

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Early
Termination of Probation of:

GRATCH GRIGORYAN,

Petitioner.

Case No. PETP-1A-2005-136

OAH No. 2013041009

DECISION

This matter was heard before a quorum of the Acupuncture Board in San Francisco, California, on May 23, 2013. The board members present were: AnYork Lee, L.Ac., Chair; Charles J. Kim, Vice Chair; Michael Shi, L.Ac.; George Wedemeyer; and, Paul Weisman. Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, presided.

Petitioner Gratch Grigoryan was present and represented himself.

Ashley Harlan, Deputy Attorney General, appeared on behalf of the Office of the Attorney General, pursuant to Government Code section 11522.

FACTUAL FINDINGS

1. The Acupuncture Board issued Acupuncturist License number AC 7485 to petitioner Gratch Grigoryan on September 14, 2000.

2. Following the issuance of an accusation and a hearing before an administrative law judge, the board issued a decision that took effect on October 18, 2007. The board found cause to discipline petitioner's license because of his December 2005 conviction for felony grand theft in connection with his Medi-Cal billings. The board additionally found cause to discipline petitioner's license for committing dishonest acts, and for dishonesty with respect to the functions and duties of an acupuncturist. The board revoked petitioner's license, with revocation stayed, and placed petitioner on a seven-year period of probation under terms that included: a billing monitor; payment of cost recovery and probation monitoring fees; completion of coursework; community service; and, reports to the board.

3. In Factual Finding 15 of its decision, the board found:

[Petitioner] stated that he provided services for every patient that he billed, including the ones related to his conviction. He denies that he defrauded Medi-Cal, and when asked if he believed he had done anything wrong, [petitioner] testified that he just billed for services provided.

Additionally, the board found as a factor in aggravation that petitioner in November 2002 had been convicted, on his plea of nolo contendere, of a violation of Penal Code section 484, subdivision (a) (misdemeanor theft). This was in regard to a shoplifting incident.

4. Petitioner filed a petition for early termination of probation dated March 13, 2012. Included with his petition was a narrative statement, in which petitioner wrote:

I, Gratch Grigoryan, was convicted of Grand Theft by the Attorney General of California of Medi-Cal infractions. This was December 14, 2005.

This incident caused me to look closely at my life and re-evaluate. I will have served five years of a seven year probation in October 2012.

I have concentrated on self improvement, rehabilitation and involvement in my community.

I am requesting early termination of my probation. This is based on the classes I have attended, the individual counseling sessions I have received and my continued involvement in my church and community.

My life is much better, more fulfilled and integrated into helping others. This includes patients receiving treatments and improving their health. I am continuing to volunteer weekly at my church. I am helping people who are in need of language translation, going places with seniors to help with basic needs and answering numerous health related questions.

I have gained self image, self confidence, and building rapport. In return I have received many rich experiences one can only receive by truly helping others to find their way to better lives.

Petitioner listed courses, conferences, and continuing education programs he had attended. He wrote that he worked 40 – 45 hours per week, seeing 10 – 15 patients per day. Petitioner attached letters of recommendation from Alejandro Katz, OMD, QME, L.Ac.,

Andre Rafael, Ph.D., L.Ac., QME, Marilyn Allen of the American Acupuncture Council, and Archpriest Reverend Father Manoug Markarian of the Saint John Armenian Church. Petitioner also included a report from Behavioral Therapist Denise Parrillo of the Behavioral Management Group.

5. Petitioner testified that his criminal conviction had been expunged in 2009 or 2010. He did not, however, provide documentation showing an expungement.

6. Petitioner has not had any subsequent criminal convictions. He no longer serves Medi-Cal patients. He seeks early termination of probation because it has been difficult for him to get malpractice insurance.

7. At the hearing in this matter, petitioner said he felt rehabilitated. He has weekly psychological counseling. He attends and provides volunteer services at his church. His continuing education has included ethics and billing classes. Petitioner, however, again disputed the factual basis for his criminal conviction, as he had at the hearing on the accusation that led to the stayed revocation of his license. (Factual Finding 3.) He did not acknowledge his guilt or express remorse for his conduct.

8. Deputy Attorney General Harlan, on behalf of the Attorney General, urged the board not to grant early termination of probation, noting that petitioner had used his acupuncture license to steal and that petitioner has not demonstrated remorse therefore.

LEGAL CONCLUSIONS

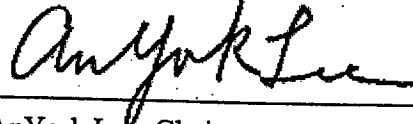
Pursuant to Business and Professions Code section 4928.1, protection of the public is the board's highest priority in exercising its licensing, regulatory, and disciplinary functions. Petitioner has the burden of establishing that he has been rehabilitated and that he does not pose a risk to the public interest, safety or welfare.

Petitioner did not meet his burden. To the contrary, he disputed the factual basis for his criminal conviction, as he had at the hearing on the accusation that led to the stayed revocation of his license. Nor did petitioner acknowledge his guilt or express remorse for his conduct. Moreover, petitioner's felony conviction was directly related to his responsibilities as a licensed acupuncturist. Petitioner did not demonstrate that his probation should be terminated at this time.

ORDER.

The petition of Gratch Grigoryan for early termination of probation is denied.

DATED: **JUL 02 2013**



AnYork Lee, Chair
Acupuncture Board
Department of Consumer Affairs
State of California