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

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| In the Matter of the Petition for Reinstatement of:<br><br>Anthony Taycer Hasan, M.D.<br><br>Physician's and Surgeon's Certificate No. A 69514<br><br>Petitioner. | Case No. 800-2018-048705 |

## 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 October 29, 2020.

IT IS SO ORDERED: September 29, 2020.

MEDICAL BOARD OF CALIFORNIA

Ronald H. Lewis, M.D., Chair
Panel A

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

## In the Matter of the Petition for Reinstatement of:

## ANTHONY TAYCER HASAN, Petitioner

## Case No. 800-2018-048705

## OAH No. 2020040392

## PROPOSED DECISION

Marcie Larson, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically on July 16, 2020, in Sacramento, California.

Brenda Reyes, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Jeffrey Kravitz, Attorney at Law, represented petitioner Anthony Taycer Hasan, M.D., who appeared at the hearing.

Evidence was received, the record was closed, and the matter was submitted for decision on July 16, 2020.

## FACTUAL FINDINGS

### Background and Procedural History

1. On August 13, 1999, the Medical Board of California (Board) issued petitioner Physician's and Surgeon's Certificate Number A69514 (certificate).

2. On December 28, 2012, complainant Linda Whitney, the former Executive Director for the Board, filed an Accusation against petitioner. Generally, complainant alleged petitioner's certificate was subject to discipline pursuant to Business and Professions Code sections 141 and 2305, based on discipline imposed on his Florida medical license (Florida license), by the Florida Board of Medicine (Florida Board).

3. Petitioner filed a Notice of Defense requesting a hearing. A hearing was set for October 3, 2013. Petitioner did not appear. As a result, on October 16, 2013, the Board issued a Default Decision and Order, revoking petitioner's certificate. Thereafter, petitioner filed a Petition for Reconsideration, which was denied by operation of law. The Board's decision revoking petitioner's certificate was effective on November 25, 2013.

### Florida Board Discipline

4. On April 20, 2012, the Florida Department of Health (Department) filed an Administrative Complainant against petitioner before the Florida Board. The Department alleged on December 10, 2010, petitioner "pled to and was adjudicated guilty" of "knowingly and willfully combining, conspiring, confederating and agreeing with others to commit wire and mail fraud to dispense a misbranded prescription drug, sildenafil citrate [Viagra], into interstate commerce, a violation of Title 18, United States Code, section 371." The Department alleged petitioner violated Florida Statutes

section 458.331, subdivision (1)(c), which provides "being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession is grounds for discipline" by the Florida Board.

5. On August 17, 2012, petitioner entered into a Settlement Agreement with the Department in which he admitted that the "facts in the Administrative Complaint, if proven, would constitute violations of" relevant Florida statutes. Petitioner's Florida license by reprimanded by the Board. Petitioner agreed to pay a $10,000 administrative fine. He was also ordered to reimburse the Department $2,105.31 in costs. Within 18 months of the Final Order incorporating the Settlement Agreement, petitioner was ordered to complete a "Legal and Ethical Implications in Medicine Physician's Survival Guide-Laws and Rules" course administered by the Florida Medical Association or a "Board-approved equivalent." Within one year of the Final Order, petitioner was ordered to complete a course on "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Misprescribing" sponsored by the University of Florida or a "Board-approved equivalent."

Petitioner's license was also placed on probation for one year. During the probation period, petitioner practiced under the indirect supervision of a Board-approved physician. The monitor was required to review 25 percent of petitioner's active patient records "at least once every month for the purpose of ascertaining that [petitioner] performed and documented adequate histories and physical examinations of patients." The monitor was also required to submit quarterly reports to the Board's Probation Committee. Petitioner was also required to submit quarterly reports. The Final Order was effective on October 25, 2012. Petitioner complied with the terms of the Stipulated Settlement.

