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

Carol Thomas 5-29-98
SIGNED DATE

Asst. Custodian of Records
TITLE

In the Matter of the Second)
Amended Accusation Against:)
)
STEVEN CHASE BRIGHAM, M.D.)
1 Alpha Avenue 27)
Voorhees, New Jersey 08043)
)
Physician's & Surgeon's)
Certificate No. G-62438,)
)
Respondent.)

File No. 16-94-34512
OAH No. N-9408049

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 April 24, 1997.

IT IS SO ORDERED. March 25, 1997.

Ira Lubell

Ira Lubell, M.D.
Chair, Panel A
Division of Medical Quality
Medical Board of California

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Physician's & Surgeon's)	
Certificate No. G-62438,)	
)	
<u>Respondent.</u>)	

PROPOSED DECISION
PURSUANT TO
STIPULATION

The matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Medical Quality Hearing Panel, Office of Administrative Hearings, on November 4, 1996 and January 6, 1997, in Sacramento, California.

Complainant Medical Board of California was represented by Gail M. Heppell, Supervising Deputy Attorney General, Health Quality Enforcement Section, Department of Justice.

Respondent Steven Chase Brigham, M.D. ("Respondent"), appeared and was represented by Nathan L. Dembin, Esq.¹

A stipulation was received and the matter deemed submitted as of February 7, 1997. The parties were ordered to reduce their stipulation to writing, and upon submission of the signature page of the stipulation to the Office of Administrative Hearings, the submission to the Administrative Law Judge would be vacated and the matter taken off calendar. By February 7, 1997, the written stipulation was not fully executed; whereupon, having been submitted, the stipulation is reduced to a Proposed Decision Pursuant to Stipulation by the Administrative Law Judge² for submission and consideration of the Division of Medical Quality.

¹ Mr. Dembin is not a member of the Bar of the State of California.

² The Administrative Law Judge, by his execution of this Proposed Decision Pursuant to Stipulation, makes no independent finding, determination or order.

FINDINGS OF FACT

Procedural Findings

I

On July 14, 1994, Complainant Dixon Arnett, Executive Director of the Medical Board of California (hereinafter "the Board"), filed the Accusation in his official capacity.

II

A Request for Hearing was received from the Office of the Attorney General by the Office of Administrative Hearings on August 8, 1994, requesting a hearing after January 1, 1995. On August 16, 1994, the Office of Administrative Hearings originally set for the matter for hearing on March 6, 1995.

III

On October 24, 1994, the Accusation was amended by Dixon Arnett in his official capacity as set forth in Finding No. I.

IV

On March 3, 1995, Respondent filed a motion for continuance of the March 6, 1995 hearing inasmuch as Respondent and his counsel were currently engaged in disciplinary proceedings in New Jersey. The matter was continued, without objection by the Attorney General, to September 11, 1995.

V

On August 28, 1995, counsel for Respondent moved to continue the hearing set for September 11, 1995, citing a lack of final determination in the New Jersey proceedings. The matter was continued, without objection by the Attorney General, to February 5, 1996.

VI

On January 15, 1996, counsel for Respondent, reiterating any lack of finality in New Jersey (Finding No. V), moved to continue the hearing set for February 5, 1996. The matter was continued, without objection by the Attorney General, to May 6, 1996.

VII

On April 30, 1996, counsel for Respondent, reiterating any lack of finality in New Jersey (Finding Nos. V - VI), moved to

continue the hearing set for May 6, 1996. The matter was continued, without objection by the Attorney General, to November 4, 1996.

VIII

At the hearing on November 4, 1996, Complainant moved to further amend the Amended Accusation (Finding No. III). The motion was granted, a Second Amended Accusation filed and the hearing continued for further proceeding on the Second Amended Accusation to January 6, 1997.

IX

At the continued hearing on January 6, 1997, the parties, by, through and between their respective counsel, entered into a stipulation fully resolving this matter and, submitting the matter, given until February 7, 1997, to reduce their stipulation to writing, and upon submission of the signature page of the stipulation to the Office of Administrative Hearings, the submission would be vacated and the matter taken off calendar to comport with the stipulation of the parties and counsel. Respondent, as of the submission date, has not moved to vacate the stipulation or extend the submission date for execution of the stipulation.

STIPULATED FINDINGS

X

A Second Amended Accusation in Case No. 16-94-34512 was filed with the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, on November 15, 1996, and is currently pending against Respondent.

XI

The Second Amended Accusation, together with all statutorily required documents, were duly served on Respondent on November 22, 1996, and Respondent filed a Notice of Defense contesting the Accusation.

XII

Complainant Ron Joseph, Executive Director of the Medical Board, brought this action in his official capacity.

XIII

Respondent and his counsel have fully discussed the charges contained in the matter set forth in Finding Nos. I, III, VIII and X, and Respondent has been fully advised regarding his

legal rights and the effects of the stipulation by, among and through counsel and himself.

XIV

At all times relevant, Respondent has been licensed by the Medical Board of California under Physician's and Surgeon's Certificate No. G-62438.

XV

Respondent understands the nature of the charges set forth in Finding Nos. I, III, VIII and X and that, if proven at a hearing, the charges and allegations would constitute cause for the imposition of discipline upon him. Respondent is fully aware of his right to a hearing on the charges set forth in Finding Nos. I, III, VIII and X, his right to confront and cross-examine witnesses against him, his right to the use of subpoenas to compel the attendance of witnesses and the production of documents in both defense and mitigation of the charges, his right to reconsideration, appeal and any and all other rights accorded by the California Administrative Procedure Act and other applicable laws. Respondent knowingly, voluntarily and irrevocably waives and gives up each of these rights.

