

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

**In the Matter of the Petition to Revoke
Probation Against:**

Pez Abrahams, M.D.

**Physician's and Surgeon's
Certificate No. A 71500**

Respondent.

Case No. 800-2023-099083

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 April 22, 2024.

IT IS SO ORDERED March 22, 2024.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

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In the Matter of the Petition to Revoke Probation against:

PEZ ABRAHAMS, M.D.

Physician's and Surgeon's Certificate No. A 71500,

Respondent.

Agency Case No. 800-2023-099083

OAH No. 2023090275

PROPOSED DECISION

Cindy F. Forman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on February 7, 2024.

Marsha E. Barr-Fernandez, Deputy Attorney General, represented complainant Reji Varghese, Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

Edward Idell, Esq., Bonne, Bridges, Mueller, O'Keefe & Nichols, represented respondent Pez Abrahams, M.D. Respondent was present at the hearing.

The administrative law judge received testimony and documentary evidence. The record closed and the matter was submitted for decision at the close of the hearing. On her own motion, the administrative law judge issued a protective order sealing documents containing respondent's confidential medical information and competency assessments.

SUMMARY

Immediately after reinstating respondent's medical license in June 2021, the Board stayed revocation of his license and placed the license on probation. Because respondent had not practiced medicine for nearly eight years, the Board required, as a condition of his probation, respondent to pass a clinical competency assessment before he could resume his medical practice. Respondent twice failed to pass the clinical competency assessment, and the Board now seeks to revoke his probation and lift the stay on revocation of his license. Respondent does not dispute he has violated the terms of his probation. However, he requests the Board to allow him another opportunity to retake the clinical competency assessment. Considering respondent's significant investment of time and resources to address the identified gaps in his clinical knowledge and the absence of any risk to the public, respondent shall have an additional year from the effective date of this decision to apply to retake the clinical competency assessment. However, if respondent is unable to pass the assessment a third time, respondent's probation will be automatically revoked without further hearing and the stay of revocation of his license will be automatically lifted.

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FACTUAL FINDINGS

Jurisdictional Matters

1. On May 4, 2000, the Board issued Physician's and Surgeon's Certificate number A 71500 (license) to respondent. On September 4, 2013, the Board placed the license on automatic suspension based on respondent's criminal conviction for fraud. Respondent's license expired on October 31, 2013, and he did not renew it. On August 4, 2015, respondent surrendered the license in response to an Accusation and Petition to Revoke Probation. The Board reinstated respondent's license and then placed the license on probation effective June 2, 2021. The license is scheduled to expire on October 31, 2025.

2. On August 28, 2023, complainant in his official capacity, filed the Petition to Revoke Probation (Petition).

Disciplinary History

3. In a Decision and Order effective July 15, 2011, in case no. 17-2007-184776 (2011 Decision), the Board adopted a Stipulated Settlement and Disciplinary Order, revoked respondent's certificate, stayed the revocation, and placed respondent's license on seven years' probation with terms and conditions. The First Amended Accusation underlying the 2011 Decision charged respondent with sexual exploitation of a patient, gross negligence, and aiding or abetting the unlicensed practice of medicine.

4. On September 4, 2013, the Board issued respondent a Notice of Automatic Suspension of License, based on respondent's criminal conviction in *U.S. v. Pezhman Ebrahimzadeh, aka Pez Abrahams* (2013, C.D.Cal., no. CR12-1191).

Respondent's criminal conviction was based on his guilty plea to violating title 18 United States Code section 1347 (health care fraud), a felony. The court sentenced respondent to serve 42 months in federal prison and ordered him to pay restitution of \$3,184,617, serve three years of supervised probation upon his release from prison, and not be employed in any position requiring licensure without prior approval of his probation officer. The facts and circumstances leading to respondent's fraud conviction were that respondent, as the owner of and sole physician at Winnetka Medical Group, submitted false and fraudulent claims for payment to the Medicare program from September 2008 to May 2012 for services he had not provided. Respondent served 27 months of his sentence and completed his supervised probation in October 2018.

5. Respondent surrendered his license effective August 4, 2015, in response to an Accusation and Petition to Revoke Probation in case no. D1-2007-184776. The Accusation and Petition to Revoke Probation sought to revoke respondent's license based on his criminal conviction.

