

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

In the Matter of the Petition for Penalty)
Relief of)
)
)
GEORGE PEARSON ROWELL, M.D.)
)
)
Physician's and Surgeon's)
Certificate No. C-39792)
)

Petitioner.)

File No: 18-1994-37589

OAH No: N-2004120394

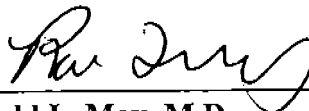
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 14, 2005.

DATED March 15, 2005.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA



Ronald L. Moy, M.D.
Chair, Panel B
Division of Medical Quality

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

In the Matter of the Petition for Penalty
Reduction-Early Termination of Probation
of:

Case No. 18-94-37589

OAH No. N-2004120394

GEORGE PEARSON ROWELL., M.D.
1900 Dartmouth Avenue, Apt.105
Clovis, California 93612

Physician and Surgeon's Certificate
No. C 39792

Respondent.

PROPOSED DECISION

Administrative Law Judge Stephen J. Smith, Office of Administrative Hearings, State of California heard this matter in Sacramento, California on January 18, 2005.

Isa Rodriguez, Deputy Attorney General, Health Quality Enforcement Section, Department of Justice, represented the Division of Medical Quality.

George Pearson Rowell, M.D. appeared in pro per.

The case was submitted on January 18, 2005.

FACTUAL FINDINGS

1. The Administrative Law Judge was assigned by the Division of Medical Quality (the Division), Medical Board of California (the Board) to hear and decide this matter pursuant to Business and Professions Code section 2307, subdivision (c). The Administrative Law Judge is duly designated in accordance with the provisions of Government Code section 11371. The Division has jurisdiction to reinstate, reinstate subject to conditions or deny reinstatement of any previously revoked or surrendered Certificate to

practice medicine and surgery in the State of California, depending upon proof of satisfactory rehabilitation.¹

2. The Medical Board of California (Board) issued Physician and Surgeon's Certificate No. C 39792 to George Pearson Rowell, M.D., on May 22, 1981. The Certificate is renewed and current, subject to the disciplinary action set forth below.

3. Dr. Rowell was licensed to practice medicine in the State of Georgia on July 13, 1973. His license in Georgia has lapsed, and expired in lapsed status on December 12, 1997. Dr. Rowell was issued a license to practice medicine in the State of Illinois on June 6, 1973. The Illinois license expired on July 7, 1982, and has not been renewed.

4. The Board entered an automatic suspension of Dr. Rowell's Certificate on May 8, 1997. Dr. Rowell was convicted on that date of a felony, conspiracy to commit fraud, a violation of Penal Code section 182. Dr. Rowell was sentenced to serve two years in the State Prison, and following release, was required to serve three years of supervised release. The Board revoked Dr. Rowell's Certificate effective June 11, 1999, (Board Case No. 18-1994-37589), but stayed the revocation for a period of five (5) years and placed Dr. Rowell on probation, subject to terms and conditions. The Board's Decision was based upon a Stipulation and Waiver between Dr. Rowell and the Board, agreeing to the imposition of discipline. Dr. Rowell agreed in the Stipulation that he violated Business and Professions Code sections 2261, 2262, 2236, 2234, and 2227. Dr. Rowell agreed that he had been convicted of a crime, made false statements in medical records and engaged in Medi-Cal insurance fraud. The violations occurred between January 1989 and April 1993.

5. Dr. Rowell served 10 months of the two year sentence. He was granted conditional release in 1999, but the terms precluded his practice of medicine for two and a half years. During that period of time Dr. Rowell worked in collections for Vergroff Williams and Associates of Irvine, California. When released to practice again, Dr. Rowell worked for a registry in Walnut Creek, California for 6 months, beginning in November 2001. He then accepted work in June 2002 treating mentally ill inmates in the maximum security unit at California State Prison, Corcoran. Dr. Rowell worked directly for Edgar Castillo, M.D. Dr. Rowell worked in the emergency clinic, outpatient and inpatient clinics in the prison, providing assessment, evaluation and treatment to maximum security inmates with complex psychiatric and medical problems.

