

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

EUGENE SHAIKEN
2788 Corckett Circle
Los Osos, CA 93402

OAH No. N2003100661

MBC No: 20-2003-148829

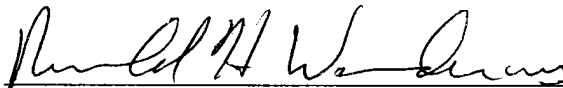
Respondent.

DECISION

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

This Decision shall become effective on March 11, 2004 at 5:00 p.m..

IT IS SO ORDERED February 10, 2004.



DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
RONALD H. WENDER, M.D.
CHAIR, PANEL B

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

In the Matter of the Petition for
Reinstatement of Surrendered Certificate of:

EUGENE SHAIKEN,

Petitioner.

OAH No. N2003100661

PROPOSED DECISION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, on December 2, 2003.

Petitioner Eugene Shaiken (“petitioner”) appeared and represented himself.

The Attorney General of the State of California was represented by Stephen M. Boreman, Deputy Attorney General, Health Quality Enforcement Section, Department of Justice.

Evidence was received and the matter submitted on December 2, 2003.

FACTUAL FINDINGS

1. On December 10, 1970, the Medical Board of California issued Physician and Surgeon’s Certificate No. G-19759 to petitioner. On July 7, 1993, the Division of Medical Quality, Medical Board of California, issued its Decision in *In the Matter of Eugene Shaiken, M.D.*, Case No. D-4718, wherein petitioner’s license was surrendered.

2. On July 15, 2003, petitioner filed a Petition for Penalty Relief praying for reinstatement of his surrendered certificate.

3. The discipline imposed on petitioner's license occurred as a result of several alleged¹ violations of the Medical Practice Act relating to sexual misconduct with four patients (Business and Professions Code §§726 and 2234), and gross negligence in the consumption of marijuana with patients (Business and Professions Code §§2234(c)).

4. The factual underpinnings of petitioner's surrendered certificate remain unresolved.² Petitioner, then a psychiatrist, relates that upset with the allegations and concomitant stress, determined never to practice medicine and, accordingly, surrendered his certificate. Since his surrender, and concerned with incurring Board prosecution if he undertook any conduct related to medical training or education, petitioner has not undertaken any training or education related to the practice of medicine.

5. Petitioner, having engaged in a home business with his wife who has provided familial support through and since his prior Board proceeding, seeks Board re-licensure to return to medicine, to be re-involved in a manner that appeals to his personal worth, and to more aptly contribute to himself and his family. He rapidly and candidly comprehends that a decade of non-practice has, particularly in his field of practice, rendered it necessary for him to undertake didactic and clinical re-training; however, he would willingly embrace such re-training.

6. Petitioner, 60, has clearly gained particular insight into his extant 47-year old psyche at the time the underlying allegations were occurring. He professes developing spiritual focus and strength from and since his licensure surrender.

7. Notwithstanding petitioner's insight and clearly refreshed interest in returning to the practice of medicine and patients with probationary terms and conditions, his extant course of rehabilitation as it relates to medical education or training, is severely lacking.

LEGAL CONCLUSION

Petitioner's belief that Board focus would be disciplinary had he undertaken any medical education or training is, at best, misguided. It is incumbent on a petitioner to establish rehabilitation sufficient to compel his reinstatement—petitioner has not done so. Rather, petitioner seeks reinstatement to engage in further rehabilitation. Accordingly, petitioner, at this juncture, should focus his energies to addressing the gaps in his medical fund of knowledge and clinical practice skills by undertaking continuing medical education, reading medical journals, participating in medical seminars and training, and actively demonstrating a genuine interest in the acquisition of both didactic and clinical medical

¹ Consistent with a disciplinary practice procedurally employed by the Board several years ago, petitioner was permitted to surrender his certificate without any findings of culpability—only an acknowledgement by petitioner that the allegations, **if proven**, would constitute grounds for disciplinary action. Accordingly, the violations alleged in petitioner's Accusation are not found to have ever established his culpability. [Emphasis mine]

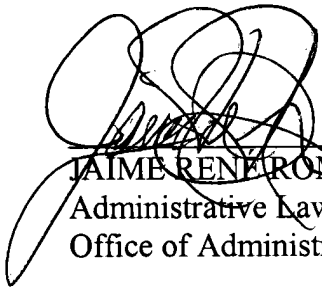
² See footnote 1.

knowledge. Cause, accordingly, does not exist to grant the petition to reinstate a revoked certificate pursuant to Business and Professions Code §2307 and as set forth in Findings 1 – 7.³

ORDER

The Petition for Penalty Relief of Eugene Shaiken, Physician and Certificate No. G-19759, for reinstatement of a surrendered certificate is denied.

Dated: 12-29-03



JAIME RENEROMAN
Administrative Law Judge
Office of Administrative Hearings

³ Although the legal conclusion and order are adverse to petitioner, he must not lose heart. Simply put, he is being granted an opportunity to return at an opportune time with evidence clearly demonstrating rehabilitation sufficiently focused on compelling his re-licensure.