## Petition for Reinstatement

6. On September 26, 2018, petitioner signed and thereafter filed with the Board the instant Petition in which he seeks reinstatement of his certificate. Petitioner has not previously applied for reinstatement. Petitioner submitted in support of his Petition, information concerning the circumstances underlying the discipline of his certificate and Florida license, his rehabilitation efforts and the reasons he is seeking reinstatement of his certificate.

7. Petitioner was born in California, and moved to Florida when he was 12 years old. After graduating from medical school in 1990, petitioner completed a dermatology residency at the University of Miami. In 1999, he returned to California, obtained his certificate and completed a fellowship in general cosmetic plastic surgery in Los Angeles. Petitioner obtained his board certifications in dermatology and cosmetic surgery. He also became certified to perform Moh's surgery, by the American Society for Moh's Surgery. Petitioner explained that Moh's surgery is a procedure used to remove skin cancer, which can help to minimize the need to remove skin around the site of a lesion. The procedure can result in higher success rates and a better result for the patient.

8. In 2000, petitioner returned to Florida and practiced dermatology. In 2003, a friend who attended medical school with petitioner asked him to serve as the medical director of an anti-aging clinic he opened in Fort Lauderdale, Florida. The friend was not licensed to practice medicine. Petitioner agreed to temporarily serve as the medical director while his friend found a permanent director. Petitioner served as the medical director for approximately two years. During the two years, he tried several times to explain to his friend that he wanted to leave the position, but his friend "played on his emotions." As a result, petitioner stayed in the position for longer

than he intended. Petitioner did not receive a salary for his position. He viewed the arrangement as helping a friend.

Over the two years, petitioner visited the clinic a few time per month to sign patient charts prepared by physician assistants who worked at the clinic. Petitioner did not carefully review the charts. Petitioner explained that he was "careless and inattentive." At one point, the friend told petitioner he was having problems with the "government," who was trying to shut down the clinic. The friend also told petitioner that he was melting down Viagra and distributing the new pills to patients using a sublabel. The friend assured petitioner that he had consulted a lawyer and that his conduct was legal. Petitioner did not undertake any steps to verify whether his friend's conduct was legal. Rather, he trusted his friend which he described as the "biggest mistake of his life."

9. In approximately 2005, petitioner ended his involvement with the clinic. In 2010, petitioner was arrested and later pled guilty to violating Title 18, United States Code, section 371. Petitioner learned that his friend sold non-FDA approved erectile dysfunction pills across state borders. As the medical director of the clinic, he was responsible for the illegal conduct occurring at the clinic. His friend fled to Brazil. Petitioner was sentenced to two years of criminal probation. The first year of his probation he was on house arrest. Petitioner paid $76,505 in restitution. He was also placed on the Office of the Inspector General (OIG) list of excluded individuals which prohibited him from participating in federal health care programs, including Medicare. Petitioner complied with the terms of his sentence. On August 11, 2017, the OIG reinstated petitioner's right to participate in federal health care programs.

10. Petitioner also complied with the terms the Settlement Agreement he entered into with the Florida Board, including completing the ethics and prescribing

courses. Petitioner explained he was aware of the Accusation filed against him by the Board after the Florida Board imposed discipline on his Florida license. Petitioner had an attorney in Florida representing him in the matter. The attorney got hurt and never told petitioner about the hearing date. After petitioner received the Default Decision, he requested reconsideration, which was denied. Petitioner decided to seek reinstatement of his certificate after some time had passed.

11. Petitioner explained he had a serious lapse in judgment and takes full responsibility for his conduct. His assumptions and trust in others was costly to him and his family. Petitioner explained he is "truly sorry" for his conduct. Petitioner understands that he cannot change the past, but he wants to assure the Board he has learned a great deal over the last 10 years. Petitioner is trying to use his experience to be a better person and a better doctor.

