



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

In the Matter of the Petition for Early  
Termination of Probation of:

BRIAN HALEVIE-GOLDMAN, M.D.

Physician's and Surgeon's Certificate  
No. A 38684

Petitioner.

Case No. 26-2009-203713

OAH No. 2010090756

**PROPOSED DECISION**

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings on March 4, 2011, in Sacramento, California.

Jean-Pierre Francillette, Deputy Attorney General, appeared on behalf of the Department of Justice.

Brian Halevie-Goldman, M.D. appeared on his own behalf. He was assisted by Laura Mackie, lay representative.

The case was submitted for decision on March 4, 2011.

**FACTUAL FINDINGS**

1. On May 19, 2006, an Accusation was filed against petitioner alleging that his actions in connection with his treatment of a single patient between 2003 and 2005 constituted gross negligence, repeated negligent acts, prescribing without good faith examination, failure to maintain adequate records and dishonest acts/false representations.

An administrative hearing was held on February 26, 27 and 28, 2007, before Administrative Law Judge Ruth S. Astle. Judge Astle issued a Proposed Decision on March 23, 2007, finding cause for disciplinary action under each of the causes alleged

in the Accusation. The Decision was adopted by the Division of Medical Quality, Medical Board of California (Board) on April 16, 2007, and made effective May 16, 2007.

2. Under the terms of the April 16, 2007 Decision and Order, petitioner's physician and surgeon's license was revoked. However, the revocation was stayed and he was placed on probation for five years under specified terms and conditions including that he serve an actual 90-day suspension, and that he enroll in courses for prescribing practices, medical record keeping and ethics. He was also ordered to undergo a psychiatric evaluation and to comply with all restrictions or conditions recommended by the evaluating psychiatrist. Petitioner was to arrange for an approved practice monitor and his medical practice was restricted to psychiatric practice only. The above terms of probation were in addition to standard Board terms and conditions.

Petitioner has complied with all the terms and conditions of his probation. His probation is scheduled to terminate in May 2012.

#### *Background*

3. Petitioner is practicing as a physician, specializing in child psychiatry. He is not board-certified by any board within the ambit of the American Board of Medical Specialties.

Petitioner attended medical school at the University of Witwatersrand, Johannesburg, South Africa and graduated with an M.D. in 1977. He did a rotating internship in South Africa. In September 1978, petitioner received his U.S. license. He began practicing in New York. He did one year (January 1980 to January 1981) at Bellevue and NYU Medical Center that was equivalent to an American internship. Then he did a residency in clinical services psychiatry from July 1981 to December 1982 at Stanford where he researched neuropsychology. From July 1984 to June 1985, petitioner did a fellowship in child and adolescent psychiatry at UC Davis. Petitioner then worked in private practice in Southern California. Petitioner was at UC Irvine in a research residency. He also attended a part-time fellowship in child and adolescent psychopharmacology at UCLA from July 1988 to June 1989. He was in private practice in Southern California (Long Beach and Santa Ana) from 1989 to 1994. Petitioner moved to Jonesboro, Arkansas in 1994. In 1995, petitioner moved to Yuba City, California and engaged in private practice there. In 1998, petitioner became associated with Amen Clinics, Inc. in Fairfield and Danville, California. He has devoted much of his practice to working with autistic children. Petitioner does not have any hospital privileges.

Petitioner surrendered his license to practice medicine in the State of New York on August 23, 2007. He did so voluntarily in response to charges that were pending there based solely on the California Board's disciplinary action.

*Probation Compliance*

4. Petitioner has been compliant with all terms of his probation. He completed his psychiatric evaluation with Dr. W. Melvin Brown on June 18 and 22, 2007. A full report of this examination was provided to the Board on June 30, 2007.

5. Petitioner completed the physician prescribing and medical record keeping courses through the University of California, San Diego Physician Assessment and Clinical Education Program. He did so in 2007. He completed an ethics course through the Institute for Medical Quality in September 2008.

In addition, petitioner attended the following training courses:

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|---|--------------|
| a. The Neuro-Endocrine-Immune Connection                  | June 2009    |
| b. Annual Meeting of the American Psychiatric Association | May 2009     |
| c. Squadron Leadership School – National Civil Air Patrol | May 2009     |
| d. American Academy of Child and Adolescent Psychiatry    | October 2009 |

6. Petitioner arranged for John R. Rostkowski, M.D. to assume responsibilities as his practice monitor. Petitioner is compliant with probation terms and conditions relating to his practice monitor, quarterly reporting requirements, maintaining a controlled substances log, practice limitations, payment of probation monitoring costs and all other probation requirements.

7. Petitioner is current with his continuing medical education (CME) hours. He regularly reads various medical publications including the Journal of the American Academy of Child and Adolescent Psychiatry, Psychiatry, Archives of General Psychiatry, PEDS, Psychiatric Annals, CNS Spectrums, Primary Psychiatry, Journal of the American Medical Association and Neurology Now.

*Letters in Support*

8. Dr. Rostkowski submitted a letter, dated July 18, 2009, in support of early termination of petitioner's probation. Dr. Rostkowski has submitted quarterly reports to the Board as petitioner's practice monitor since January 2008, all of which have been positive concerning his scheduled-medication prescriptions, evaluation and treatment of patients, documentation and compliance with professional standards. Dr. Rostkowski noted:

Since the administrative action, he has become more aware and protective of his medical ethics. Because of the Board's action and numerous discussions that he and I have had at each of our meetings, he is much more aware of how easily even treatment within the highest ethical standards can be undermined by others even if

they do not wish us any harm and are unaware or unconcerned of any breach of ethics....

