

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

In the Matter of the Petition for Penalty Relief of:)	
)	
)	
Alan Jay Cohen, M.D.)	Case No. 26-2010-205841
)	
Physician's and Surgeon's Certificate No. G 51201)	
)	
Respondent)	
_____)	

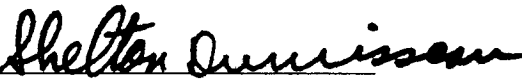
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 5, 2011.

IT IS SO ORDERED July 6, 2011.

MEDICAL BOARD OF CALIFORNIA

By: 
**Shelton Duruisseau, Ph.D., Chair
Panel A**

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

In the Matter of the Petition for Penalty
Relief of:

ALAN JAY COHEN, M.D.,

Physician and Surgeon's Certificate No.
G 51201

Petitioner.

Case No. 26-2010-205841

OAH No. 2011010608

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 24, 2011.

Susan K. Meadows, Deputy Attorney General, represented the Department of Justice.

John L. Fleer, Attorney at Law, represented Alan Jay Cohen, M.D., who was present.

The matter was submitted on May 24, 2011.

FACTUAL FINDINGS

1. Alan Jay Cohen, M.D. (petitioner) holds physician and surgeon's certificate number G 51201. He signed a Petition for Penalty Relief, Termination of Probation, on February 17, 2010.

2. Petitioner's license was revoked by the Medical Board of California pursuant to a decision after non-adoption dated December 14, 2005, which became effective January 13, 2006. That decision was based on disciplinary action under Business and Professions Code sections 726 (sexual misconduct/unprofessional conduct) and 2234 (unprofessional conduct), 2234, subdivision (b) (gross negligence), 2238 (violation of drug statute), 2234, subdivision (e) (dishonesty or corruption), 2261 (false representation in medical document), and 2234, subdivision (c) (repeated negligent acts). Petitioner engaged in a sexual relationship with a patient and was addicted to drugs and alcohol.

3. Petitioner is in compliance with all of the terms and conditions of probation. He took an ethics course, and completed 40 additional hours of CME during the first year of probation.

4. Petitioner has served more than five years of the seven-year probation. The Board's investigation corroborated petitioner's testimony that he has met all the terms and conditions of his probation and paid cost recovery in the amount of \$10,000 in full. Petitioner was successfully terminated from psychotherapy with the permission of his therapist and the Board. He has had his practice monitored continuously without any problems. He continues to attend AA and NA meetings and plans to do so after his probation is terminated.

6. Petitioner is employed at Eden Adult Outpatient Services, Eden Community Support Center, Alameda County Behavioral Health Care Services where he is a team leader acting as a psychiatrist. His colleagues think extremely well of him as a professional and as an ethical practitioner. Lynn Ellen Marcus, LMFT, testified about her interaction with petitioner at the Eden Community Support Center. She has worked with petitioner for eight years and is completely supportive of his petition to terminate probation.

7. Petitioner has been clean and sober for at least 11 years. He has undergone biological fluid testing and has not tested positive since 2001. He successfully completed the Board's diversion program in June 2006.

8. Petitioner presented three letters of recommendation including one from Lynn Marcus, LMFT. The other two were from Peter Lavallo, M.D., and Roger B. Mendelson, M.D. Dr. Lavallo served as petitioner's practice monitor for over two years until he retired. Dr. Mendelson also worked with petitioner at Eden Community Support Center. Dr. Mendelson gives petitioner his "highest reference as an excellent, reliable, caring and ethical physician."

9. All of the letters of recommendation state that petitioner is an expert in psychiatry. He is committed to his patients and to his coworkers.

10. Petitioner wants to terminate his probation early to save himself and the State of California the time and expense of probation. Petitioner has learned a great deal from this experience and believes it has made him a better physician and a better person. It would not be against the public interest to terminate petitioner's probation at his time. He has demonstrated rehabilitation and is safe to practice medicine without restriction.

LEGAL CONCLUSIONS

Pursuant to the Findings set forth above, petitioner has demonstrated good cause to grant his petition for penalty relief – termination of probation under Business and

Professions Code section 2307 and Government Code section 11522, in that he has demonstrated that he is safe to practice medicine without restrictions.

ORDER

The petition of Alan Jay Cohen, M.D., physician and surgeon's certificate number G 51201, for termination of probation is hereby granted. Petitioner's probation is terminated.

DATED: 6/2/11

Ruth S. Astle

RUTH S. ASTLE

Administrative Law Judge

Office of Administrative Hearings