Petitioner has learned to exercise greater care and responsibility in who he associates with and how he practices medicine. He "exercises the utmost care and diligence in evaluating and treating [his] patients." He also learned to "more thoughtfully listen to [his] patients and to conduct the diligence necessary to properly diagnose and treat them." Petitioner assures the Board that he will never "skim" through a patient chart or rely on anyone else to review a patient chart. He reviews each of his patient's charts and he is the only one that signs off on the chart once it is reviewed.

12. Since 2012, petitioner has worked for a cosmetic surgery center in Miami. He also organizes and runs a free cancer screening clinic for underprivileged patients in Dade County, Florida. Petitioner coached football and served as a mentor at the Boys and Girls Club. He is also actively involved in raising his children.

13. Petitioner is seeking reinstatement of his certificate because he cannot obtain board certification until he is in good standing in California. Petitioner values board certification and believes it will allow him to help more patients. Petitioner does not have current plans to move to California because he has young children. However, he would eventually like to move back to California to practice medicine and retire.

### CHARACTER LETTERS

14. Petitioner submitted three letters of support from friends and colleagues who have known petitioner for over 20 years. One of the authors, Javier Flores, M.D., served as petitioner's probation monitor pursuant to the term of the Florida Board discipline. The authors describe petitioner as a dedicated, ethical, and competent physician who made a mistake. The authors also explain petitioner has learned from his mistakes and has dedicated himself to exercising diligence in his personal and professional dealings.

## Analysis

15. Petitioner has practiced medicine for 30 years. The conduct that gave rise to petitioner's criminal conviction and discipline of his Florida license occurred more than 15 years ago. Petitioner is seeking reinstatement of his certificate which the Board revoked almost seven years ago, as a result of discipline taken by the Florida Board. Since that time, petitioner has complied with the terms of his criminal and Florida Board probation. He paid his fines, completed his educational courses and has been employed by the same employer since 2012. In 2017, petitioner was removed from the OIG exclusion list.

Most important, petitioner fully accepts he is directly responsible for the consequences he has suffered personally and professionally. His testimony was sincere

and candid. Petitioner made the conscious decision to use his experience to become a better physician. Petitioner's letters of support also demonstrate petitioner is a competent, ethical and caring physician who continues to strive to become a better physician.

16. When all the evidence is considered, petitioner demonstrated by clear and convincing evidence his certificate should be reinstated. Public protection does not require petitioner to serve any additional probation or complete any additional courses. The Florida Board imposed significant probationary terms which ensured petitioner was safe to practice medicine. Since that time, petitioner has not had any further discipline taken against his Florida license. As a result, the public will be adequately protected by the issuance of a public reprimand.

## LEGAL CONCLUSIONS

1. Under Business and Professions Code section 2307, a person whose certificate has been revoked may petition the Board for reinstatement. At least three years must have elapsed from the effective date of the decision ordering the disciplinary action revoking the license. (Bus. & Prof. Code, § 2307, subd. (b)(1).)

2. In considering a petition for reinstatement, the Board 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." (Bus. & Prof. Code, § 2307, subd. (e).)

3. The Board may reinstate a petitioner's certificate and impose any terms and conditions to the reinstatement deemed necessary. (Bus. & Prof. Code, § 2307, subd. (f).)

4. In this proceeding, the burden is on petitioner to present clear and convincing evidence of rehabilitation to support his petition to reinstate his license. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 316.)

5. The objective of an administrative proceeding relating to licensing is to protect the public. Such proceedings are not for the primary purpose of punishment. (See *Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.) When all the evidence is considered, petitioner established his Petition should be granted. Once his certificate is reinstated, petitioner is publicly reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4).

## ORDER

1. The petition for reinstatement filed by Anthony Taycer Hasan is GRANTED.

2. Once petitioner's certificate is reinstated, petitioner Anthony Taycer Hasan is publicly reprimanded by the Board within the meaning of Business and Professions Code 2227, subdivision (a)(4).

DATE: August 12, 2020

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Marcie Larson
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MARCIE LARSON
Administrative Law Judge
Office of Administrative Hearings