6. Dr. Rowell was given the opportunity in February 2003 to work under the supervision of Lawrence Levy, M.D. at Fresno County Jail Psychiatric Services. Dr. Castillo also worked for the unit and referred Dr. Rowell to Dr. Levy. Dr. Rowell began this work in February 2003 and continues to date. Dr. Rowell provides a full range of psychiatric assessment, evaluation and treatment to inmates of the Fresno County Jail. The work is more than full time. He also maintains a small private practice, where he performs psychiatric services for Fresno area board and care homes, some hospice psychiatric care, and performs

¹ Business and Professions Code section 2307, California Code of Regulations (CCR), title 16, section 1360.2.

some SSI and Workers' Compensation evaluations. He testified that he only performs "regulated" work, and avoids Medi-Cal and insurance work. He noted he is so "snowed under" by the great volume of jail work that he has little time for any private practice work. He does almost no billing and has worked with his probation monitor to use a billing service for the few bills he does produce. He testified that he is very concerned about avoiding any possible appearance of impropriety or dishonesty.

7. Dr. Rowell made an exceptionally well organized and articulate presentation of his current work and his rehabilitation. He described himself as an "ex-felon" who made his experience positive and helpful. He described his conviction, incarceration, parole and the Board's disciplinary action as a "dramatic learning experience." He has found a niche treating inmates and described himself as "committed to providing services to these folks." He noted that most psychiatrists are uncomfortable treating this very needy population of patients. He described the inmate population as having three times the suicide rate of the general population and 20 times the substance abuse and heroin addiction rate. He spends most of his treatment efforts on the "Big 4" mental illnesses commonly encountered in jail populations; schizophrenia, schizoaffective disorder, major depression and bipolar disorder. Many of the patients are not only suicide risks but are assaultive, often violent and are a danger to treatment and custodial staff. He focuses his energies on preventative treatment. He makes considerable effort to keep up on the medical literature regarding these mental illnesses and prisoner populations.

8. Dr. Rowell is fully current and in compliance with all his probationary obligations. All costs due are fully paid. Dr. Rowell presented evidence of performance of 521.5 hours of community service (480 hours were required by his probation for the entire 5 year term; 8 hours per month) through Jail Psychiatric Services, over and above his compensated work for that organization. This community service work consisted of evaluating and treating the mentally ill who were incarcerated due to; homelessness; the deinstitutionalized from State mental hospitals; those unable to obtain treatment due to decreased funding from State and County mental health services; and substance abusers, particularly due to an "epidemic" of methamphetamine use in the Fresno County area.

9. Dr. Rowell presented two impressive letters of recommendation, one from Dr. Levy, who supervises his current work at Fresno County Jail Psychiatric Services, and one from Dr. Castillo. Both physicians noted that Dr. Rowell was frank and forthcoming about his conviction and probation when he started work for them. Each noted Dr. Rowell to be a caring, skillful and competent practitioner, with an excellent fund of knowledge and clinical skills. Each remarked on Dr. Rowell's diligence, trustworthiness, and dependability. Each highly recommended that his probation be terminated.

10. Dr. Rowell has just a bit more than two years remaining on his probation. Dr. Rowell seeks termination of probation so that he can continue his professional growth. He is committed to correctional psychiatry and hopes to perform research and publish in the field. Dr. Levy has encouraged him to become a member of the University of California, San Francisco (UCSF) clinical teaching staff in the Psychiatry Department. He hopes to

influence others to work in this very underserved area of psychiatry. He requested that if his Petition is denied, any deficiencies should be identified in the Decision so he can work on those deficits and correct them.

11. Dr. Rowell seeks Board's endorsement of his rehabilitative efforts on an objective basis. The Board's endorsement of his rehabilitation through early termination is a matter of dignity and self-esteem to Dr. Rowell. Dr. Rowell expressed sincere regret and remorse for his behavior that led to his conviction. He noted in his testimony that he embarrassed himself and put his family through considerable hardship. But he also expressed gratitude for the dramatic changes for the good that have resulted. He is now very concerned about any appearance of impropriety. He takes very detailed patient notes. He is very careful to make certain his clinical findings support his conclusions and treatments. He is a better organized and better balanced psychiatrist now. He makes considerable effort to try to anticipate problems and respond accordingly.

