

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

In the Matter of the Accusation)
Against:)
)
)
JOSEPH BOOKER, JR., M.D.)
)
Physician's and Surgeon's)
Certificate No. G-28572)
)
Respondent.)
_____)

File No. 16-1999-95221

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 October 12, 2000.

IT IS SO ORDERED September 12, 2000.

MEDICAL BOARD OF CALIFORNIA

By: Ira Lubell

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 Accusation Against:

JOSEPH BOOKER, JR., M.D.
614 Briarwood Drive
Jackson, MS 39211

Physician and Surgeon's
Certificate No. G-28572.

Respondent.

Case No. 16-1999-95221

OAH No. N2000050516

PROPOSED DECISION

Administrative Law Judge John D. Wagner, State of California, Office of Administrative Hearings, heard this matter in Sacramento, California on August 7, 2000.

Complainant was represented by Fred A. Slimp II, Deputy Attorney General.

Respondent was not present. His attorney Dixie White Ishee, appeared on his behalf by phone.

Evidence was received, the record was closed and the matter was submitted.

FACTUAL FINDINGS

1. Complainant Ronald Joseph made the Accusation in his official capacity as the Executive Director of the Medical Board of California.
2. On December 6, 1974, Physician and Surgeon's Certificate No. G-28572 was issued by the Board to respondent Joseph Booker, Jr., M.D. At all times relevant to the

following Findings, this license was in full force and effect, except that on February 29, 2000, it expired and is in delinquent status.

CRIMINAL CONVICTION

3. On July 12, 1999, respondent was convicted, on his plea of guilty, in the United States District Court for the Southern District of Mississippi, Southern Division, (Case No: 1:98cr55BrG), of violating section 7206(1), title 26, United States Code (false income tax return). This conviction constitutes unprofessional conduct. By reason of facts and circumstances set forth in Finding4, it is substantially related to the qualifications, functions, or duties of a physician and surgeon.

As a result of this conviction, respondent was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of five months. He was placed on supervised release for a term of one year and was required to participate in a home confinement program for the period of five months. The conditions of his supervised release also required that he pay a \$3,000 fine.

DISHONESTY

4. On March 16, 1995, respondent made false statements in a corporate income tax return for Gulf Coast Women's Clinic, Inc., for calendar year 1994. In the return, respondent falsely stated the taxable income of the corporate clinic to be \$2,350. In fact, as respondent knew and believed, the actual taxable income of the clinic was \$93,500.68. Filing this false return was an act of dishonesty or corruption substantially related to the qualifications, functions or duties of a physician and surgeon. It constitutes unprofessional conduct and it resulted in the above conviction.

5. The allegations set forth in paragraphs 5, 7, 8 and 9 of the Accusation were not proved. These allegations concerned fraud in a bankruptcy proceeding and false statements in individual and corporate income tax returns for the years 1994 and 1995. Although these allegations were the subject of an indictment in the above criminal proceeding, these counts of the indictment were dismissed.

OUT OF STATE DISCIPLINE

6. On December 15, 1999, the Mississippi State Board of Medical Licensure indefinitely suspended respondent's Mississippi medical license. The Mississippi State Board suspended respondent's license because of the above conviction. This suspension constitutes unprofessional conduct.

7. No evidence of extenuation, mitigation or rehabilitation was received other than on July 28, 2000, the Mississippi Medical Board reinstated respondent's medical license with probationary terms. Respondent is still on criminal supervised release.

8. The reasonable cost of investigating and prosecuting this case, as of July 31, 2000, is \$406.

LEGAL CONCLUSIONS

1. Cause for discipline of respondent's license was established pursuant to section 2236(a) (unprofessional conduct/conviction) of the Business and Professions Code, by reason of Finding 3.

2. Said cause was established for violation of section 2234(e) (dishonesty or corruption) of said code, by reason of Finding 4.

3. Said cause was established pursuant to sections 141(a) and 2305 of said code, by reason of Finding 6.

4. In view of the above conviction and the dishonest conduct leading to that conviction, as well as the discipline imposed on respondent by the Mississippi State Board of Medical Licensure, respondent's California license should be revoked. The fact that respondent's Mississippi license to practice medicine has been reinstated, is not sufficient rehabilitation in view of the recentness of his conviction, the fact that he is still on supervised release, and the fact that his Mississippi medical license was reinstated with probationary terms. Respondent's California license should be revoked.

5. Respondent should pay the sum of \$406 to the Medical Board of California Division of Medical Quality pursuant to section 125.3 of the Business and Professions Code, by reason of Finding 8.