XVI

Respondent admits the truth of the allegations in the following paragraphs of the Second Amended Accusation (No. 16-94-34512):

A. Paragraph 4:

"Respondent Brigham is subject to disciplinary action under sections 2234 and 2305 of the Business and Professions Code in that on or about February 3, 1994, the New Jersey State Board of Medical Examiners issued an Order prohibiting respondent from performing second trimester abortions and required a supervisor to review respondent's patient records. The basis for the Order was that respondent had been accused of committing repeated acts of negligence and incompetence in performing second trimester abortions."

B. Paragraph 5:

"Respondent Brigham is subject to disciplinary action under sections 2234 and 2305 of the Business and Professions Code in that on or about November 23, 1994, the State of New York, Department of Health, Office of Professional Medical Conduct revoked respondent's license to practice medicine. The basis for the New York

discipline was several instances of gross negligence and/or incompetence by respondent in his treatment of obstetrical/gynecological patients."

C. Paragraph 6:

"Respondent Brigham is subject to disciplinary action under sections 2234 and 2305 of the Business and Professions Code in that on or about June 28, 1996, the State of Florida, Board of Medicine revoked respondent's license to practice medicine in that state for having had his license to practice medicine revoked, suspended or otherwise acted against in the states of Pennsylvania, New York and New Jersey, for failing to report to the Florida board that action had been taken in another state, for failing to notify the board of his change of status relating to his financial responsibility and for failing to notify the board of his intent to practice medicine in the State of Florida."

XVII

Respondent is currently appealing the decision issued by the State of Florida (Finding No. XVI.C).

STIPULATED DETERMINATION OF ISSUES

Respondent, by the conduct referenced in Finding Nos. XVI.A - XVI.C, agrees that he has subjected his license (Finding No. XIV) to disciplinary action pursuant to Business and Professions Code section 2234 and 2305.

ORDER PURSUANT TO STIPULATION

Physician's and Surgeon's Certificate No. G-62438 issued to Stephen Chase Brigham, M.D. is suspended for one year; however, the suspension is stayed and respondent placed on probation for three (3) years on the following terms and conditions:

I

Within 15 days after the effective date of this Decision, Respondent shall provide the Division, or its designee, proof of service that Respondent has served a true copy of this Decision on the Chief of Staff or the Chief Executive Officer at every hospital

where privileges or membership are extended to Respondent or where Respondent is employed to practice medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to Respondent.

II

Within ninety (90) days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Division of Medical Quality or its designee for its prior approval an educational program or course to be designated by the Division, which shall not be less than 40 hours per year, for each year of probation. This program shall be in addition to the Continuing Medical Education requirements for re-licensure. Following the completion of each course, the Division or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of continuing medical education of which 40 hours were in satisfaction of this condition and were approved in advance by the Division or its designee.

III

Respondent, at his expense, shall take and pass an oral clinical examination in a subject to be designated and administered by the Division, or its designee. This examination shall be taken within ninety (90) days after the effective date of this Decision. If Respondent fails the first examination, Respondent shall be allowed to take and pass a second examination, which may consist of a written as well as an oral examination. The waiting period between the first and second examinations shall be at least three (3) months. If Respondent fails to pass the first and second examination, he may take a third and final examination after waiting a period of one (1) year. Failure to pass the oral clinical examination within 18 months after the effective date of this Decision shall constitute a violation of probation. Respondent shall not practice medicine until he has passed the required examination and has been so notified by the Division of Medical Quality or its designee in writing. This prohibition shall not bar Respondent from practicing in a clinical training program approved by the Division or its designee and is restricted only to that which is required by such approved training program.

IV

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Division or its designee for its prior approval a plan of practice in which his practice shall be monitored by another physician in Respondent's field of practice, who shall provide periodic reports to the Division or its

designee. If the monitor resigns or is no longer available, Respondent shall, within fifteen (15) days, move to have a new monitor appointed, through nomination by Respondent and approval by the Division or its designee.

V

Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

VI

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

VII

Respondent shall comply with the Division of Medical Quality's probation surveillance program. Respondent shall, at all times, keep the Division informed of his addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record. Respondent shall also immediately inform the Division or its designee, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

VIII

Respondent shall, at his expense, appear in person for interviews with the Division of Medical Quality, its designee or its designated physician(s) upon request at various intervals and with reasonable notice.

IX

In the event Respondent should leave California to reside or practice outside the State or for any reason should Respondent stop practicing medicine in California, Respondent shall notify the Division of Medical Quality or its designee in writing within ten (10) days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in any activities defined in Business and Professions Code section 2051 and 2052. All time spent in an intensive training program approved by the Division or its designee shall be considered as time spent in the practice of medicine. Periods of

temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period. Respondent, disciplined under Business and Professions Code section 2305 (sister-state discipline), may petition for modification of penalty:

- A. If the other state's discipline terms are modified, terminated or reduced; and
- B. If at least one year has elapsed from the effective date of the California discipline.

X

Upon successful completion of probation, Respondent's certificate shall be fully restored.

XI

If Respondent violates probation in any respect, the Division of Medical Quality, 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.

XII

Respondent shall pay the costs associated with probation monitoring each and every year of probation, which are currently set at \$2,304, but may be adjusted on an annual basis. Such costs shall be payable to the Division of Medical Quality and delivered to the designated probation surveillance monitor at the beginning of each calendar year. Failure to pay costs within thirty (30) days of the due date shall constitute a violation of probation.

XIII

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily tender his certificate to the Medical Board of California. The Division of Medical Quality reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other

action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

Dated: February 13, 1997



JAIME RENÉ ROMÁN
Administrative Law Judge
Medical Quality Hearing Panel
Office of Administrative Hearings