BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF GENERAL SERVICES
STATE OF CALIFORNIA

In the Matter of the Petition for Interim Suspension of: TJHIANG ONG, M.D. 16234 Chipewa Road Apple Valley, CA 92307-2442 Physician's and Surgeon's Certificate No. A30643 Respondent.	No. 09-93-29723 OAH No. L-9503083

DECISION

On May 2, 1995, in San Diego, California, Joyce A. Wharton, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

M. Gayle Askren, Deputy Attorney General, represented the petitioner.

Respondent Tjhiang Ong, M.D., appeared on his own behalf and was assisted by his current caretakers Jeff Kizziar and Jenny Jensen.

Evidence was received, the record was closed and the matter was submitted on May 2, 1995.

FINDINGS OF FACT

I

On March 9, 1995, Dixon Arnett, acting in his official capacity as Executive Director, Medical Board of California, filed a Petition, No. 09-93-29723, for Interim Order of Suspension pursuant to Government Code section 11529, with accompanying Points and Authorities, Exhibits and Declarations. The Petition seeks an interim suspension of the Physician and Surgeon's Certificate No. A-30643 issued to Tjhiang Ong, M.D., on the grounds of current physical and/or mental illness affecting competency.

On March 10, 1995, after giving notice to respondent, petitioner applied for an ex-parte order of suspension. Pursuant to the ex-parte application, and good cause appearing therefore, the ex-parte interim order was issued on March 10, 1995, and a hearing on the Petition was scheduled for March 27, 1995. On March 27, 1995, Gabrielle Oey, sister of Dr. Ong, appeared on his behalf and Dr. Ong submitted a letter requesting a continuance. Good cause appearing therefore, the hearing was continued to March 30, 1995. On March 30, 1995, David Brown, Attorney at Law, appeared by telephone for Dr. Ong and solely for the purpose of requesting a continuance. Through Mr. Brown, Dr. Ong agreed to continue the hearing date to May 2, 1995, and also agreed the ex-parte interim order of suspension would remain in effect.

II

On December 7, 1976, the Medical Board of California issued Physician and Surgeon's Certificate No. A30643 to Tjhiang Ong, M.D. (respondent). Excepting the current suspension order, the certificate has remained valid with an expiration date of January 31, 1996. Respondent was also a supervisor of a physician assistant pursuant to license No. SA 22001 which expired January 31, 1995. There is no prior history of discipline.

III

Respondent is 62 years old. From 1976 through the present he has practiced medicine in California as a family practitioner. Respondent's recent practice has been greatly reduced. He says he sees only about one patient a week and sometimes speaks to some of his long term patients on the phone to answer questions. There is no evidence of any instance of practice by respondent below the standard of care. There is no evidence that respondent has violated any of the subdivisions, (a) through (f), of Business and Professions Code[1] section 2234. There is no evidence that, to date, respondent has violated any provision of the Medical Practice Act.

IV

On January 23, 1995, at the request of the Medical Board pursuant to its authority under section 820, respondent signed a "Voluntary Agreement for Neuropsychological Examination". This agreement informs respondent of the Board's concern that his ability to practice medicine with reasonable skill and safety to patients is impaired due to a physical/neurological illness affecting his competency. The

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[1] All statutory references are to the Business and Professions Code unless otherwise specified.

agreement further informs respondent of section 822 which authorizes the Board to take action against his license if his ability to practice medicine is so impaired.

V

On February 2, 8 and 17, 1995, respondent was examined and evaluated by William G. Britt, III, Ph.D., a licensed psychologist with a subspecialty in clinical neuropsychology. Dr. Britt prepared a detailed evaluation report which was admitted into evidence in this proceeding pursuant to Dr. Britt's affidavit. In preparing his evaluation, Dr. Britt reviewed respondent's medical records from May, 1988 to October, 1993. His diagnostic impression for Dr. Ong is "Dementia due to multiple etiologies, including vascular dementia, cerebrovascular accidents, and complications from diabetes. The report in pertinent part states as follows:

