

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

KIMBERLY KIRCHMEYER, Executive  
Director of the Medical Board of California,  
Department of Consumer Affairs, State of  
California,

Petitioner

v.

PAUL YEH, M.D.,

Physician's and Surgeon's  
Certificate No. A155642,

Respondent.

Case No. 800-2018-043778

OAH No. 2018050451

**EX PARTE INTERIM SUSPENSION ORDER**

On May 10, 2018, Kimberly Kirchmeyer (Petitioner), Executive Director, Medical Board of California (Board), filed an Ex Parte Petition for Interim Suspension Order (Petition) pursuant to Government Code section 11529, seeking to suspend the Physician's and Surgeon's Certificate issued to respondent Paul Yeh, M.D., pending a full hearing on the merits.

Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, heard the matter on May 11, 2018, in Los Angeles, California.

Judith T. Alvarado, Deputy Attorney General, appeared and represented petitioner. Kevin D. Cauley, Attorney at Law, appeared and represented respondent.

Petitioner submitted documents and both parties presented oral argument and points and authorities. The documentary evidence submitted at hearing supports, among other things, the factual findings below.

Finding that good cause was shown and that notice was given as required by law, the administrative law judge granted the petition as follows:

## FACTUAL FINDINGS

1. On March 27, 2018, respondent submitted an application for licensure as a physician and surgeon. The Board received transcripts confirming respondent's completion of medical school and documentation of his participation in a postgraduate training program. (Ex. 3.)

2. Before a license can be issued, applicants must successfully complete all parts of a uniform examination designed to ascertain the applicant's fitness to practice medicine. The most common examination taken by applicants is the United States medical licensing examination (USMLE). The USMLE is a four-part examination which assesses a physician's ability to apply knowledge, concepts and principles and to demonstrate fundamental skills. The first three parts are typically completed in Step 1 and Step 2 during medical school. The final part, designated as Step 3, is typically taken during the first or second year of postgraduate training. (Ex. 2; Cal. Code Regs., tit. 16, § 1328, subd. (13).)

3. On April 18, 2018, the Board received a Federal Express package containing a document purporting to be a Certified Transcript of Scores from the Federation of State Medical Boards (FSMB). April Alameda, Chief of Licensing with the Board, observed that that document set forth respondent's name and the following stated information at the bottom section of the certificate:

USMLE Step 3				
Test Date	Pass/Fail	Total	MP	
2/12/2018	Pass	208	(196)	

(Exs. 2 and 4.)

4. Based on the document contained in this envelope, the Board determined that respondent had passed all four parts of the USMLE examination.

5. On April 27, 2018, the Board issued to respondent Physician's and Surgeon's certificate number A155642. Respondent's certificate is active and valid through April 30, 2020.

6. On May 4, 2018, the Board received information from FSMB, including a Certified Transcript of Scores, with data contrary to that described at Factual Finding 3, and which instead indicated that respondent had neither taken nor passed Step 3 of the USMLE examination. (Exs. 2 and 5.)

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7. Upon receiving the conflicting information, Chief Alameda retrieved the envelopes in which respondent's purported scores were delivered to the Board; she observed indicia of tampering on the shipping label; and she observed respondent's name on the shipping label under "an area that had been whited out." (Ex. 2.)

8. Respondent, by and through his counsel, filed a written waiver of his right to a hearing within 20 days of the issuance of an ex parte order granting an interim suspension, and agreed that the interim suspension order will remain in effect until issuance of an order on the noticed petition for an interim suspension order. (Ex. B.)

### LEGAL CONCLUSIONS

1. An administrative law judge may issue an interim order suspending a license or imposing license restrictions if affidavits in support of a petition for such an order show that the licensee has engaged in, or is about to engage in, acts constituting a violation of the Medical Practice Act, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. (Gov. Code, § 11529, subd. (a).)

2. An interim suspension order may be issued ex parte if "it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice." (Gov. Code, § 11529, subd. (b).)

3. An administrative law judge shall issue the interim order upon concluding that (1) there is a reasonable probability that the petitioner will prevail in the underlying action, and (2) the likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order. (Gov. Code, § 11529, subd. (e).)

4. Petitioner has established that cause exists under Government Code section 11529, subdivisions (a), (b), and (e), to suspend respondent's license pending a full hearing on the merits.

5. There is a reasonable probability that Petitioner will prevail in the underlying action. Although the evidence as presented is insufficient to make a finding of actual fraud, the weight of the evidence is sufficient to show that respondent has not met the criteria for licensure and that the license issued to him only 14 days before the ex parte hearing is invalid. Respondent has been licensed for such a short period that suspending his license until the matter can be heard on notice will cause primarily financial injury and a delay in the establishment of his medical practice. On the other hand, serious injury would result to the public from respondent's unauthorized and unqualified practice of medicine. Accordingly, the likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to respondent in issuing the order.

ORDER

1. The Ex Parte Petition for Interim Suspension Order is granted. Respondent's Physician's and Surgeon's Certificate number A155642 is suspended pending a full hearing on the merits.

2. During the period of suspension, respondent shall not practice medicine or surgery or engage in any acts for which licensure by the Board is required.

3. A noticed hearing on the Petition will be held on **June 4, 2018, at 1:30 p.m.**, at the Office of Administrative Hearings, located at 320 West Fourth Street, Suite 630, Los Angeles, California.

4. Petitioner and respondent may file and serve additional documents and affidavits, respectively, in support of or in opposition to the Petition on or before May 29, 2018. Any written reply to an opponent's documents, including additional declarations, shall be filed no later than 10:00 a.m. on June 4, 2018.

DATED: May 14, 2018

DocuSigned by:  
*Matthew Goldsby*  
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MATTHEW GOLDSBY  
Administrative Law Judge  
Office of Administrative Hearings