulties), Dr. Mauricio Levine (who praised Dr. Milgram's clinical skills and personal qualities), Dr. Lynne Milgram Imrie (Dr. Milgram's former spouse, currently the Executive Director of Sharp Community Medical Group, who believed Dr. Milgram was a skilled physician who had developed insight, overcame his problems, became of service and was an inspiration to those struggling with addiction-like problems), Dr. Gregory Helt (who observed Dr. Milgram rebuild his professional and spiritual life), and Dr. Ronald Fritz (Chair, San Diego County Dental Society Well Being Committee, praising Dr. Milgram's contributions to dentists in recovery); additional correspondence established that Dr. Milgram served as a clinical professor at the UCSD School of Medicine; a letter from Dr. Gil Jackofsky, Dr. Milgram's treating psychotherapist, stating that Dr. Milgram had grown personally, was committed to change, and would no longer benefit from regularly scheduled psychotherapy; and a letter from Duane Rogers, a group facilitator for the Board's Physicians Diversion Program, verifying Dr. Milgram's attendance in Rogers' Recovering Professionals Group for four years before Dr. Milgram entered the Board's Physicians Diversion program.

The Hearing on the Petition

5. On February 19, 2008, the record was opened. Documentary evidence was introduced which established the matters set forth in Factual Findings 1-4. Dr. Milgram and five others provided sworn testimony. It was stipulated that Dr. Milgram had complied with all terms and conditions of probation. The recommendation of the Attorney General was received, closing arguments were given, the record was closed, and the matter was submitted.

6. Dr. Milgram, who represented himself, provided scant biographical and background information. The Board's public website stated that Dr. Milgram received his medical degree in 1975 from the Autonomous University of Guadalajara Faculty of Medicine in 1975. Dr. Milgram provided evidence establishing his certification as a diplomat with the American Board of Obstetrics and Gynecology from November 1999 through December 2005, and that he was recertified by that board thereafter.

The thrust of Dr. Milgram's direct testimony was that he had been placed on probation for seven years; that he was required to comply with 25 conditions of probation; that he had done so; that he had not used illegal drugs or controlled substances for many years; that he had been closely monitored for substance abuse for the past 17 ½ years and had tested positive only once, in September 1999 when he attempted to commit suicide by overdosing on Versed; that he had continuously tested negative for alcohol and other illegal substances for the past 8 ½ years; that he was active in 12-step recovery programs; that probation, particularly the DEA restriction, was a hindrance to his serving as a physician because he could not serve on various panels; and that he posed no risk of harm to the public. On cross-examination, Dr. Milgram testified that many, but not all, of the quality of care allegations in the accusation were either not true or were subject to a defense; that between 1996 and 1998, when he was attending AA and announcing himself as a recovering alcoholic, he had an occasional glass of wine; that his involvement in prescribing drugs to his drug-addicted girlfriend was limited to prescribing Prozac for one weekend; that he became addicted to Demerol and once crashed his car while under the influence; that he likely treated patients when he was under the influence of Demerol, although he never thought he was high when he was rendering treatment to them; that he was once provisionally diagnosed with a bi-polar disorder and was prescribed lithium, but that the diagnosis proved faulty; that he was likely an alcoholic and that his use of any amount of alcohol could well result in a relapse; and that he was a recovering drug addict, and relapse was possible although not expected.

With regard to his program of recovery, Dr. Milgram testified that he attends three or four AA meetings at week at the Mira Mesa Early Risers; that he attends a professional recovery group at the Scripps-McDonald Center that he and his sponsor, Jason S., founded; that he has sponsored six men, three of whom are currently in recovery and doing well; that his sponsees help keep him sober; and that he had been good husband to his current wife (they will celebrate their 10th wedding anniversary in the near future), and has provided financial assistance to his two step-daughters, who are in college, and his own two children, a certified public accountant and a medical student.

Dr. Milgram's testimony was somewhat defensive on the issue of the professional malfeasance alleged in the accusation. He was forthright and candid concerning his addiction to Demerol and acknowledged the many problems that arose out of his abuse of that drug. While Dr. Milgram was likely not a full-blown practicing alcoholic, he is acutely aware of his inability to control his use of mind and mood altering substances, including alcohol, and for that reason and because he identified more closely with the AA program than the NA program, he considers himself to be an "alcoholic." This testimony was believable. Dr. Milgram frankly admitted that he had consumed small quantities of alcoholic beverages in the late 1990s and that he had been less than candid about his consumption in that regard at the time (he told his AA sponsor, but he did not identify himself as a "newcomer" at meetings); indeed, he implied that his drifting away from the AA program might have been a contributing factor in his use of Versed in a suicide attempt.