Petition for Reinstatement

6. Respondent filed a Petition for Penalty Relief, Reinstatement of Revoked/Suspended Certificate, dated December 13, 2019 (Petition). The Petition was heard by an administrative law judge on March 1, 2021, in case number 800-2020-063423 (OAH number 2020110218). In a Proposed Decision dated March 30, 2021, and adopted by the Board on May 3, 2021, the administrative law judge found respondent demonstrated rehabilitation, stating: "[Respondent's] commitment to honest business practices, ethics, and respecting boundaries, and his impressive rehabilitative programs and commitment to therapy, his volunteer work, and his assiduous pursuit of continuing medical education, demonstrate that, with effective terms and

conditions of probation that will ensure [respondent's] medical skills are current, monitor his ongoing rehabilitation, and protect the public, [respondent] will not continue to pose a threat to the public if the Board were to reinstate his certificate." (Exhibit 9, p. A742.) Based on respondent's evidence of rehabilitation, the administrative law judge ordered respondent's license reinstated, immediately revoked the license, then stayed the revocation, and placed the license on probation for five years with terms and conditions. The Board's decision adopting the Proposed Decision became effective on June 2, 2021.

7. Condition 1 of respondent's probation required respondent to enroll in a clinical competence assessment program approved by the Board within 120 days of the effective date of reinstatement of his license and successfully complete the program no later than six months after respondent's initial enrollment unless the Board or its designee agreed in writing to extend that time. (Exhibit 9, p. A743.) Respondent was required to pay all expenses associated with the program. At the end of the evaluation, the program would report to the Board whether respondent demonstrated the ability to practice safely and independently. Respondent was not permitted to practice medicine until he successfully completed the program and was so notified by the Board or its designee in writing. (*Id.*, p. A744.)

8. Under Condition 18, respondent's failure to comply with any term or condition is a violation of probation. If respondent violated probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, could revoke his probation, and carry out the disciplinary order, i.e., revocation, that was stayed. (*Id.*, p. A757.)

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Probation Violation

9. On May 24, 2021, the Board's Probation Unit told respondent he must enroll in a clinical competence assessment program no later than September 30, 2021, and was required to complete the program no later than six months after his enrollment. The Probation Unit further told respondent he could not return to practicing medicine until the Board notified him in writing he had successfully completed the program. Respondent acknowledged in writing he understood the terms and conditions of his probation. (Exhibit 6, p. A158.)

10. On August 10, 2021, the Board received confirmation of respondent's enrollment in the clinical competence assessment program offered by the University of California San Diego (UCSD) Physician Assessment and Clinical Education (PACE). (Exhibit 6, p. A158.) Respondent took part in the PACE program on September 22, 2021 (virtual) and October 12 and 13, 2021 (in person). On March 1, 2022, the Board received notice from the PACE program that respondent did not pass the clinical competence assessment. (*Ibid.*)

11. In their March 1, 2022 letter to the Board (March 2022 letter), PACE program representatives stated the following:

Based on our evaluation, we do not feel [respondent] has demonstrated the knowledge and skills required to practice independently. Most of [respondent's] deficits were due to substandard knowledge and skills, which, at times, can be remediable. In order to overcome the deficits in his performance, [respondent] would need to either participate in further clinical training, such as a preceptorship or

observer-ship. or engage in a rigorous self-study program for at least 6-12 months. The self-study period should include, at a minimum, studying for multiple hours per week. Should [respondent] decide to attempt remediation. we recommend he be made aware of the various deficits identified by this evaluation.

After remediation/retraining, [respondent] should undergo a repeat clinical competency evaluation.

[Respondent's] overall performance on our comprehensive physician assessment is consistent with a FAIL-CATEGORY 4.

(Exhibit 4, p. A89.)

12. The March 2022 letter explained a Fail-Category 4 score "reflects major, significant deficiencies in clinical competence, and physicians who receive this outcome, if they are deemed to be candidates for remedial education, should think in terms of engaging in a minimum of one full year of dedicated study and learning activities requiring an average of 30 to 40 hours a week." The March 2022 letter further explained the UCSD PACE program would not allow a physician to participate in a re-assessment less than six months from the time of completion of the initial assessment. (Exhibit 4, p. A90.)

