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

In the Matter of the Petition for Termination of Probation:	)	
Robert Sargent, M.D.	)	
Certificate # G-19908	)	**File No: 16-94-33662**
Respondent.	)	

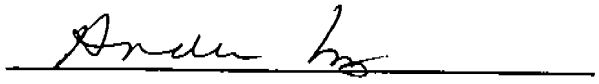
DECISION

The attached Proposed Decision is hereby adopted by the Division of Medical Quality of the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on February 9, 1998.

It is so ordered January 9, 1998.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA



Anabel Anderson Imbert, M.D.

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

In the Matter of Petition for Termination of Probation of: ROBERT SARGENT, M.D. 6152 E. Princeton Circle Englewood, Colorado 80111 Physician's and surgeon's license Number G19908 Petitioner.	OAH No. L-1997090233

PROPOSED DECISION

On October 8, 1997, in San Diego, California, Stephen E. Hjelt, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Michael Sipe, Deputy Attorney General, represented the complainant.

Respondent, Robert A. Sargent, M.D., was present and represented himself.

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

FINDINGS OF FACT

I

On April 17, 1997 respondent filed a Petition for Termination of Probation. He seeks termination of probation that began on June 5, 1995. Thus, approximately two and one half years of the 5 year probationary period have elapsed.

II

Respondent's license was disciplined as a result of out of state discipline. He does not practice medicine in California and has never done so. He has a successful medical practice in Colorado and has no plans to leave the Denver area, where he has practiced for 25 years. He is, however, concerned about

terminating his probation in California, since the reason for it, namely the existence of Colorado license discipline, no longer exists.

Respondent's California probation is derivative. It stemmed from actions done by respondent in Colorado and acts taken by the Colorado Board of Medical Examiners. Respondent was a pediatric ophthalmologist who got himself in trouble through bad investments, found himself millions of dollars in debt and, not surprisingly, had trouble sleeping at night. Unfortunately he started self-prescribing Seconal and this came to the attention of the Colorado Board.

Respondent's Colorado license was not revoked nor was it suspended. By a stipulated agreement effective November 19, 1993, respondent's Colorado license was placed on "probationary status" for a period of five years. During that time he was to comply with typical probationary terms including receiving treatment from the Colorado Physicians Health Program (CPHP) the Colorado analog to California's Diversion Program. This involved random drug testing and outpatient treatment for the diagnosis of "substance abuse" made by the Medical Director of CPHP.

In a letter to the California Medical Board Senior Investigator dated April 16, 1997, Dr. Stephen Dilts of CPHP stated as follows:

> "I evaluated Dr. Sargent and found that he had a diagnosis of substance abuse, rather than substance dependence, for which he was referred to outpatient treatment. He was discharged from formal treatment in February 1994. He also participated in random urine drug screens from March 1993 until January 1996, when the BME approved CPHP's clinical recommendation to discontinue urines; all results during that period were reported as negative for addictive substances.
>
> "In addition, CPHP arranged for an independent practice review to assure that his substance abuse problem had not affected the quality of care delivered to patients. This was performed by the Colorado Foundation for Medical Care (CFMC) in June 1993 and the results indicated that the quality of his medical practice was exemplary."

In May 1996, the Colorado Board of Medical Examiners evaluated respondent's petition for early termination of probation and determined that good cause was established. Therefore, his Colorado medical license was fully restored over a year ago.

III

The sole question for consideration is whether respondent has demonstrated through his actions sufficient evidence of rehabilitation to justify early termination of probation. The passage of time alone does not establish rehabilitation nor does an accumulation of laudatory letters from social or professional friends or acquaintances.

The only things that establish rehabilitation are conduct and attitude. Rehabilitation is simultaneously a state of mind and a state of facts. The state of mind evidencing rehabilitation is demonstrated by a mature, measured appreciation of the gravity of the conduct done. A respondent must convince the Board that he understands why he was disciplined in the first place and acknowledge that what he did was wrong, caused harm and was inconsistent with licensure. A respondent must be remorseful.

It is impossible, ultimately, to clearly view a person's heart, to tell if the words said are said with true meaning. However, we do not lack for tools to separate the sociopath from the sincere. We have the opportunity to correlate what is said with a course of conduct over an extended period of time. Talk truly is cheap when it comes to assessing rehabilitation.

Remorse is a necessary prerequisite to establishing rehabilitation. In addition one must also establish a state of facts. This rehabilitative state of facts is demonstrated by a track record of conduct that convinces and assures the Board that the public would be safe in granting full privileges of licensure to respondent. A respondent must establish a track record of reliable, responsible and consistently appropriate conduct.

Dr. Sargent has established, as detailed above, a track record of appropriate conduct. He also expresses shame and mortification over his behavior and its impact on his practice and his reputation. It is clear from his manner and demeanor at the hearing that his excess with Seconal has been so painful in so many ways both personal and professional, that it will not, in all likelihood, be repeated.

IV

Robert A. Sargent, M.D., has had a private medical practice in Colorado since 1972. He has not either before or since this incident been the subject of Board discipline. This is the only blemish on an otherwise distinguished career in all the years he has practiced.

The incident that forms the basis of Board discipline happened in Colorado. There have been no other complaints either before or since.

It is clear from the record that this is the type of physician that has benefitted greatly from the embarrassment and dislocation of probation. He admits that this probation has been mortifying and embarrassing. There is no self-pity in his answers to the Administrative Law Judge's questions, only an eagerness to put this incident behind him.

Embarrassment or shame or mortification are not grounds for early termination of probation. They are part of the unpleasantness that should accompany probation. They are important markers when they exist in conjunction with a track record of excellent compliance while on probation and consistently appropriate professional behavior. On this basis, respondent has established that there no longer exists a need for California probationary oversight.

V

Respondent has complied with all terms and conditions of his Colorado probation. He did so in such an exemplary fashion that the Colorado Board of Medical Examiners terminated his probation and restored his license in May 1996. There was nothing offered by the Board that was in any way negative regarding respondent. In fact, the Deputy Attorney General indicated that, after discussion with enforcement personnel, there would be no opposition to the request for early termination.

DETERMINATION OF ISSUES

I

Cause was established to grant respondent's Petition for Termination of Probation pursuant to Business and Professions Code section 2307. There is no further public protection issue that requires respondent to remain on probation. This act which he acknowledges brought embarrassment on himself, his family, his colleagues and his profession will not be repeated. Furthermore, the salutary goal of probation, to insure future safe and ethical practice, has been met.

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ORDER

I

The Petition for Termination of Probation is granted.

The physician's and surgeon's license Number G19908 issued to Robert Anders Sargent, M.D., is fully restored.

Dated: November 25, 1997

STEPHEN E. HJELT
Administrative Law Judge
Office of Administrative Hearings