On its own, Dr. Milgram's testimony was sufficient to warrant giving him permission to apply for a DEA permit; it would not have been sufficient to support the termination of his probation had it not been for the credible, heartfelt testimony of the other witnesses.

7. Dr. Steven Brody, who is board certified in OB/GYN and Internal Medicine, and who has specialty board certifications in reproductive endocrinology and endocrinology and metabolism, testified. Dr. Brody met Dr. Milgram about 12 years ago, and they have been professional colleagues for the past two years. Dr. Brody has had the opportunity to closely view firsthand Dr. Milgram's clinical skills about three days a week. He believes Dr. Milgram is an excellent gynecologist who ably manages a busy practice. Dr. Brody has never seen Dr. Milgram to be under the influence of any substance. Dr. Brody believes Dr. Milgram can safely practice medicine without being on probation.

8. Todd Nalley, D.D.S., sits with Dr. Milgram on the San Diego County Dental Society Well Being Committee. Dr. Nalley testified that Dr. Milgram has been very candid in disclosing his past and in telling his story of substance abuse to others, and that Dr. Milgram has been helpful to the committee and to interviewees. Dr. Nalley testified that Dr. Milgram has become increasingly humble with the passage of time, and that he contributes positively to the San Diego dental community.

9. Duane Rogers, the founder of the Board's Physicians Diversion Group in San Diego, has known Dr. Milgram since the late 1990s, when Dr. Milgram entered that diversion program. Dr. Milgram was unable to continue in that program after surrendering his certificate, so he voluntarily joined Rogers' Recovering Professionals Group. Dr. Milgram remained in that group until his certificate was reinstated, after which he reenrolled in the Physicians Diversion Program.

Rogers testified that Dr. Milgram had done very well since 1999, that he seeks out contact with others in recovery, that he actively supports the recovery community in San Diego, that he has never had a positive test for alcohol or drug use and that Dr. Milgram had submitted to scores of random tests each year for more than eight years, that he demonstrated an uncommon tenacity and willingness to remain sober, that he well understood the personal and professional costs of using alcohol or drugs again, and that Dr. Milgram was in "true recovery." Rogers believed that Dr. Milgram was no longer a danger to the public as a result of his having abused drugs.

10. Valerie Vetter-Tate, a Board investigator for more than nine years, testified. Vetter-Tate monitored Dr. Milgram while he was on probation for more than two years. Dr. Milgram complied with all conditions of probation and was "very diligent." According to Vetter-Tate, "Dr. Milgram works very hard - I've seen the progress." Vetter-Tate found Dr. Milgram's recovery "quite inspiring," and was confident Dr. Milgram would not violate the Medical Practice Act in the future. She highly endorsed Dr. Milgram's return to unrestricted practice.

11. Shawn S, M.D. (Dr. S), a recovering alcoholic, attends meetings with Dr. Milgram on Wednesday evenings. Dr. S has been sober for more than five years. Dr. S has seen more personal change in Dr. Milgram than he has noted in any other individual in recovery. Dr. Milgram is honest, hardworking, and devoted to rigorous self-analysis. Dr. S

does not believe that Dr. Milgram is a danger to the public as a result of his past substance abuse.

The Attorney General's Recommendation

12. The Attorney General's Office recommended that the petition be denied because Dr. Milgram did not concede that he had actually committed all of the quality of care violations that were alleged in the accusation, because of his longstanding substance abuse, because of the manner in which Dr. Milgram described himself as an alcoholic, and because of the limited time Dr. Milgram had been on probation.

LEGAL CONCLUSIONS

Statutory Authority

1. Government Code section 11522 provides in part:

"A person whose license has been revoked . . . may petition the agency for . . . reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor . . ."

2. Business and Professions Code section 2307 provides in part:

"(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:

...

- (2) At least two years for early termination of probation of three years or more.

...

- (c) The petition shall state any facts as may be required by the division. The petition shall be accompanied by at least two verified recommendations from

There are two purposes for this mandate: First, a statement of reasons enables a reviewing court to determine why the agency it did what it did and, in that light, examine the administrative record to ascertain whether substantial evidence supports the decision; second, a statement of reasons advises the rejected petitioner what his deficiencies are and, therefore, tells him what he should do to make a subsequent petition meritorious. (*Crandell v. Fox* (1978) 86 Cal.App.3d 760, 765.)

physicians and surgeons licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(d) . . . The division 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 division . . . which shall be acted upon in accordance with Section 2335.