ORDER

Wherefore, the following order is hereby made:

Physician and surgeon's certificate no. G-28572 issued to Joseph Booker, Jr., M.D. is revoked.

Respondent shall pay the sum of \$406 to the Medical Board of California Division of Medical Quality within 120 days after this Decision is final.

DATED: August 21, 2000



JOHN D. WAGNER
Administrative Law Judge
Office of Administrative Hearings

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *March 22, 20 00*
BY *Kimberly K. [unclear]* ANALYST

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
Deputy Attorney General
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4 Sacramento, CA 94244-2550
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5 Attorneys for Complainant
6

7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 16-1999-95221
Against:)
12)
13 **JOSEPH BOOKER, JR., M.D.**) **ACCUSATION**
614 Briarwood Drive)
14 Jackson, MS 39211)
Physician and Surgeon's)
15 Certificate No. G-28572,)
16 Respondent.)

17
18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Ronald Joseph, is the Executive
21 Director of the Medical Board of California (hereinafter the
22 "Board") and brings this accusation solely in his official
23 capacity.
24 2. On or about December 6, 1974, Physician and
25 Surgeon's Certificate No. G-28572 was issued by the Board to
26 Joseph Booker, Jr., M.D. (hereinafter "respondent"), and at all
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1 times relevant to the charges brought herein, this license has
2 been in full force and effect, except that on February 29, 2000,
3 said license expired and is in delinquent status.

4 JURISDICTION

5 3. This accusation is brought before the Division of
6 Medical Quality of the Medical Board of California, Department of
7 Consumer Affairs (hereinafter the "Division"), under the
8 authority of the following sections of the California Business
9 and Professions Code (hereinafter "Code") and/or other relevant
10 statutory enactment:

11 A. Section 2227 of the Code provides that the Board
12 may revoke, suspend for a period not to exceed one year, or
13 place on probation, the license of any licensee who has been
14 found guilty under the Medical Practice Act, and may recover
15 the costs of probation monitoring if probation is imposed.

16 B. Section 2234(e) of the Code provides that
17 commission of any act of dishonesty or corruption
18 substantially related to the qualifications, functions or
19 duties of a physician and surgeon constitutes unprofessional
20 conduct.

21 C. Section 2236(a) of the Code provides that
22 conviction of any offense substantially related to the
23 qualifications, functions, or duties of a physician and
24 surgeon constitutes unprofessional conduct.

25 D. Section 2305 of the Code provides in pertinent
26 part that the revocation, suspension, or other discipline,
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1 restriction, or limitation imposed by another state upon a
2 license or certificate to practice medicine issued by that
3 state that would have been grounds for discipline in
4 California of a licensee under the Medical Practice Act
5 constitutes unprofessional conduct.

6 E. Section 141(a) of the Code provides in pertinent
7 part that a disciplinary action taken by another state for
8 any act substantially related to the practice of medicine
9 may be grounds for discipline of a licensee under the
10 California Medical Practice Act.

11 F. Section 118(b) of the Code provides in pertinent
12 part that the expiration of a medical license issued by the
13 Board shall not deprive the Board of authority to institute
14 or continue a disciplinary proceeding against such a
15 licensee or to enter an order of suspension or revocation of
16 or to impose other appropriate disciplinary action on such
17 license during any period within which such license may be
18 renewed, restored, reissued, or reinstated.

19 G. Section 2427(a) of the Code provides in pertinent
20 part that any expired license previously issued by the Board
21 may be renewed at any time within five (5) years of such
22 expiration upon application therefor and payment of all
23 accrued renewal fees including penalty fees, if any, then
24 owing.

25 H. Section 125.3 of the Code provides in pertinent
26 part that the Board may request the administrative law judge
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1 to direct any licentiate found to have committed a violation
2 or violations of the licensing act to pay the Board a sum
3 not to exceed the reasonable costs of the investigation and
4 enforcement of the case.

5 I. Section 14124.12(a) of the Welfare & Institutions
6 Code provides in pertinent part that upon written notice of
7 the Medical Board of California a physician and surgeon's
8 medical license has been placed on probation as a result of
9 a disciplinary action, no Medi-Cal claim for the type of
10 surgical service or invasive procedure giving rise to the
11 probationary order and performed on or after the effective
12 date of said probationary order or during the period of
13 probation shall be reimbursed, except upon a prior
14 determination that compelling circumstances warrant the
15 continuance of reimbursement during the probationary period
16 for procedures other than those giving rise to the
17 probationary order.