13. Board Inspector Marie N. Altamirano (BI Altamirano) informed respondent of his Fail-Category 4 score on the PACE assessment in a letter dated April 18, 2022. (Exhibit 6, p. A173.) In the letter, BI Altamirano noted the PACE assessment found most of respondent's deficits were due to "substandard knowledge and skills, which at times can be remediable." BI Altamirano further noted to overcome those

deficits, respondent needed to either take part in further clinical training or engage in a self-study program for at least six to 12 months, studying for multiple hours per week. BI Altamirano detailed the PACE program's recommendations for improvement, specifically in areas of interviewing skills, physical exam skills, and patient counseling techniques. (*Ibid.*) BI Altamirano stated her letter would serve as the Board's agreement to an extension of respondent's time to successfully complete the PACE program and reminded respondent he could not practice medicine until the the Board notified him he had successfully completed the PACE assessment. (*Ibid.*) BI Altamirano also informed respondent of the Board's policy not to supply a copy of the PACE final report to respondent.

14. On October 6, 2022, respondent enrolled a second time in the PACE program. (Exhibit 6, p. A172.) Respondent participated in the program from January 18 to January 20, 2023 (in-person) and on March 7, 2023 (video). On May 15, 2023, the Board received notice from PACE that respondent's overall performance on the PACE assessment was consistent with a FAIL-Category 4 (May 2023 letter). (Exhibit 5.)

15. In their May 2023 letter to the Board, the PACE program representatives stated the following:

Based on our evaluation, we do not feel [respondent] has demonstrated the knowledge and skills required to practice independently. In order to overcome the deficits in his performance, [respondent] would need to either participate in further clinical training, such as a residency, preceptorship, or an observership, and/or engage in a rigorous self-study program. He may also benefit from a directed remediation program such as the PRR Program

(UCSD Physician Retraining and Reentry)

<https://prprogram.com/>. His self-study program should include, at a minimum, studying for 5 to 6 hours per day for at least 5 days a week for at least 9 - 12 months.

Should [respondent] decide to attempt remediation, we recommend he be made aware of the various deficits identified by this evaluation. He should not practice until he is able to successfully complete a clinical competence evaluation.

(Exhibit 5, pp. A99-A100.)

16. Additionally, the PACE evaluators recommended for respondent's health and well-being that he consider undergoing a complete neurological evaluation and and comprehensive fitness for duty neuropsychological evaluation in 12 to 24 months. (Exhibit 6, p. A100.) The evaluators did not conclude any neurological deficits found during the assessment prevented respondent from practicing medicine safely. (*Id.*, p. A94.)

17. BI Altamirano informed respondent of his PACE program results in a letter dated May 16, 2023. (Exhibit 6, p. A160.) In her letter, BI Altamirano repeated the PACE recommendations on how respondent could overcome the deficits in his performance as noted in the May 2023 letter. BI Altamirano also conveyed PACE's recommendation that for his own health and well-being respondent undergo a neurological evaluation and a complete fitness for duty neuropsychological evaluation in 12 to 24 months. BI Altamirano informed respondent his failure to pass the clinical competence program was a violation of his probation and the Board therefore would

refer the matter to the Office of the Attorney General with a request to pursue further action against respondent's license. (*Ibid.*) BI Altamirano did not supply a copy of the PACE final report to respondent.

Testimony of BI Altamirano

18. BI Altamirano monitors respondent's compliance with the Board's probation terms, and she testified at the hearing about her communications with respondent. BI Altamirano confirmed respondent was in compliance with all his probation terms as of February 5, 2024, except for the following: respondent still owed \$700 for his psychological evaluation (he had paid \$800 of the \$1,500 cost), his probation costs were \$15,013 in arrears, and he was 13.25 hours short of the 65 CME units required per probation year. It was unclear whether respondent was fully compliant with his psychotherapy requirement; however, his treating therapist indicated she had seen respondent on December 7, 2023. (Exhibit 14.)

19. In her exchanges with respondent, BI Altamirano found him to be honest, responsive to her inquiries, and apologetic for being in arrears to the Board. She did not observe respondent ever attempting to practice medicine. She described respondent as "very devastated" when he learned of his failure to pass the PACE assessment a second time.