As I have stated above, Dr. Goldman's medication logs, evaluation, and treatment plan adequately describe his choice of treatment and justifies his prescription of medication. He follows each patient at appropriate intervals, adjusts the treatment plan and medication appropriately if needed, and documents his treatment with appropriate progress notes. All of these items indicate substantial improvement in his practice and documentation as the Medical Board has recommended....

Although I would enjoy continuing our formal mentorship, I strongly support Dr. Goldman's petition for Penalty Relief by the Medical Board of California. He has complied with all personal evaluation requests, has completed all required classes including ethics courses, has complied with the Board's probation meeting requirements, and has not only complied but has been enthusiastic in our mentorship sessions. He has substantially gained from his probation situation as documented above, he has never been an ethical or clinical threat to his patients, and his probation situation is draining to his finances and, most importantly, to his self-esteem.

I support Dr. Goldman's application for Penalty Relief strongly and without reservation.

9. Petitioner submitted a letter, dated June 25, 2009, from Kenneth S. Shepard, M.D. The two worked together for two years at the Amen Clinic, and have met on several occasions since petitioner's return to practice. Dr. Shepard wrote concerning petitioner:

It is apparent that he has used this experience to improve his practice. He has employed an administrative person to oversee general office duties. He seems more cautious and less trusting than in the past, without compromising the good relationships he has developed with his patients. He is, in short, a better physician for undergoing this very negative experience.

I believe it would be completely appropriate to restore his unconditional license and allow this fine physician to return to practice free from restrictions. I do not believe he represents any risk to any patient or to our profession; rather, as I said before, I believe he is a credit to it.

10. Petitioner also submitted letters from two physicians from Amen Clinics, Inc., Leonti H. Thompson, M.D., and Daniel G. Amen, M.D. Dr. Thompson has known and worked with petitioner for over five years and writes:

I feel that Dr. Goldman has learned a valuable lesson on the need to be duly cautious in his business undertakings, and to recognize that he may bear responsibility for allowing his medical license to be misused. ...

At this time, he appears to understand the seriousness of falling afoul of the regulations under which a physician in California must operate. I believe that he is ready for termination of probation at this time and can continue his practice in a responsible manner. His experience in this present incident, I believe, will serve as a caution in his future activities as a physician.

Dr. Amen is the Chief Medical Director and CEO of Amen Clinics, Inc. He opined that “the probation terms have served to encourage Dr. Halevie-Goldman to improve in many needed areas, but its prolongation no longer serves any useful purpose. My recommendation is that he be granted early termination of his Medical Board probation.”

#### *Other Matters*

11. Petitioner is requesting early termination of probation for several reasons. He noted that he has made every attempt to comply with both the spirit and letter of the law in abiding by the terms of probation, “utilizing the experience to gain those insights mentioned by the Judge and putting those insights into practice. At this point, I sincerely believe that the intended purpose of the original disciplinary action has been accomplished and that it would not be contrary to the public’s best interest if the Board were to relieve me of the remaining probationary period.” Continuing on probation places constraints and financial burdens on him. He indicated that the financial costs of a practice monitor, added to the cost in time associated with compliance tasks, are considerable. He must often choose between devoting time and money to his special needs children and patients, and devoting the same limited resources to remain in full compliance with probation.

Petitioner cannot be a Medicare/Medi-Cal provider while he remains on probation. He would like to serve more low income patients, especially children. His malpractice insurance will hopefully be reduced. He would also like to do more medical/legal evaluations and serve as an expert witness, something he cannot do while he is on Board probation. He would like to be of more service in his volunteer work as a squadron medical officer with the Civil Air Patrol. Probation limits his work to psychiatry. He will be leaving Amen Clinics, Inc. in the near future. He believes termination of his probation will allow him to expand his medical practice with less hindrance.

12. Petitioner has gained important insights into how it came about that he engaged in the unethical and dishonest conduct leading to his discipline by the Board. It is most unlikely that he will engage in such conduct again. He has been fully compliant with all terms and conditions of probation. Continuing on probation will be professionally and financially burdensome. No public interest would be served by having him continue on probation with the Board at this time. The Department of Justice is not opposed to this petition and the relief sought by petitioner. Under all these circumstances, the petition to terminate his probation should be granted

#### LEGAL CONCLUSIONS

1. Under Business and Professions Code section 2307, a person whose certificate has been placed on probation may petition the Division of Medical Quality for modification of penalty, including termination of probation. At least two years must have elapsed from the effective date of the decision ordering the disciplinary action if the probation is three years or more. (Bus. & Prof. Code, § 2307, subd. (b)(2).) That condition has been satisfied here. Petitioner was placed on probation for five years, commencing May 16, 2007.

2. The matters set forth in Findings 4 through 12 have been considered. Petitioner has made excellent progress while on probation. He has complied with all the terms and conditions of probation. It would not be contrary to the public interest to terminate his probation at this time.

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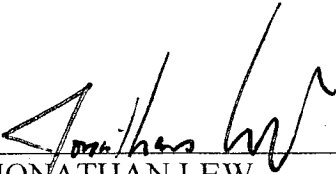
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ORDER

The petition of Brian Halevie-Goldman, M.D., for termination of probation is granted. Physician's and Surgeon's Certificate number A 38684 is fully restored.

DATED: March 14, 2011

  
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JONATHAN LEW  
Administrative Law Judge  
Office of Administrative Hearings