12. Dr. Rowell made a most impressive witness in his own behalf. He presents as exceptionally well organized, careful and very articulate. He expressed genuine appreciation for the help and support he has received, particularly from Dr. Levy. He testified he owes Dr. Levy a debt of loyalty. His testimony and comments in his narrative attachment to his Petition described the learning process he has experienced, which provide substantial credence to his assertions that the mistakes that led to the disciplinary actions will not recur.

13. Dr. Rowell is rehabilitated. He has excellent insight into the problems that led him to be convicted and disciplined. As a result, he avoids practicing in settings where honesty in billing or insurance claims could be an issue. He carefully avoids any appearance of impropriety or dishonesty. He has found a niche where he is performing a valuable and rewarding service to a greatly underserved patient population. His expressed ambition is to expand upon that productive niche. He has learned well some very valuable lessons and has objectively demonstrated that he is a much better and more effective practitioner for the experience. He has already satisfied the entire community service obligation term of his probation. He has earned the opportunity to receive the endorsement of his significant efforts at rehabilitation with an early termination of his probation. There is no evidence that granting Dr. Rowell's Petition would pose any appreciable risk of potential harm to the health, welfare or safety of consumers of medical services of California. Dr. Rowell is ready to expand his work in correctional psychiatry and no useful purpose would be served by continuing his probation.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2221, subdivision (b), provides, "The Division of Licensing may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the licensee." "...[I]s important to bear in mind that in a proceeding for the restoration of a revoked license, the burden at all times rests on the petitioner to prove he has rehabilitated himself and is entitled to have his license

restored.”² Proof of reinstatement must be sufficient to overcome the Board’s previous adverse determination.³

2. California Code of Regulations (CCR), title 16, section 1360.2, provides,

“When considering a petition for reinstatement of a license, certificate or permit holder pursuant to the provisions of Section 11522 of the Government Code, the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsections (a) or (b).

(d) In the case of a suspension or revocation based upon the conviction of a crime, the criteria set forth in Section 1360.1, subsections (b), (d) and (e).

(e) Evidence, if any, of rehabilitation submitted by the applicant.”

3. “Administrative proceedings to revoke, suspend, or impose discipline on a professional license are noncriminal and nonpenal; they are not intended to punish the licensee, but rather to protect the public.”⁴ “Regarding the imposition of discipline on a medical license, section 2229, subdivision (a) states: ‘Protection of the public shall be the highest priority for the Division of Medical Quality . . . and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority.’”⁵

4. Dr. Rowell is rehabilitated. Dr. Rowell’s performance on probation has been exemplary. Dr. Rowell has greatly benefited profited from his conviction, incarceration, parole and the Board’s actions. Dr. Rowell is considered a safe and competent practitioner by those who review his work and work with him daily. He has earned the trust and respect of those who took the risk to employ him while on probation. There is no lingering or unresolved public protection issue. Dr. Rowell’s hard work, diligence and proved dependability has earned him the opportunity to receive the endorsement of the Board by the granting of his Petition. Continuing probation will make it more difficult for Dr. Rowell to

² *Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.

³ *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.3d 308, 315-16.

⁴ *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-6.


⁵ *Griffiths v. Superior Court* (2002) 96 Cal.App 4th 757, 768, n.2.

begin his ambition of conducting research and publishing on inmate population psychiatry, and prevents him from accepting an opportunity to join the UCSF clinical faculty. There is no public protection need evident that requires those ambitions to be deferred.

ORDER

The Petition of George Pearson Rowell, M.D. for an Early Termination of Probation is GRANTED. Probation is terminated. Dr. Rowell's Certificate is hereby fully restored, free of any conditions, limitations or restrictions, upon the effective date of this Decision.

DATED: February 23, 2005



STEPHEN J. SMITH
Administrative Law Judge
Office of Administrative Hearings