Respondent's Evidence

20. Respondent is married with children. He graduated with a medical degree from Rust Medical College in Chicago, Illinois, in 1990. He then completed one year of general surgery residency at the Chicago Medical School and Mount Sinai Hospital in Chicago, Illinois, from 1990 to 1991. He also completed one year of residency training in anesthesiology at USC Los Angeles County Medical Center in Los

Angeles, California, from 1992 to 1993. Before surrendering his license, respondent's practice focused on laser cosmetic surgery and cosmetic dermatology. Respondent has not practiced medicine since his suspension in 2013. He intends to practice family medicine once he passes the PACE assessment.

21. At hearing, respondent described his efforts to pass the PACE assessment. In preparation for the first assessment, respondent focused on book learning. He reviewed materials necessary for board certification in family medicine and took part in online courses. Respondent was unable to gain any direct clinical experience because of his disciplinary history. Respondent did not work during this period; instead, he devoted all his time to preparing for the assessment.

22. Respondent redoubled his efforts in preparation for the second assessment. However, he was still unable to gain clinical experience. Respondent attempted to compensate for this lack of experience by diligent self-study. Respondent again did not work during this period so he could fully devote his time to studying.

23. Respondent was devastated when he learned in May 2023, he had again failed the assessment. After overcoming his shock and disappointment, respondent discussed the issue with his therapist and eventually decided to take the assessment a third time. However, respondent could not do so right away because of the cost of retaking the examination.

24. In preparing to re-take the PACE assessment a third time, respondent has taken several steps to address the concerns of the PACE examiners of his lack of clinical knowledge. Although continuing with his book study, respondent also enrolled on December 28, 2023, in the Physical Retraining and Re-entry (PRR) online education

program titled "General Practice for Today," offered in collaboration with UCSD, as recommended by PACE evaluators in their May 2023 letter. The PRR program provides physicians of all backgrounds with tools to practice primary care and includes 15 modules covering a wide range of topics. The official start date for respondent's PRR program was December 29, 2023. Respondent will receive 180 CME credits after completing all 15 modules. (Exhibit B.) The PRR program offers job placement assistance to those who complete the program. (Exhibit C.) Respondent expects it will take him six to seven months to complete the PRR program.

25. Also consistent with the PACE examiners' recommendations, respondent arranged to shadow Dr. Tenenbaum, a seasoned California-licensed family medicine physician, for a limited period. His shadowing allows him to observe Dr. Tenenbaum's interactions with patients and review his charting. Additionally, respondent enrolled in the University of Michigan online clinical skill module targeted to improve clinical competency. (Exhibit F.) The program takes approximately 16 hours to complete, and respondent expects it will take him a couple of months to complete the program. Respondent also enrolled in the University of Toronto Health Professionals Teaching Skills online course, which teaches practical clinical skills, and bought a Clinical Case Simulation program from Archer, which assists with clinical planning. (Exhibit F.) Respondent expects it will take him a month to complete the University of Toronto program; the record did not make clear how long it would take to complete the Archer program. Respondent's current work as a security guard in an entry booth for a gated community allows him ample time to study.

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26. Respondent is confident his shadowing, completion of the PRR program and other training modules, and continued book study will prepare him to pass the PACE assessment on his third try. He is committed to resuming practicing medicine despite the financial sacrifice and the time involved because medicine "is his calling." He is grateful to the Board for allowing him to take the PACE assessment a second time. Although respondent acknowledges he can take the PACE assessment even if the Board revokes his probation, respondent contends it will take years for him to obtain reinstatement of his license if he passes the assessment. Respondent would like to avoid a prolonged waiting period and to resume his practice of medicine when his knowledge is fresh.

LEGAL CONCLUSIONS

1. The Board's highest priority in exercising its licensing, regulatory, and disciplinary functions is protection of the public. (Bus. & Prof. Code, §§ 2001.1, 2229, subd. (c).)

2. The Board is responsible for enforcing the disciplinary provisions of the Medical Practice Act, administering and hearing disciplinary actions, and suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions. (Bus. & Prof. Code, § 2004, subds. (a)–(d).) In doing so, the Board is authorized to revoke or suspend a certificate, place a license on probation, publicly reprimand a licensee, or take any other disciplinary action the Board may deem proper. (Bus. & Prof. Code, § 2227, sub. (a).) In exercising its disciplinary authority, the Board "shall, whenever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction

on scope of practice is indicated, to order restrictions as are indicated by the evidence.” (Bus. & Prof. Code, § 2229, subd. (b).)