(e) 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 . . . ”

Regulatory Authority

3. California Code of Regulations, title 16, section 1359 provides:

“(a) A petition for . . . termination of probation . . . shall be filed on a form provided by the division.

(b) Consideration shall be given to a petition for . . . modification or termination of probation only when a formal request for such has been filed in the division's office in Sacramento at least thirty (30) days before a regular meeting of the division or appropriate medical quality review panel.”

4. California Code of Regulations, title 16, section 1360.2 provides:

“When considering a petition . . . 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

5. Petitioner has the burden of proof. The standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315.)

Relevant Factors in Determining Rehabilitation

6. Rehabilitation is a state of mind. The law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.)

7. Cases authorizing reinstatement to a professional practice commonly involve a substantial period of exemplary conduct following the misdeeds. The more serious the misconduct, the stronger the showing of rehabilitation must be. (*In re Gossage* (2000) 23 Cal.4th 1080, 1098.)

8. An alcoholic's or addict's rehabilitation is almost universally predicated on a choice to confront his or her problem, followed by abstinence sustained through ongoing participation in a supportive program, such as Alcoholics Anonymous. Testimonials from acquaintances, friends and employers with reference to their observation of the daily conduct of a disciplined professional are entitled to great weight. (See, *In re Menna* (1995) 11 Cal. 4th 975, 998.)

Cause Was Established to Terminate Probation

9. Cause was established to terminate probation. Notwithstanding the concerns about Dr. Milgram's professional competence for the reasons alleged in the accusation, the clear and convincing evidence concerning Dr. Milgram's education, training, experience, his passage of numerous competency examinations, his certification and recertification by the American Board of Obstetrics and Gynecology, and the endorsement of his skills by many colleagues since his license was reinstated established that Dr. Milgram is currently a skilled, technically competent practitioner and that it is no longer necessary or in the public interest to require him to remain on probation for competency reasons.

The clear and convincing evidence established that Dr. Milgram was an alcoholic and a drug addict; that after a failed suicide attempt in 1999, Dr. Milgram checked into the Talbott Recovery Campus, a drug abuse treatment center specializing in treatment of professionals, in Atlanta, Georgia, and that he remained there for 14 weeks and was then treated at St. Jude's Recovery Home in Atlanta for further treatment for four and a half more months; that after Dr. Milgram returned to San Diego, he promptly contacted Rogers, who had previously worked with Dr. Milgram, and entered into recovery with Rogers and Dr. Milner, a psychiatrist specializing in addiction recovery; that he participated in Rogers' Recovering Professionals Group in San Diego for four years; that after his certificate was reinstated, Dr. Milgram enrolled in the Physicians Diversion Program and that he continued a

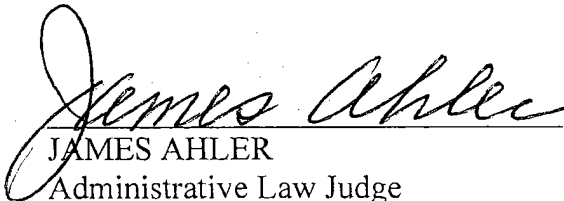
rigorous recovery program that included random drug testing, four to five 12-step meetings a week, meeting with his sponsor, sponsoring other alcoholics and addicts, volunteering services at Volunteers of America, participating a local dental society's well being program, and living a life devoted to personal recovery. Dr. Milgram established his reformation through his testimony, the credible testimony of those who have observed the changes in him, and most importantly his own conduct. Dr. Milgram's second effort at rehabilitation from drug and alcohol abuse over the past eight and one-half years has been successful. Dr. Milgram demonstrated his willingness to change his life in order to maintain his recovery. Dr. Milgram enjoys a sober and healthy lifestyle, and he will undoubtedly continue to do so if probation is terminated. Requiring Dr. Milgram to remain on probation as a result of his previous substance abuse problems will not benefit the public and, at this point, it would merely constitute punishment for past wrongs that Dr. Milgram has overcome.

This conclusion is based on all Factual Findings and all Legal Conclusions.

ORDER

The petition filed by Phillip M. Milgram for the early termination of probation imposed upon Physician's and Surgeon's Certificate No. A 35411 is granted.

DATED: 3/4/08


JAMES AHLER
Administrative Law Judge
Office of Administrative Hearings