18 4. Respondent is guilty of unprofessional conduct
19 within the meaning of Code sections 2234(e), 2236(a), and 2305
20 and is subject to discipline within the meaning of Code section
21 141(a) as more particularly set forth hereinbelow.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Dishonest Acts Substantially Related)
24 [Bus. & Prof. Code § 2234(e)]

25 5. From in or about June, 1994 to in or about April,
26 1995, respondent, then involved in bankruptcy proceedings
27 involving his business, i.e., Gulf Coast Women's Clinic, Inc.,

1 fraudulently received approximately \$67,500 from a debtor, i.e.,
2 the above-indicated clinic.

3 6. On or about March 16, 1995, respondent made false
4 statements in a corporate income tax return for the above clinic
5 for calendar year 1994 in that respondent falsely stated the
6 taxable income of the corporate clinic indicated in paragraph 5,
7 above, to be \$2,350 whereas, as respondent knew and believed, the
8 actual taxable income of the said clinic was \$93,500.68.

9 7. On or about April 15, 1995, respondent made false
10 statements in an individual income tax return for calendar year
11 1994 in that respondent falsely stated his taxable income for
12 that year to be \$29,272 whereas, as respondent knew and believed,
13 his actual taxable income was \$121,815.68.

14 8. On or about March 19, 1996, respondent made false
15 statements in a corporate income tax return for the above clinic
16 for calendar year 1995 in that respondent falsely stated the
17 taxable income of the corporate clinic indicated in paragraph 5,
18 above, to be \$785 whereas, as respondent knew and believed, the
19 actual taxable income of the said clinic was \$28,503.19.

20 9. On or about April 15, 1996, respondent made false
21 statements in an individual income tax return for calendar year
22 1995 in that respondent falsely stated his taxable income for
23 that year to be \$23,410 whereas, as respondent knew and believed,
24 his actual taxable income was \$50,954.19.

25 10. Respondent's conduct as set forth in paragraphs 5,
26 6, 7, 8, or 9, above, constitutes unprofessional conduct within
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1 the meaning of Code section 2234(e).

2 **SECOND CAUSE FOR DISCIPLINE**

(Conviction of Offense Substantially Related)

3 [Bus. & Prof. Code § 2236(a)]

4 11. Complainant realleges paragraph 6, above, and
5 incorporates it herein by reference as if fully set forth at this
6 point.

7 12. On or about July 12, 1999, respondent pled guilty
8 to the conduct set forth in paragraph 6, above, in violation of
9 26 U.S.C. § 7206(1) in criminal case number 1:98cr55BrG then
10 pending against respondent in the United States District Court
11 for the Southern District of Mississippi, Southern Division, and
12 was convicted thereon.

13 13. Respondent's conduct as set forth in paragraph 6,
14 above, and his conviction thereon as set forth in paragraph 12,
15 above, constitute unprofessional conduct within the meaning of
16 Code section 2236(a).

17 **THIRD CAUSE FOR DISCIPLINE**

(Out-of-State Discipline)

18 [Bus. & Prof. Code §§ 141(a), 2234(c), 2236(a), 2305]

19 14. Complainant realleges paragraphs 5-9 and 12,
20 above, and incorporates them herein by reference as if fully set
21 forth at this point.

22 15. On or about December 15, 1999, the Mississippi
23 State Board of Medical Licensure indefinitely suspended
24 respondent's Mississippi medical license in response to
25 respondent's conduct and conviction as set forth in paragraphs 6
26 and 12, above, effective January 7, 2000.

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1 16. Respondent's conduct and conviction and the
2 suspension order of the Mississippi State Board of Medical
3 Licensure as set forth above constitute unprofessional conduct
4 within the meaning of Code section 2305 and conduct subject to
5 discipline within the meaning of Code section 141(a).

6 **PRAYER**

7 **WHEREFORE** complainant requests that a hearing be held
8 on the matters herein alleged and that, following the hearing,
9 the Division issue a decision:

10 1. Revoking or suspending Physician and Surgeon's
11 Certificate Number G-28572 heretofore issued to respondent Joseph
12 Booker, Jr., M.D.;

13 2. Revoking, suspending or denying approval of
14 respondent's authority to supervise physician assistants pursuant
15 to Code section 3527;

16 3. Ordering respondent to pay the Division the actual
17 and reasonable costs of the investigation and enforcement of this
18 case and the costs of probation monitoring if probation is
19 imposed; and

20 4. Taking such other and further action as the

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1 Division may deem necessary or proper.

2 DATED: March 22, 2000.

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Ronald Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

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Complainant

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