> "SUMMARY AND CONCLUSIONS:
> As may be seen, this patient is evidencing extremely severe deficits in almost every area of functioning. In the area of intellectual functioning, he is functioning in the moderately retarded range with an estimated IQ of 49 (=/-3). He also evidenced a significant discrepancy between his verbal abilities and even more severely impaired nonverbal abilities. This compares with his estimated premorbid IQ of 133 (=/-11), indicating that this patient has experienced a significant compromise in his intellectual functioning.
>
> The result of evaluation of general cognitive functioning indicates that he has a Global Deterioration Scale stage of 5, suggesting moderately severe cognitive decline.
>
> In the area of neuropsychological functioning, results of testing indicate a very high likelihood of brain dysfunction, with 5 of the 5 general indicators of brain dysfunction falling within the abnormal range. He exhibited massive impairment of intellectual processes, as confirmed by formal intellectual testing, extremely severe impairment of delayed recall in arithmetic functioning, very severe impairment of motor and tactile functions, severe impairment of acoustico-motor functions, receptive speech, visual functions, memory functions, and writing skills, and moderate impairment of expressive speech and reading skills.
> . . .
>
> RECOMMENDATIONS:
> . . .
>
> Due to the fact that his current intellectual functioning is approximately in the moderately retarded range, that his ability to understand and be aware of his current impairment

is almost negligent [sic], and due to his extreme impairment in the areas of language functions, memory functions, attention-concentration, and general confusion, it is my conclusion that he is no longer safe in the practice of medicine. My concern is that if he were to continue to practice, he presents an immediate danger to the public safety . . . ."

VI

Respondent has also been treated by Rosemary Ensat, M.D., of the Kaiser Permanente Department of Neurology. Pursuant to her affidavit, Dr. Ensat states as follows:

"Dr. Tjhiang Ong has been evaluated in our Neurology Clinic on multiple occasions mainly because of difficulty with ambulation and abnormal mental status which he has demonstrated repeatedly over the years. His mental status has become progressively worse over the years. In addition, he suffers from diabetes mellitus which he does not control very well. He also repeatedly fails to keep his appointments with his internist, Doctor Nagel, as well as with myself.

. . . The patient was repeatedly advised by myself to close his medical practice which he apparently did for a short time, but then resumed it again.

The patient appears to suffer from a significant degree of dementia which is thought to be due to multiple infarcts most likely from small vessel disease related to his diabetes mellitus.

In my opinion this patient is not fit to continue to work as a physician taking care of patients."

VII

Respondent submitted no affidavits or points and authorities in opposition to the Petition. At hearing he submitted a May 17, 1993, report of a neurological examination by Manmohan Nayyar, M.D., and a Driver Medical Evaluation from 1994. Neither of these documents is sufficient, either in form or content, to contradict Dr. Britt's evaluation and opinion or to establish respondent's current condition.

VIII

At hearing respondent indicated that despite his condition, it was his desire to continue to practice medicine on a very limited scale. However, he was unable to establish that he was capable of doing so without risk of harm to patients. The

practice of medicine by a physician suffering the conditions described in Findings V and VI would constitute unprofessional conduct in violation of the Medical Practice Act. Based on the affidavit of Dr. Ensat and respondent's own representatives, it is apparent he will not voluntarily cease his practice of medicine. Respondent's current physical and neurological condition may interfere with his ability to actually understand the extent of his disability, thus, no intentional wrongdoing is implied by this Finding.

CONCLUSION

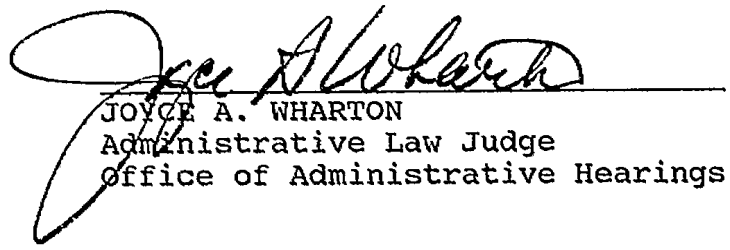
I

By reason of Findings IV, V, VI and VII, it was established that respondent suffers mental or physical illness affecting his competency to the extent his ability to practice his profession safely is impaired. By reason of Finding VIII, it was established that, absent an order of suspension, respondent will continue the practice of medicine. Permitting respondent to continue his practice will endanger the public health, safety and welfare. Cause was established pursuant to Business and Professions Code section 822 and Government Code section 11529 to suspend respondent's Physician and Surgeon's Certificate.

ORDER

The Petition for Interim Order of Suspension is granted. The certificate of Tjhiang Ong, M.D., is suspended pursuant to the provisions of Government Code section 11529.

Dated: May 4, 1995



JOYCE A. WHARTON
Administrative Law Judge
Office of Administrative Hearings