

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

**In the Matter of the Petition for)
Penalty Relief for:)
)
)
)
)
Richard R. Cicinelli, M.D.)
)
Physician's and Surgeon's)
Certificate No. A 25427)
)
Respondent)
_____)**

Case No. 26-2010-204326

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 December 8, 2010 .

IT IS SO ORDERED November 8, 2010 .

MEDICAL BOARD OF CALIFORNIA

By: Shelton Duruisseau
Shelton Duruisseau, Chair
Panel A

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

In the Matter of the Petition for Penalty
Relief of:

RICHARD R. CICINELLI, M.D.,

Physician and Surgeon's Certificate No.
A25427,

Petitioner.

Case No. 26-2010-204326

OAH No. 2010070968

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on September 27, 2010.

Kerry Weisel, Deputy Attorney General, represented the Department of Justice.

Kenneth L. Freeman, Attorney at Law, represented Richard R. Cicinelli, M.D., who was present.

The matter was submitted on September 27, 2010.

FACTUAL FINDINGS

1. Richard R. Cicinelli, M.D. (petitioner) holds physician and surgeon's certificate number A25427. He signed a Petition for Penalty Relief, Termination of Probation, on January 11, 2010.

2. Petitioner's license was revoked by the California Medical Board pursuant to a default decision dated September 17, 1999, to become effective October 18, 1999. That decision was based on disciplinary action taken by the State of Louisiana, Louisiana Board of Medical Examiners. The Louisiana Board entered into a consent order with petitioner on September 22, 1998, and petitioner surrendered his license to practice medicine in Louisiana. The Louisiana Board found that on May 20, 1998, petitioner entered a plea of guilty to two counts set forth in a federal indictment. These counts set forth that on September 22, 1995, petitioner did knowingly and intentionally dispense controlled substances, Dexedrine and Percodan (Schedule II controlled substances) outside the usual course of medical practice.

The California Medical Board, effective October 11, 2006, reinstated petitioner's revoked certificate, immediately revoked it, and stayed the revocation for a period of seven years upon numerous terms and conditions. Petitioner established by clear and convincing evidence that he is rehabilitated. However, he was required to demonstrate his knowledge and skill before he returned to the practice of medicine.

3. Petitioner attended and on April 3, 2007 successfully completed the PACE clinical training program at the University of California, San Diego.

4. Petitioner is in compliance with all of the terms and conditions of probation. He took a prescribing practices course, an ethic course, and a professional boundaries program as required by his probation.

5. Petitioner has served more than four years of the seven-year probation. The Board's investigation corroborated petitioner's testimony that he has met all the terms and conditions of his probation and has completed more than 100 additional CME hours.

6. Petitioner is employed at The Sequoia Center where he is a consulting psychiatrist. He also works at the Forensic Assertive Community Treatment Program in Oakland. He has a small private practice. His specialty is chemical dependency rehabilitation. He also runs a support group for professionals in early recovery. His Medicare/Medical privileges have been reinstated and his DEA license has been partially reinstated (covering IV and V Scheduled drugs).

7. Petitioner has been clean and sober for 13 years. He has undergone monthly testing and has not tested positive since 1997. He lives in a drug and alcohol free environment. He sings in a choir and plays the piano. He also meditates and seeks help from others when he needs it.

9. Petitioner presented three letters of recommendation. One from Sally Rubenstone, M.D., Medical Director of The Sequoia Center; one from Barrett G. Levine, M.D., who works with petitioner at The Sequoia Center; and one from Susan C. Ferguson, M.D., who is the Medical Director of East Bay Community Recovery Project (which includes the Forensic access to Community Treatment program for which petitioner serves as a staff psychiatrist).

10. All of the letters of recommendation state that petitioner is an expert in addiction psychiatry. He is committed to his patients and to his coworkers.

11. Petitioner wants to terminate his probation early to save himself and the State of California the time and expense of probation. Petitioner has learned a great deal from this experience and believes it has made him a better physician and a better person. It would not be against the public interest to terminate petitioner's probation at his time. He has demonstrated rehabilitation and is safe to practice medicine without restriction.

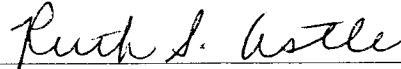
LEGAL CONCLUSIONS

Pursuant to the Findings set forth above, petitioner has demonstrated good cause to grant his petition for penalty relief – termination of probation under Business and Professions Code section 2307 and Government Code section 11522, in that he has demonstrated that he is safe to practice medicine without restrictions.

ORDER

The petition of Richard R. Cicinelli, M.D., physician and surgeon's certificate number A25427, for termination of probation is hereby granted. Petitioner's probation is terminated.

DATED: October 7, 2010



RUTH S. ASTLE

Administrative Law Judge

Office of Administrative Hearings