3. Complainant bears the burden of proving the charges in the Petition are true. (Evid. Code § 115.) In a petition to revoke probation, the standard of proof is the preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1441–1442.)

4. Complainant proved by a preponderance of the evidence respondent failed to pass the clinical competency assessment and is therefore in violation of his probation. (Factual Findings 9–16.) Cause therefore exists to revoke respondent’s probation.

5. However, revocation of respondent’s probation and the concomitant lifting of the stay of revocation of respondent’s license would be unduly punitive under the circumstances of this case. Respondent’s request to retake the competency assessment is made in good faith. Except for a small shortfall in CME credits and outstanding arrears, respondent has complied with his probation terms. (Factual Finding 18.) Respondent’s probation monitor reports him to be cooperative and responsive. (Factual Finding 19.) Respondent has invested and continues to invest a significant amount of money and time in preparing for the PACE assessment. Based on PACE’s latest recommendations, respondent has enrolled in specific courses, including PRR, which was specifically endorsed by PACE, and arranged to shadow a family medicine physician to gain sufficient clinical knowledge to pass the assessment. (Factual Findings 24–26.) Nothing in the March 2022 and May 2023 letters from PACE indicates respondent’s quest is futile. (Factual Findings 11, 12, 15, 16.) And if respondent’s license is revoked at this time, respondent faces the real risk of his

clinical skills becoming stale if he passes the assessment and then must wait several years for the Board to decide his petition for reinstatement.

6. Complainant did not demonstrate the costs of continuing respondent's probation while respondent prepares for the PACE assessment were significant. As respondent is not practicing medicine, many of the probation terms and conditions have yet to become effective (e.g., practice and billing monitor, third party chaperone, solo practice prohibition, supervision limitations). Additionally, respondent has already taken the required professionalism and professional boundaries programs and received a psychological evaluation.

7. Moreover, allowing respondent to retake the PACE assessment could potentially reduce the Board's costs. Respondent would be more likely to pay his outstanding probation costs if he was employed as a physician. Additionally, the Board would avoid the costs of responding to another petition for reinstatement if respondent passed the PACE assessment after his license was revoked.

8. Accordingly, modifying respondent's probation to allow him to retake the PACE assessment would cause no harm to the public and would be consistent with the Board's responsibility to aid in the rehabilitation of a licensee. However, the Board cannot accommodate respondent indefinitely. If respondent fails to pass the PACE assessment a third time, the Board should not have to bear the added expenditure of time and money to hold another hearing on a Petition to Revoke Probation regarding respondent's failure to comply with Condition 1, particularly given the latitude already extended to respondent. Therefore, if respondent does not pass the PACE assessment a third time under the conditions outlined in the Order below, the stay of revocation should be automatically lifted, and respondent's license should be immediately revoked.

ORDER

The Petition to Revoke Probation against respondent Pez Abrahams, M.D, Physician's and Surgeon's Certificate No. A 71500, is granted in part and revoked in part as set forth below:

Respondent's probation in Case Number 800-2020-063423 is revoked, the stay of revocation is lifted, and respondent's Physician's and Surgeon's Certificate Number A 71500 is hereby revoked. However, this revocation is stayed, and the stay and respondent's probation will remain in effect under the terms and conditions set forth in Case Number 800-2020-063423 except for Condition 1 as modified below:

1. Within 365 calendar days of the effective date of this Decision, respondent shall enroll in the PACE clinical competence assessment program. Respondent shall supply proof of his enrollment to the Board within seven calendar days. Respondent shall successfully complete the program no later than six months after respondent's enrollment unless the Board or its designee agrees in writing to an extension of that time. No further extensions will be given for completion of the PACE Program.

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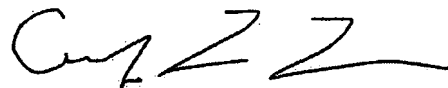
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If the Board receives a report from PACE unequivocally stating respondent failed to pass the assessment, respondent's probation will be automatically revoked and the stay of revocation of respondent's license will automatically be lifted, and, without further hearing, respondent's Physician's and Surgeon's Certificate Number A 71500 shall be revoked.

DATE: **03/05/2024**

A handwritten signature in black ink, appearing to read 'Cindy F. Forman', with a stylized, cursive script.

CINDY F. FORMAN

Administrative Law Judge

Office of Administrative Hearings