

IN THE MATTER OF \* BEFORE THE BOARD  
MAHMOUD F. ABBAS, M.D. \* OF PHYSICIAN QUALITY  
APPLICANT \* ASSURANCE OF MARYLAND  
LICENSE NUMBER: D12722 \* CASE NUMBER: 92-0198

\* \* \* \* \*

DECISION

I. Introduction and Procedural History

On August 1, 1995, the Board issued a Final Order<sup>1</sup> revoking the medical license of Mahmoud F. Abbas, M.D., ("Applicant"), license number D12722, pursuant to Md. Code Ann., Health Occ. ("H.O") §14-404(b). On November 9, 2000, the Applicant filed an application for reinstatement of his medical license with the Board. That application was completed on February 9, 2001. This is the final decision on that application.

On November 9, 2000, the Board sent the Applicant a series of questions which the Board routinely asks candidates for reinstatement after revocation. The questions are as follows:

1. What is your understanding of the circumstances which resulted in the

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<sup>1</sup> The Final Order dated August 1, 1995, is incorporated by reference and is available upon request.

revocation of your medical license?

2. Have you accepted responsibility for the actions resulting in the revocation of your license and what is your understanding of the concerns of the Board with respect to your practice?

3. What are your plans for returning to practice and the circumstances of the proposed practice?

4. Have you been able to maintain your competency to practice medicine in your specialty (i.e. CME courses)?

On February 9, 2001, the Board received the Applicant's completed reinstatement application including his response to the series of reinstatement questions. The entirety of his responses to the questions are set out as follows:

1. My understanding of the circumstances resulting in a revocation of my license is that I was found guilty of Medicaid fraud;

2. I have accepted responsibility of my actions;

3. My plans, if allowed to practice, is to work in a clinic paid by the hour and have nothing to do with billing; and

4. I have completed over 50 hours CME category 1.

On April 18, 2001, the Applicant appeared before the Case Resolution Conference ("CRC") a committee of the Board, and argued that the Board should grant his petition for reinstatement of his medical license. After reviewing his application and hearing his argument, the CRC informed Dr. Abbas that it would not recommend reinstatement at this time.

After having reviewed the application and all supporting documents, and after having received and considered the recommendation of the Case Resolution Conference, the Board voted to issue this decision. There is no statutory provision for a hearing on reinstatement applications in these circumstances, nor is there a constitutional requirement.

## **II. Factual Background**

The Board revoked the Applicant's medical license on August 1, 1995, as a result of his guilty plea to one count of Medicaid Fraud. In 1991, the Applicant was the target of a criminal investigation by the Medicaid Fraud Control Unit of the Office of the Attorney General ("MCFU"). As a result of the investigation, the MCFU filed a criminal indictment in the Baltimore City Circuit Court involving 15 counts of Medicaid Fraud, and three related counts.

At the time, the Applicant was a psychiatrist employed by Clifton T. Perkins Hospital, and also had a private practice in Howard County. The Statement of Facts filed by the MCFU detailed the evidence that the unit had collected, much of which was obtained by undercover operatives. The undercover investigators posed as patients seeking mental health services at the Applicant's private practice. The evidence collected concerned, among other things, the Applicant's misprescribing of CDS for patients. The evidence collected showed that the Applicant either failed to

perform an appropriate evaluation for patients prior to prescribing the CDS, or that the patients failed to present a medical need for the drug or drugs. Moreover, the Applicant routinely billed for 45 to 50 minutes of psychotherapy when the Medicaid patients included in the investigation were not receiving this amount of therapy. The Applicant billed the State Medicaid program for purportedly providing up to 20 to 25 patients with 45 to 50 minutes of service in one day.

In resolution of the above investigation, and subsequent criminal indictment, the Applicant stipulated to the Statement of Facts summarized above and pled guilty to Count fifteen of the indictment, felony Medicaid Fraud. The remaining counts were *nol proseed*.

Count fifteen stated in pertinent part:

... Mahmoud F. Abbas, within the State of Maryland, pursuant to one scheme and continuing course of conduct, from on or about January 1, 1986, through on or about December 31, 1991, did knowingly and willfully make and cause to be made a series of false statements and false representations of material fact in applications for payments submitted to the Medical Assistance Program of the Department of Health and Mental Hygiene in Baltimore City, Maryland, a State Plan established pursuant to Title XIX of the Social Security Act of 1939, in that MAHMOUD F. ABBAS knowingly submitted applications requesting payment for services that were not performed involving money, goods and services having a value of five hundred dollars (\$500) or more, in violation of Article 27, Section 230C of the Annotated Code of Maryland, contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State.

In 1992, the Circuit Court sentenced the Applicant to three years' incarceration (suspended), fined him \$10,000 plus court costs, ordered that he pay restitution to the State Medicaid program in the amount of \$30,000 and placed him on five years of probation.

As a result of the Applicant's guilty plea, the Department of Health and Human Services excluded him from providing services to Medicaid and Medicare patients, effective May 27, 1993, for a period of eight years and six months. He was also expelled from the American Psychiatry Association and from the Maryland Psychiatric Society.

The Board suspended the Applicant's license to practice medicine on November 18, 1992, under Md. Health Occ. Code Ann ("Health Occ.") § 14-404 (b)(1) for pleading guilty to a crime of moral turpitude. Three years later, after the time for filing any appeals had passed, the Board revoked the Applicant's license under Health Occ. § 14-404 (b)(2).

### **III. Current Request for Reinstatement**

The Applicant's current application for reinstatement was completed on February 9, 2001. It is the Applicant's burden to prove that he meets the qualifications for licensure, as well as the special criteria for reinstatement. In considering a petition for reinstatement, the Board has routinely considered the

following factors. The Board notes that these factors have been used by the Maryland Court of Appeals in attorney discipline cases:

- A. The nature and circumstances of the petitioner's original misconduct;
- B. Petitioner's subsequent conduct and reformation;
- C. His present character; and
- D. His present qualifications and competence to practice.

The Board will set out below its consideration of these factors.

A. The Nature and Circumstances of the Applicant's Original Misconduct

The nature and circumstances of the Applicant's original misconduct were stipulated to in the Statement of Facts by the Applicant in the criminal proceeding and are set out more fully in the Factual Background, above. The Applicant engaged in deception; Medicaid fraud is a crime of moral turpitude. But he did not only submit fraudulent bills. He also committed conduct which detrimentally affected his patients. He misprescribed CDS to patients and failed to perform necessary psychotherapy, despite billing the State for this psychotherapy. The Applicant's actions indicate a serious lack of judgment in caring for his patients as well as a willingness to make false statements for his own financial gain. All medical specialties require a trusting relationship between the patient and physician in order to function. In psychiatry, this is especially true. In light of the Applicant's

deception with regard to the treatment provided his patients, and his lack of judgment in caring for those patients. he has a heavy burden to overcome with regard to relicensure.

#### B. The Applicant's Subsequent Conduct and Reformation

The Applicant failed to provide the Board with any evidence at all of his subsequent conduct and reformation, nor did he indicate that such evidence exists. The sole statement he provided the Board was a brief handwritten cover letter appended to his application in which he admitted that he was found guilty of Medicaid Fraud. He further stated only "I have accepted responsibility of my actions." Further, he did not provide the Board with any concrete manifestations of reformation, despite the fact that it has been more than eight years since the Board first suspended his license. The Applicant's statements in general show little or no insight into the cause of his prior conduct, the necessity for reformation of that conduct, or the egregiousness of the offenses. The Applicant also completely failed to address the impact on patients of his misprescribing and his failure to carry out necessary treatment. The Applicant's oral presentation to the CRC suffered from the same deficits.

#### C. The Applicant's Present Character

The Applicant has not provided the Board with any evidence regarding his

present character. He appended four letters from colleagues attesting to his character, but these were dated May 30, 1974, March 10, 1976, and August 7, 1991. Each of these letters thus predated his guilty pleas for felony Medicaid fraud, and his subsequent loss of licensure. More significantly, the Applicant has not provided concrete evidence of a change in his character during the period of time from his first suspension. The Board has no evidence on which to base a finding that the Applicant's character has changed.

D. The Applicant's Present Qualifications and Competence to Practice Medicine

The Board is not persuaded that the Applicant has the necessary insight, remorse, and change of character to justify reinstatement. The Board thus need not reach the issue of his current qualifications and competency to practice medicine. However, the Board notes that the Applicant has not practiced medicine since 1992, over eight years ago. Should Applicant satisfy the other requirements for reinstatement at a later time, the Board may require him to take and successfully pass the SPEX examination. See COMAR 10.32.01.10.

**IV. Findings of Fact**

1. The Board adopts the procedural facts set out above in the "Introduction and Procedural History" section of this Decision.
2. The Board adopts those facts concerning the Applicant's criminal



conviction and the background of his criminal case set out in the “Factual Background” and “Current Request for Reinstatement” sections of this Decision set out above.

3. The Board finds as a fact that the Applicant’s original offense was not only a criminal felony involving moral turpitude but also an egregious disregard for the well-being of his patients.

4. The Board finds that the Applicant has not met his burden of showing that he appreciates the gravity of his past offense or that he has engaged in subsequent conduct which demonstrates a subsequent reformation of character.

5. The Board does not have to reach the issue of the Applicant’s other qualifications to practice medicine and therefore makes no findings on this issue.

#### V. Conclusions of Law

The Board has repeatedly held in the past that, where a physician’s license is revoked for egregious conduct, the physician may not be reinstated until he or she makes “a clear and convincing showing to the Board not only of medical competence, but also of rehabilitation and a change of character, demonstrated by his conduct over a long period of time.” In re Finucan, Bd. Case No. 9910263, citing In re Wilkinson, Bd. Case No. 93-0806 and In re Levitt, Bd. Case No. 99-0053. See generally, In re Murray, 316 Md. 303, 305 (1989).

Applicant's submission clearly does not meet that standard. But even if a more lenient standard were to be applied by the Board, the Applicant would not prevail. The Applicant neither has submitted nor proffered anything showing either: (1) an understanding of the gravity of his offense or, (2) conduct demonstrating reformation of character. Without such a showing, the Board is extremely reluctant to grant reinstatement.

Reinstatement is a discretionary act on the part of the Board, and the Board remains unconvinced that the health and welfare of the public would be well served by reinstatement at this time.


#### VI. **Disposition**

For the reasons stated above, the Board declines to exercise its authority under Md. Code Ann., Health Occ. § 14-409 (a)(2) to reinstate the Applicant to the practice of medicine at this time. If, after one year has passed from the date of this Decision, the Applicant formally applies again for reinstatement, the Board will once again consider the application. In considering any future application, the Board will apply the same standards applied in this case.

So **ORDERED** this 25<sup>th</sup> day of JULY, 2001.

**ORDERED** that this **DECISION** is a **PUBLIC DOCUMENT** pursuant to Maryland State Gov't Code § 10-617 (h) (2) (vi).

7/25/01  
Date

  
Samir R. Neimat, M.D.  
Chairman  
Maryland State Board of  
Physician Quality Assurance

**NOTICE OF RIGHT OF APPEAL**

Pursuant to Maryland Code Ann., Health Occupations § 14-408, the Applicant has the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days (30) from the receipt of this Decision and shall be made as provided for judicial review of final decisions in the Maryland Administrative Procedure Act, Md. Code Ann. State Gov't §§ 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.