

BEFORE THE
MEDICAL QUALITY HEARING PANEL
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of the Interim Suspension
Order Against:

JEFFREY THOMAS GRAY, M.D.

Physician's and Surgeon's Certificate No.
G56251

Respondent.

Case No. 122004156729

OAH No. N2005040715

DECISION

Administrative Law Judge Ruth S. Astle, Medical Quality Hearing Panel, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 31, 2005.

David Carr, Deputy Attorney General, represented complainant David T. Thornton, Executive Director, Medical Board of California.

John T. Kennedy, Attorney at Law, Nossaman, Guthner, Knox and Elliott, LLP, represented respondent Jeffrey T. Gray, M.D., who was not present.

The matter was submitted on May 31, 2005.

FACTUAL FINDINGS

1. The Petition for Interim Suspension Order brought by the Executive Officer of the Medical Board of California, David T. Thornton, acting in his official capacity and not otherwise, came on for hearing on May 31, 2005 at 1:00 p.m. By the petition, petitioner seeks an interim suspension of Physician's and Surgeon's Certificate No. G 56251, issued to Jeffrey T. Gray, M.D. On April 26, 2005 petitioner gave notice of the hearing on the petition pursuant to Government Code section 11529, subdivision (b).

2. Jeffrey T. Gray, M.D., has held Physician's and Surgeon's Certificate No. G 56251, issued by the Board, since October 15, 1985. His license will expire August 31, 2005, unless otherwise renewed.

3. Dr. Gray was a psychiatrist with Napa County Health and Human Services. His employment was terminated as a consequence of acts alleged in a criminal matter pending against him. His attorney has indicated that respondent is not currently seeing patients.

4. Medical Board Investigator Teri Bennett investigated respondent after the Board was notified by Napa County Health and Human Services of the allegation. The allegations were that respondent was having sexual relations with a patient beginning January 29, 2001. Respondent had acted as this patient's psychiatrist since 1997. This patient had a significant psychiatric history including an eating disorder. Ms. Bennett interviewed witnesses and obtained documents, including medical records of the patient, public records of the Napa County Superior Court relating to the criminal investigation and official records from the Napa County Sheriff's office pertaining to the criminal investigation. Ms. Bennett provided copies of this material to Laura Duskin, M.D., the Board's expert psychiatrist retained to review this material and evaluate respondent's present ability to practice with safety to the public.

5. Dr. Duskin found that respondent's behavior was an extreme departure from the standard of practice and that his judgment is seriously impaired. She concludes that this "high degree of impairment, as well as his apparent lack of insight regarding it, calls for immediate action to assess the cause as well as prevent him from practicing medicine while impaired." There is also evidence of substance abuse with amphetamines and a plan by Dr. Gray to commit suicide.

6. The complainant established by a preponderance of the evidence that the respondent had a sexual relationship with a patient. Dr. Duskin came to the conclusion that respondent poses a threat to the public safety based on the material she reviewed.

LEGAL CONCLUSIONS

1. Under Government Code section 11529, an interim order of suspension may be issued when the evidence shows that there is a reasonable probability that the petitioner will prevail in the underlying action and that the likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order. The standard of proof is a preponderance of the evidence.

2. In order to "prevail" in the underlying action, petitioner need only show that respondent committed acts in violation of the Medical Practice Act and that, therefore, cause for disciplinary action against him exists. Here, there is a reasonable probability that the patient's contention that she was a patient when respondent had a sexual relationship with her and that constitutes unprofessional conduct, will be found to be true.

3. The likelihood of injury to the public in not issuing the order clearly outweighs the likelihood of injury to the licensee in issuing the order. Since respondent is not seeing


patients at this time, his injury is limited. Respondent is protected by accelerated timelines to have the matter fully heard. The public is at great risk of injury should respondent continue to practice in a manner that sexualizes the therapy of his patients. At this point there is no assurance that this will not continue to happen.

ORDER

1. The Petition for Interim Order of Suspension is granted. Physician's and Surgeon's Certificate No. G 56251 is hereby suspended until such time as a hearing may be held on the accusation to be filed by petitioner. Respondent Jeffrey T. Gray, M.D., is immediately restrained and prohibited from practicing or attempting to practice as a physician and surgeon, from advertising or otherwise holding himself out to be a medical doctor and/or psychiatrist, and from possessing or holding Physician's and Surgeon's Certificate No. G 56251, which license shall be surrendered to the Board by delivering the same to the Board or its designee.

2. Petitioner shall file an accusation against respondent within fifteen (15) days of the issuance of the Interim Order suspending respondent's license. If respondent files a notice of defense, a hearing shall be held within thirty (30) days of the agency's receipt of the notice. Failure to comply with these requirements shall dissolve the interim order by operation of law.

DATED: 6/8/05



RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings