

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

In the Matter of the Petition for)
Reduction of Penalty or Termination)
of Probation of:)

GEOFFREY A. DI BELLA,)

No. L-9601220)

Physician's and Surgeon's)
Certificate No. G21681,)

Respondent.)
_____)

DECISION


The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on July 11, 1996.

IT IS SO ORDERED June 11, 1996.

MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____


Ira Lubell, M.D.
Chair, Panel A

btm

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

In the Matter of the Petition for)
Reduction of Penalty or Termination)
of Probation of:)

GEOFFREY A. DI BELLA,)

OAH No. L-9601220

Physician's and Surgeon's)
Certificate No. G21681)

Petitioner.)

PROPOSED DECISION

This matter came on regularly for hearing before David B. Rosenman, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on April 3, 1996. Joseph Furman, Deputy Attorney General, was present pursuant to Government Code section 11522. Geoffrey Di Bella ("petitioner") appeared personally and was represented by Ron Marks, attorney.

Oral and documentary evidence was received and the matter was submitted.

FINDINGS OF FACT

The Administrative Law Judge finds the following facts:

1. By a Decision dated May 5, 1989 and effective April 5, 1989, the Medical Board of California ("Board") revoked petitioner's physician's and surgeon's certificate, no. A29874, which the Board had issued to petitioner on November 9, 1971. The revocation was stayed and respondent was placed on probation for 10 years on various terms and conditions, including that he actually be suspended for 60 days; not prescribe controlled substances except Schedules IV and V; undergo psychiatric examination and, if indicated, treatment; be monitored in his practice by another physician; and complete a medical ethics course.

The Decision was based upon petitioner's conviction on August 7, 1985 in United States District Court of 2 counts of unlawful distribution of Quaalude (Methaqualone) in violation of

Title 21, United States Code, sections 812, 841(a)(1) and 841(b)(1)(B) and Title 18, United States Code, section 2, all felonies.

Petitioner was sentenced to 2 years in prison and a fine of \$5000. Respondent was imprisoned for 18 months and released. He has completed all terms of his sentencing and parole.

The instant petition requesting modification or termination of license probation was signed April 6, 1995.

2. Petitioner's conviction was based upon his illegal distribution of 34,000 doses of Quaalude between November 10, 1981 and February 18, 1982 while he was employed at a "sleep clinic" in New York City, and his illegal distribution of 5,000 doses of Quaalude between March 1, 1982 and June 30, 1982 from his private "insomnia" practice.

3. The Proposed Decision, dated January 17, 1989 and relating to the hearing (in November, 1988 and January, 1989) on the initial accusation, contains a detailed explanation in the findings of the facts and circumstances underlying the conviction, extenuating and mitigating circumstances, and information on petitioner's background and his activities while under probation and employment and other activities until the hearing. In lieu of repeating those extensive findings herein, the Proposed Decision is attached hereto as Exhibit 1 and is incorporated herein by reference. (For completeness, Exhibit 1 also includes the stipulation permitting imposition of an additional term of probation relating to actual suspension, and the Decision adopting the stipulation and Proposed Decision.)

4. Petitioner submitted a prior petition for modification or termination of probation on December 23, 1991, and a hearing was held May 21, 1992. A Proposed Decision, dated June 12, 1991 and a Decision after non-adoption, dated March 4, 1993, contain findings relating to petitioner's activities until that hearing as well as the order allowing modification of his prescribing privileges to include Dexedrine and Ritalin from Schedule II. Copies are attached hereto as Exhibit 2 and incorporated herein by reference.

5. The evidence introduced at the present hearing in some instances related to and/or augmented evidence received in the prior 2 hearings. In some instances, it is unknown if a document relating to a prior time frame (e.g. a character reference prior to the hearing on the accusation) was previously considered. The evidence also provided information on petitioner's activities after those hearings.

6. Petitioner testified that it has been difficult to obtain employment due to his probationary license and the limitations therein. By reference to his testimony, and his Curriculum Vitae (contained within Exhibit A), his significant recent work history is as follows:

From July, 1994 to sometime after April and before August, 1995, petitioner was full time staff psychiatrist for the California Department of Corrections, Los Angeles County.

Petitioner has also held many part time positions in the time frame from July, 1989 to the present. At a time period not established by the evidence, he was a consulting psychiatrist at the Los Angeles County Department of Health Services at High Desert Hospital in Lancaster, working about 7 hours per week. From October, 1989 to October, 1991, he worked 7 hours per week at the Lancaster branch of the Los Angeles County Department of Health Services.

From August, 1990 to March, 1992, petitioner had a part time outpatient psychiatric practice with the Center for Personal and Family Development in Lancaster. From June, 1991 to October, 1991, he worked 4 hours per week at the Los Angeles County Department of Mental Health in Lancaster. From March, 1992 to 1995 petitioner worked with Sam Hill, LCSW, in Lancaster.

About 2 years ago petitioner was hired as an independent contractor by QTC Medical Group, which performs disability evaluations for various governmental entities (state of California, Employment Development Department, Department of Mental Health, State Teachers Retirement System, Railroad Retirement Board) as well as for private insurance companies. When QTC first submitted an application for petitioner to perform psychiatric evaluations for state disability retirements, the state agency denied it because of petitioner's probationary license. Petitioner also had another agency deny his application. He now does evaluations for the Department of Mental Health for placement and treatment of clients in nursing homes.

After many years in the Lancaster area, petitioner moved to Anaheim in September, 1995. One reason was to be closer to his meetings for his 12 step program, Overeaters Anonymous (petitioner suffers from Bulimia). Another reason for moving was that, after several years in the Lancaster area without incident, in November, 1994, a local newspaper printed a story about petitioner's license status and the reason therefore. Petitioner inquired why, and was simply told that the newspaper had just found out the information and printed it as a public service.

7. Petitioner testified and the evidence established that one reason for his many jobs was the difficulty in obtaining

satisfactory employment due to the restrictions on his license, including but not limited to the restrictions on prescribing and the limitation on no solo practice. It is significantly more difficult and time consuming for petitioner to obtain staff privileges at area hospitals due to the license restrictions. Petitioner established that several employers have expressed extreme interest in hiring him for different positions until he mentions, as he feels compelled to, that his license is restricted. In one recent example, at Orange County Community Hospital, a contract was offered to petitioner, and then withdrawn when he revealed the license probation.

Petitioner also has found it difficult to obtain full time and continuing employment because managed health care companies (e.g., health maintenance organizations and preferred provider organizations) will not allow referrals to him, due to the probationary status of his license.

Despite petitioner's best efforts to maintain professional employment, and as a direct result of the probationary license, petitioner has been underemployed, has had to piece together a patchwork of wide-ranging part time positions, and has suffered economically.

8. The evidence established examples of the pervasive negative effects of the probationary license on other aspects of petitioner's life.

For example, petitioner has been denied admission into numerous independent physician's associations and health maintenance organizations, necessary for certain types of patient referrals. Petitioner has been denied admission into the Employment Development Department's Independent Medical Examination Panel. Petitioner has been denied admission into the Los Angeles County and California Medical Associations. Petitioner's attempts to obtain privileges at various medical institutions has been delayed, with additional reviews and hearings necessary. Last year, petitioner applied to join a dating service, which refused. All of these actions were the result of petitioner's license being on probation.

9. Petitioner has taken numerous continuing education courses, has received passing grades on many examinations, and has otherwise advanced his professional knowledge and standing.

For example, in November, 1993, petitioner began committee work for the American Society of Addiction Medicine, in addition to attending many of their seminars and continuing education programs, and in 1992 he passed the Society's certification examination. Petitioner attained the first rank in January, 1995 for the position of Chief Psychiatrist for the State of California Department of Corrections. In July, 1994,

petitioner passed the examination and became a Qualified Medical Examiner for the California Worker's Compensation Appeals Board. In June, 1994, petitioner passed the examination to become a Mental Health Psychiatrist for Los Angeles County. In June, 1993, petitioner was restored to membership in the American Psychiatric Association.

10. As noted in the prior Proposed Decision (Exhibit 1 hereto), petitioner had already been in therapy voluntarily for 4 years before the first hearing. One term of petitioner's probation was to undergo psychotherapy.

Dr. Patricia Ashley examined and treated petitioner before and after the probation order. Her report, dated December 1, 1989, includes her opinion that she sees no potential area of bad judgment in petitioner, and she recommends that he no longer be required to attend psychotherapy.

In April, 1990, the Board's Enforcement Program modified the probation order to remove the mandatory nature of petitioner's psychotherapy.

Dr. Fran Epton wrote a report in June, 1994 in which she notes that petitioner has been in psychotherapy with her for 4 years on a weekly basis. Dr. Epton has also observed petitioner in sessions with his own patients. She attests to his high standards and ethics, and strongly recommends that probation be terminated.

11. Petitioner submitted over 20 letters of reference, many of which cover the period from 1988 to the present. At least 8 of the letters are from 1993 to 1995. Without exception, these authors have had adequate opportunity to observe and interact professionally with petitioner, and attest to his professional competence, experience and ability. All recommend that petitioner's probation be terminated.

12. Petitioner has been monitored by 3 psychiatrists. Initially, he was to be both monitored and employed by Dr. John Beck. However, when Dr. Beck's malpractice insurance carrier would not cover petitioner, he was forced to find another monitor.

In about June, 1989, petitioner began being monitored by Dr. Bruce Gainsley, who reported in October, 1989 that petitioner's ethics were high and his skills above average. Dr. Gainsley provided quarterly reports to the Board. In June, 1994, he reported that he had no objection to petitioner's request to terminate probation. Shortly thereafter, petitioner decided to obtain a different monitor, because he felt he had learned all he could from Dr. Gainsley and because he thought it

would be helpful to the Board to have the opinion of another monitor.

In September, 1994, Dr. Stephen Klevens became the monitor. In a report dated March 1, 1995, and in his testimony at the hearing, Dr. Klevens stated that petitioner shows good clinical judgment and maintains a high standard of quality in his practice. Dr. Klevens recommends that petitioner's probation be terminated.

13. In the Proposed Decision dated January 17, 1989 (Exhibit 1, hereto), at page 7, the Administrative Law Judge noted that "a lengthy period of probation is necessary to monitor [petitioner's] treatment and assure his continued progress." Every indication from the evidence herein is that petitioner has progressed to a point far beyond that which would require further monitoring or probation. Based on the totality of the evidence, any order not terminating his probation would be punitive in nature.

Petitioner established that it would be consistent with the public interest to grant the petition for termination of probation and reinstatement of his unconditional license at this time.

DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determinations of issues:

Cause was established pursuant to Government Code, section 11522 and Business & Professions Code, section 2307 to terminate probation and reinstate petitioner's license, as set forth in Findings 1 through 13, inclusive.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The petition of Geoffrey Di Bella for termination of his probationary license is hereby granted, and he shall be issued an unconditional license.

DATED: May 10, 1996.



DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

DBR:dr

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BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
GEOFFREY DI BELLA, M.D.)
Certificate No. G-21681)
Respondent.)

No. D-3591

DECISION

The attached Stipulation is hereby adopted by the Division of Medical Quality of the Board of Medical Quality Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on _____
May 5, 1989

IT IS SO ORDERED April 5, 1989

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE

Theresa Claassen

THERESA CLAASSEN
Secretary/Treasurer

1 JOHN K. VAN DE KAMP, Attorney General
2 of the State of California
3 BARRY D. LADENDORF,
4 Deputy Attorney General
5 110 West A Street, Suite 700
6 San Diego, California 92101
7 Telephone: (619) 237-7811

8 Attorneys for Complainant

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BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the accusation)	No. D-3591
Against:)	
)	
GEOFFREY ANGELO DI BELLA, M.D.)	
20 East 9th Street, Apt. 11-O)	STIPULATION
New York, New York 10003)	
)	
Physician's and Surgeon's)	
Certificate No. GO21681)	
)	
Respondent.)	

IT IS HEREBY AGREED by the respondent, Geoffrey Angelo Di Bella, M.D., through his attorney, Nicolas M.W. Di Bella, and the complainant, Kenneth J. Wagstaff, Executive Director of the Board of Medical Quality Assurance, through his attorney, John K. Van De Kamp, Attorney General, by Barry D. Ladendorf, Deputy Attorney General, that the Proposed Decision issued January 17, 1989, by Catherine B. Frink, Administrative Law Judge, be issued by the Division of Medical Quality as its decision in this matter

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1 and further that the following paragraph be added to and included
2 in that Proposed Decision as follows:

3 O. As part of probation, respondent is suspended
4 from the practice of medicine for sixty (60) days
5 beginning the effective date of this decision.
6 However, credit will be given for time served in prison
7 under the U.S. (in New York) conviction.

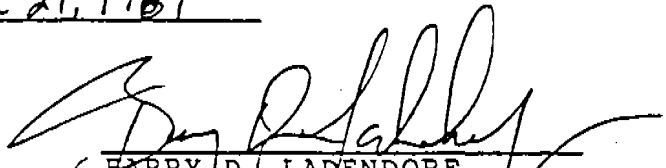
8 I concur in the above stipulation.

9 DATED: March 21, 1989

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HARRY D. LADENDORF
Attorney for Complainant

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I have consulted with my client, Geoffrey Angelo Di Bella, M.D., regarding the addition of paragraph O. hereinabove to the proposed Decision. Both the respondent and I concur that said paragraph O may be added to and become part of the decision in this matter.

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DATED: March 18, 1989

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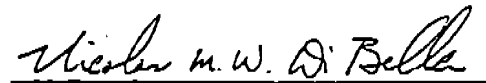
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Nicolas M.W. Di Bella
Attorney for Respondent

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
GEOFFREY ANGELO DI BELLA, M.D.)
1401 Fairview Avenue) CASE NO. D-3591
Bowling Green, Kentucky 42101)
) OAH CASE NO. N31866
Physician's and Surgeon's)
Certificate No. G021681)
)
)
)
Respondent.)
_____)

PROPOSED DECISION

Catherine B. Frink, Administrative Law Judge, Office of Administrative Hearings, heard this matter on November 17, 1988 and January 6, 1989 at San Francisco, California.

Barry D. Ladendorf, Deputy Attorney General, represented complainant.

Respondent was present on November 17, 1988 and was represented by Nicolas M. W. Di Bella, Attorney at Law, 2640 Wilson #5, Redding, California 96002.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Kenneth J. Wagstaff, Executive Director of the Board of Medical Quality Assurance, made and filed the accusation in his official capacity.

II

Geoffrey Angelo Di Bella (hereinafter "respondent") was issued physician's and surgeon's certificate No. G021681 by the

Board of Medical Quality Assurance (hereinafter "the Board") on November 9, 1971. Said certificate is in current status at the present time, and there is no other current Board disciplinary action pending against respondent.

III

On August 7, 1985, in the United States District Court, Southern District of New York, in the case entitled United States of America, plaintiff v. Dr. Geoffrey DiBella, et al., defendants, Docket No. S84 Cr. 0959 (GLG). Respondent was convicted after a jury trial of two counts of unlawfully, intentionally and knowingly causing to be distributed and dispensed, outside the scope of professional medical practice, Quaalude (Methaqualone), then a Schedule II controlled substance, in violation of Title 21, United States Code sections 812, 841(a)(1) and 841(b)(1)(B) and Title 18, United States Code section 2 (felonies). The first count represented the illegal distribution of 34,000 dosage units of Quaalude between November 10, 1981 and February 18, 1982, while respondent was employed in a "sleep clinic" in New York City. The second count represented the illegal distribution of an additional 5,800 dosage units of Quaalude between March 1, 1982 and June 30, 1982 by respondent from his private "insomnia" practice.

IV

The facts and circumstances surrounding respondent's conviction are as follows. In 1981, respondent was the director of psychiatric residency training and medical student education in psychiatry for the Cabrini Medical Center (hereinafter "CMC") in Manhattan. Respondent was also active in inpatient work as the associate chief of the Inpatient Service at CMC and in consultations to the rest of the hospital. In addition, respondent had a small private out-patient practice consisting of 3-4 psychotherapy patients per week. In November, 1981, respondent answered an advertisement in the New York Times placed by a company named Jorum, which claimed to be a medical management firm. At his interview, respondent was told that Jorum specialized in the treatment of insomnia, typically with prescriptions for Quaalude. Respondent was told that he would be operating as an "independent contractor," and that Jorum would provide the clinic facility, nursing and support staff, and would supply patients. Respondent was told that he could earn between \$500 and \$2000 per day. Patients were charged between \$150-\$200 per visit. Respondent felt that his prior experiences in private practice had been disappointing, both in the size of his practice and the remuneration obtained; he therefore looked upon the Jorum practice as an opportunity to be successful in private practice, particularly from a financial standpoint. Respondent did some

research on insomnia and determined that Quaalude drug therapy was a recognized modality of treatment. Between November 10, 1981 and February 18, 1982, respondent worked at the Jorum clinic on 10 occasions, for approximately 10-12 hours each day, and earned approximately \$25,000. On one occasion, respondent saw 90 patients and earned \$3,000. Respondent saw patients for approximately 5-15 minutes, after they had filled out a lengthy questionnaire and been interviewed by a physician's assistant; respondent prescribed Quaaludes to at least 99 percent of the patients he saw at the sleep clinic.

Respondent left Jorum in February, 1982 due to disputes within the management of Jorum and a desire for more patient contact. Respondent expanded his private practice to include insomnia patients, and earned approximately \$20,000 between March 1 and June 30, 1982 from his insomnia practice. Respondent utilized the same basic procedure for treating his insomnia patients, but on a smaller scale; respondent saw 3-10 patients per day and spent 1/2 hour to 40 minutes with each patient. Many of respondent's private insomnia patients had previously seen respondent at the Jorum clinic.

In late June, 1982, respondent was informed by a patient that the patient was unable to fill the prescription for Quaaludes given to him by respondent, because the pharmacist said that respondent was under investigation for illegal drug dealing. Respondent immediately ceased his private insomnia practice. Respondent was indicted in December, 1984; was tried in July and August, 1985; and was sentenced on July 2, 1986.

V

Respondent was convicted of offenses substantially related to the qualifications, functions and duties of a physician, and was convicted of charges violating a federal statute regulating controlled substances/dangerous drugs.

VI

As a consequence of his convictions, respondent was sentenced to two years in prison to be followed by two years special parole and a fine of \$5,000, to be paid within nine months of sentencing. Respondent surrendered to federal authorities and was confined from January, 1987 through June, 1988 at the Federal Correctional Institute in Loretto, Pennsylvania. After his release, respondent moved to Bowling Green, Kentucky to live with his parents. Respondent is on special parole until June, 1990. The conditions of his parole include monthly reporting to the probation officer in writing concerning his activities and employment. Respondent is precluded from using alcohol to excess; is prohibited from voting, use of firearms, and association with convicted felons; and may not leave the district without permission of his probation officer. Respondent paid in full the court-ordered fine of \$5,000.

VII

The following additional facts were established in mitigation/extenuation. Respondent has been diagnosed by several psychotherapists as having an avoidant personality disorder. As a result, respondent is painfully shy, repressed and withdrawn; he has a great deal of difficulty socializing and has never made the kinds of professional contacts which normally lead to referrals and to building up a practice. His failure to be more successful in private practice created great feelings of worthlessness, failure and self-deprecation, which made him susceptible to the Jorum employment offer, which promised to pay him a great deal of money and supplied a steady stream of patients. His professional isolation also contributed to his naive acceptance of Jorum's practices, as well as his failure to recognize the impropriety of dispensing Quaalude, a highly addictive substance, under the circumstances set forth in Finding IV above. Respondent was not in contact with other physicians, and purposely did not tell his work colleagues about his activities, for fear that other physicians would go into competition against him. Due to his extreme social isolation, respondent was not aware that Quaaludes were considered a "street drug;" respondent did very little prescribing of drugs as part of his practice, which consisted mostly of psychotherapy, and he had little or no experience in his practice dealing with persons addicted to drugs, since his training and review of the literature had indicated that such persons are not receptive to psychotherapy.

Respondent contends that respondent, despite his conviction, did not have a wrongful intent at the time the acts were committed. In support of this contention, respondent asserts that respondent's subjective intent was not considered as a component of liability in determining that respondent violated federal narcotics laws, since "good faith medical practice" was determined by objective standards of reasonableness, and not respondent's actual state of mind; respondent points out that he was found not guilty by the jury on charges of conspiracy to violate the narcotics law, after the judge instructed the jury that specific intent was required to render a guilty verdict.

In view of the psychiatric and other evidence, it is apparent that respondent's ability to recognize the wrongfulness of the conduct which led to his conviction was impaired by his psychiatric condition. However, the evidence further established that respondent engaged in criminal conduct for financial gain and insulated himself from information which could have helped him to evaluate his actions; his conduct went beyond gross negligence and approached "reckless disregard."

VIII

Respondent graduated from the State University of New York, Downstate Medical Center, Brooklyn, in 1966. Respondent did a mixed medical internship at Jewish Hospital and Medical Center of Brooklyn from 1966-67 and a three-year residency in psychiatry at the New York Medical College Metropolitan Hospital, which he completed in 1970. Respondent was a major in the army medical corps from July, 1970 to July 1973 and has served in the medical corps of the U.S. Army reserves since 1984. Respondent was certified in Psychiatry by the American Board of Psychiatry and Neurology in 1972 and was certified in Mental Health Administration by the Commission on Certification in Administrative Psychiatry of the American Psychiatric Association in 1976. In the course of his career, respondent has performed peer review, has taught medical students and residents, has published a number of articles and has been involved in research projects. In addition to California, respondent is currently licensed to practice medicine (inactive status) in Kentucky, and was previously licensed in New York and New Jersey. Respondent's New York license was revoked on or about April 28, 1987, and respondent voluntarily surrendered his New Jersey license with disciplinary action pending effective November 15, 1987. Respondent's DEA permit was revoked in February, 1987. Respondent is involved in proceedings to reactivate his Kentucky license.

Since his release from incarceration, respondent has not practiced medicine, and has not had other employment. Respondent resides with his parents; his entire family has been very supportive of respondent throughout his legal difficulties.

IX

Since July 1982, respondent has taken 369 hours of Category I continuing medical education, including 12 course hours on problems involving substance dependencies. In particular, respondent took a seminar sponsored by the American Medical Association on Prescribing Controlled Drugs in 1988 (3 hours). In addition, respondent has completed about 1393 continuing medical education hours in Categories II-IV, and has been involved in journal reading and library research to maintain and enhance his professional skills; respondent did extensive reading during the period of his incarceration.

X

During the more than four years since respondent's indictment, respondent has been voluntarily involved in psychotherapy in an attempt to gain insight into his psychologi-

cal problems. Respondent has suffered from bulimia, an eating disorder which usually affects teenage girls, since his early twenties. Respondent's bulimic behavior increased during his incarceration, and he received counseling which specifically addressed this condition. Since his release from prison, respondent has joined Overeaters Anonymous, and respondent feels that his bulimia is currently under control, although he feels he will never be entirely "cured." Respondent, who has had both heterosexual and homosexual relationships in the past, has feelings of ambivalence, guilt and denial over his sexual orientation, which increase the sense of social isolation he experiences as a result of his avoidant personality disorder. Dr. Fred Stickle, Ph.D., a clinical counselor and respondent's treating therapist, testified that respondent has not begun to address the issue of his homosexual urges in therapy, but instead has been focusing his efforts on changing his bulimic behavior and overcoming his social isolation through specific "exercises," such as attending parties or talking to people in checkout lines at stores or in other public places. Dr. Stickle has noted some progress in the area of improving self-confidence in social situations; Dr. Stickle acknowledged that respondent's personality disorder was something of a professional handicap because he is "out of the mainstream" of interaction with his peers. Dr. Stickle felt that respondent's personality disorder was less of a problem in situations of interaction with patients, since it was consistent with a non-interventionist style of psychotherapy. However, Dr. Stickle recognized that problems could arise if respondent's personality disorder caused him to be withdrawn for personal reasons, and not because of a therapeutic technique. Dr. Stickle agreed with the opinion expressed by Dr. Richard I. Edelson, Ph.D. in his report of July 18, 1988, that respondent exhibited a concrete and inflexible style of problem solving, in which respondent would have difficulty assessing a situation and reevaluating his strategy when confronted with "troublesome situations." Dr. Edelson's opinion was supported by psychological testing; respondent had "a defective score on a test of problem solving skill, which involves flexible and creative thinking. [Respondent] was quite concrete in his approach, and could not arrive at a successful solution to a set of problems, and then change that solution when the need arose." Dr. Stickle concurred with the conclusion expressed by Dr. Edelson that respondent was capable of functioning as a physician, but he would benefit from ongoing psychotherapy, as well as having a "mentor" to supervise his work.

XI

Respondent showed genuine remorse for his misconduct and is committed to continuing psychotherapy to more fully understand his psychological problems to prevent a recurrence of the circumstances which led to his conviction. Respondent has made

significant progress in psychotherapy and can reasonably be expected to continue to improve with treatment, thereby minimizing the likelihood that respondent's misconduct would recur. Under all of the circumstances herein, it would not be against the public interest to permit respondent to retain his license to practice psychiatry, subject to probationary terms and conditions as set forth below; a lengthy period of probation is necessary to monitor respondent's treatment and assure his continued progress.

DETERMINATION OF ISSUES

I

Clear and convincing evidence to a reasonable certainty established cause for discipline pursuant to Business and Professions Code sections 2234 and 2236(a) by reason of Findings III-V.

II

Clear and convincing evidence to a reasonable certainty established cause for discipline pursuant to Business and Professions Code sections 2234 and 2237(a) by reason of Findings III-V.

ORDER

Certificate No. G021681 issued to respondent Geoffrey Angelo Di Bella is revoked pursuant to Determination of Issues I and II, separately and for all of them. However, revocation is stayed and respondent is placed on probation for ten (10) years upon the following terms and conditions:

A. Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedules IV and V of the Act. Any DEA permit applied for by respondent will be limited to those Schedules authorized by this order.

B. Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, and 4) the pathology and purpose for which the controlled substance was furnished. Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Division or its designee, upon request.

C. Within 60 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Division or its designee, respondent shall undergo a psychiatric evaluation by a Division-approved psychiatrist who shall furnish a psychiatric report to the Division or its designee.

D. Within 60 days of the effective date of this decision, respondent shall submit to the Division for its prior approval the name and qualifications of a psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Division deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Division.

E. Respondent shall continue to attend meetings of Overeaters Anonymous or an equivalent program at least weekly for at least 50 weeks of the calendar year for the duration of probation. In the quarterly reports to the Division, respondent shall provide documentary evidence of continuing participation in this program.

F. Within 60 days of the effective date of this decision, respondent shall submit to the Division for its prior approval a plan of practice in which respondent's practice shall be monitored by another physician in respondent's field of practice, who shall provide periodic reports to the Division. If the monitor quits, or is no longer available, respondent shall not practice until a new monitor has been substituted, through nomination by respondent and approval by the Division. Respondent is prohibited from engaging in solo practice.

G. Respondent shall take and complete a course in Medical Ethics. Within 60 days of the effective date of this decision, respondent shall select and submit a course to the Division for its prior approval.

H. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

I. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

J. Respondent shall comply with the Division's probation surveillance program.

K. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

L. The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

M. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

N. Upon successful completion of probation, respondent's certificate will be fully restored.

DATED: January 17, 1989

Catherine B. Frink

CATHERINE B. FRINK
Administrative Law Judge

CBF:hrs

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62-65

April 3/93

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

In the Matter of the Petition for)
Modification/Termination of Probation:)
)
Geoffrey Di Bella, M.D.)
)
)
Physician's and Surgeon's)
Certificate No. G-021681,)
)
Respondent.)
_____)

No. D3591
OAH No. L-57223

DECISION

The Division of Medical Quality non-adopted the Proposed Decision in this case and proceeded to decide the case itself upon the record, including the transcript. The parties were afforded the opportunity to present both written and oral argument before the Division itself.

Having reviewed the entire matter, the Division now makes this decision.

The attached Proposed Decision of the MQRC panel is hereby adopted by the Division as its Decision in this case, except for the following changes in the order:

I

Probationary condition A is deleted and rewritten as follows:

"Respondent is restored privileges with controlled substances listed in Schedules IV and V of the California Uniform Controlled Substances Act; and also with two specific drugs, Dexedrine and Ritalin. For example, respondent may apply for Schedule II privileges with DEA, subject to the personal limitations imposed on Respondent by the Division restricting Schedule II privileges to the use of Ritalin and Dexedrine only."

II

With respect to probationary condition F, the prohibition against solo practice is deleted and stricken, but the balance of the condition requiring monitoring of practice remains in effect.

III

The request for early termination of probation is denied. The remaining terms and conditions shall continue in full force and effect.

This decision shall become effective on April 3, 1993.

So ordered March 4, 1993.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

BY Theresa L. Claassen
THERESA L. CLAASSEN
Secretary

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

In the Matter of the Petition)
for Modification/Termination of) OAH No. L-57223
Probation:)
)
GEOFFREY DIBELLA)
)
Respondent.)
_____)

PROPOSED DECISION

On May 21, 1992, in San Diego, California, M. Gayle Askren, Administrative Law Judge, Office of Administrative Hearings, State of California, presided over this matter. A quorum of a panel of the Medical Quality Review Committee for District XIV was present, and consisted of Jerome H. Brodish, M.D., chair; Betty Wilkinson, public member; Victor Avedian, M.D.; Peter Shea, D.D.S., nonphysician licentiate of a healing arts board; Carl Bengs, M.D.; Rene Vega, M.D.; and Mary Kay Forsyth, public member.

Margaret Lafko, Deputy Attorney General, represented the Attorney General.

Geoffrey DiBella, M.D., represented petitioner.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

On December 23, 1991, Geoffrey DiBella, M.D. (petitioner) filed a petition for modification of probation/termination of probation before the Division of Medical Quality, Medical Board of California (Board). The petition was accompanied by the requisite number of verified recommendations. The matter was set for hearing as provided by law, and the present proceeding came on in due course.

II

Following an administrative proceeding, and pursuant to the stipulation of the parties to that administrative proceeding,

Case D-3591, the Board ordered, effective May 5, 1989, that respondent's certificate, G-21681, be revoked, revocation was stayed, 10 years' probation, no Schedule II and III controlled substance prescribing, 60 days' actual suspension, and other terms and conditions.

2 The prior discipline was based upon the conviction of petitioner, in the State of New York, of two counts of unlawfully distributing and dispensing Quaalude between November of 1981 and February of 1982. Petitioner prescribed nearly 40,000 dose units of the drug in connection with a sleep clinic. He was in federal custody from January of 1987 until June of 1988.

III

This is petitioner's first application for relief from the discipline previously imposed. He seeks permission to prescribe Schedule II and III controlled substances, to have a solo practice, to be free of the monitoring requirement, and to be discharged from further periods of probation.

IV

Petitioner has practiced for three years in the Lancaster-Palmdale area of Los Angeles County without incident. He specializes in psychiatry and requests permission to have Ritalin in his armamentarium for treatment of patients with attention-deficit disorders and dexedrine for patients with major depressions. Petitioner practices in a psychology group, where he is the only psychiatrist. He is monitored by one Dr. Gainsley, who checks the prescriptions he writes for controlled substances in Schedules IV and V.

3 He denies ever using drugs. He recognizes now as "sounds stupid" that he believed patients had insomnia and he actually wrote 770 prescriptions for Quaalude during the time covered by the charges for which he was convicted. Petitioner has gained insight, through individual and group psychotherapy as well as a 12-step program, into the addictive nature of drugs. He currently receives weekly psychotherapy from Dr. Fran Epton, with whom he has been for two years.

4 Petitioner has complied with all conditions of probation. A period of 10 years has passed since the actions which resulted in petitioner's conviction.

Petitioner was first licensed, in New York, in 1967. Although licensed in California since 1971, petitioner only began his practice in this state in 1989.

DETERMINATION OF ISSUES

I

Petitioner has established, pursuant to Business and Professions Code section 2307, by a preponderance of the evidence, that terms of his probation should be modified, as set forth in Finding IV.

II

Petitioner failed to establish, pursuant to Business and Professions Code section 2307, by a preponderance of the evidence, that his probation should be terminated, as set forth in Finding IV.

ORDER

I

By a vote of 6 in favor, and one against, it is ordered that probatory condition A be rescinded.

II

By a vote of 5 in favor, and two against, it is ordered that probatory condition F be modified in this respect: rescinded and deleted therefrom shall be the requirement that respondent is prohibited from engaging in solo practice. Without altering or modifying any other portion of condition F, it is expressly understood by this order that the requirement for a monitor shall continue in effect.

III

By a vote of 7 in favor and none against, it is ordered that the remaining terms and conditions of probation not herein modified or rescinded, shall remain in force and effect.

Dated: July 12, 1992



JEROME H. BRODISH, M.D., F.A.C.S.
Chair, Panel
Medical Quality Review Committee
District XIV
Division of Medical Quality
Medical Board of California
State of California

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