

BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

STATE OF GEORGIA

IN THE MATTER OF:)

ANTHONY SECURO, MD,)
License No. 51736,)
Respondent.)

) OSAH Docket No.: 2225951
) 2225951-OSAH-GCMB-PHY-67-Schroer
) BOARD DOCKET NO:

GEORGIA COMPOSITE
MEDICAL BOARD

SEP 13 2022

DOCKET NUMBER:
10230012

FINAL DECISION

An Initial Decision was issued by the Office of State Administrative Hearings in the above matter on July 22, 2022. The Executive Director was hand-served with the Initial Decision on August 11, 2022, after unsuccessful attempts to serve the Respondent. In the absence of an application to the agency for review of said Initial Decision, or an order by the Board to review said Initial Decision on its own motion, said Initial Decision becomes the Final Decision of the Board by operation of law, pursuant to O.C.G.A. § 50-13-17(a).

FINDINGS OF FACT

The Findings of Fact entered by the Administrative Law Judge in the Initial Decision are adopted and incorporated by reference herein.

CONCLUSIONS OF LAW

The Conclusions of Law entered by the Administrative Law Judge in the Initial Decision are adopted and incorporated by reference herein.

DECISION AND ORDER

The recommendation of the Administrative Law Judge that Respondent's license to practice medicine in the State of Georgia be **INDEFINITELY SUSPENDED**, with the terms as set forth in the Initial Decision, including all terms setting forth the Respondent's eligibility

to petition the Board for the lifting of such suspension and restoration of his license, is adopted and incorporated by reference and, having become final on September 11, 2022, is hereby made the Final Decision of the Board, effective September 11, 2022.

SO ORDERED, this 13 day of September, 2022.

GEORGIA COMPOSITE MEDICAL BOARD



MATTHEW W. NORMAN, M.D.
Chairperson



DANIEL DORSEY
Executive Director



**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**



GEORGIA COMPOSITE MEDICAL BOARD,)	
)	
Petitioner,)	
)	
)	DOCKET NO. 2225951
)	2225951-OSAH-GCMB-PHY-67-Schroer
v.)	
ANTHONY SECURO, MD,)	Agency Reference No.: 51736
Respondent.)	

INITIAL DECISION

The Georgia Composite Medical Board (“Petitioner” or “Board”) initiated this matter for the purpose of sanctioning Respondent’s medical license. Specifically, the Board seeks, at a minimum, the indefinite suspension of Respondent’s license. An evidentiary hearing took place on June 23, 2022, before the undersigned administrative law judge. The Board was represented by Elizabeth Simpson, Assistant Attorney General. Respondent was given notice of the hearing but did not appear. Following the Board’s presentation of evidence, the Court requested the Board to submit proposed Findings of Facts and Conclusions of Law, which the Court has considered in reaching this Initial Decision.

After careful consideration of the evidence of record in this case, and for the reasons stated below, the undersigned **RECOMMENDS** that Respondent’s license to practice medicine in Georgia be **SUSPENDED** indefinitely, subject to the conditions set forth in Section IV of this decision.

I. FINDINGS OF FACT

1.

Respondent holds a license to practice as a physician in the State of Georgia and held such license at all times relevant to the issues presented for hearing. Respondent's license was originally issued on July 12, 2002, and is scheduled to expire on March 31, 2023. (Exhibit P2).

2.

On or about February 6, 2020, Respondent entered a Plea Agreement in the United States District Court, Southern District of Georgia, Statesboro Division (Case No. 6:19CR10). As part of the Plea Agreement, Respondent agreed to enter a plea of guilty to Count Six of an Indictment, which charged a violation of 18 U.S.C. § 1035(a)(2), False Statements Relating to Health Care Matters. (Exhibit P4.)

3.

The Plea Agreement stipulated to the following facts:

[* * *] the defendant, Anthony T. Securo, aided and abetted by others known and unknown, did knowingly and willfully make or used materially false writings and documents including but not limited to an order with an exam date on or about December 21, 2018 for a patient M.P., knowing the same to contain materially false, fictitious, and fraudulent statements and entries, to wit that Securo had examined the patient and had determined based on those examinations that the DME order was medically necessary when in fact Securo had no more than a short telephonic conversation with M.P., whom he had never before met and never examined, in connection with the delivery of a series of orthotic braces, which are health care benefits, items, and service involving the Medicare Program, a health care benefit program as defined in 18 U.S.C. § 24(b). All done in violation of Title 18, United States Code, Section 1035(a)(2).

(Exhibit P4.)

4.

On or about June 3, 2020, a judgment in a criminal case was entered in the United States District Court, Southern District of Georgia, Savannah Division, under the above case number, whereby Respondent pleaded guilty to one count of violating 18 U.S.C. § 1035(a)(2). Respondent was sentenced to five years' probation and restitution in the amount of \$449,070 to the payee, the Centers for Medicare and Medicaid Services. (Exhibit P3.)

5.

The Notice of Hearing in this matter was delivered by certified mail to the Respondent's address of record with the Board. Prior to the hearing, Respondent acknowledged receipt of the Notice of Hearing. However, he indicated to counsel for Petitioner by electronic mail that he did not wish to participate and that he wished to "voluntarily relinquish" his license. (Exhibits P1, P1A, PB.)

II. CONCLUSIONS OF LAW

1.

Petitioner seeks to discipline Respondent's medical license. Accordingly, Petitioner bears the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07. The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21.

2.

When a contested case is referred to the Office of State Administrative Hearings, the administrative law judge assigned to the case has "all the powers of the referring agency. . . ." O.C.G.A. § 50-13-41(b). The evidentiary hearing is *de novo*, and the administrative law judge "shall make an independent determination on the basis of the competent evidence presented at the hearing." Ga. Comp. R. & Regs. 616-1-2-.21(1).

3.

The Board is the entity responsible for licensing practitioners of medicine in Georgia and establishing standards for the medical profession. The Board is authorized to sanction a licensed practitioner who has violated the statutes and rules governing the profession as set forth in the Medical Practice Act of the State of Georgia, O.C.G.A. §43- 34-1 to 48; the rules of the Georgia Composite Medical Board, Ga. R. & Regs 360-1 to 40; and the general statutory provisions regarding disciplinary actions by professional licensing boards, found at O.C.G.A. §43-1-19. The sanctions available to the Board are set forth in O.C.G.A. § 43-1-19(d), and include refusal to grant or renew a license, public or private reprimand, suspension for definite or indefinite periods with conditions, limitation or restriction of license, revocation, fines, and fees. as follows:

4.

Georgia Code Section 43-34-8(a), which is the specific licensing and disciplinary statute for the medical profession, states, in pertinent part, that the Board has the authority to discipline a licensee, upon a finding that the licensee has:

* * *

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a profession licensed. . . under this chapter or in any document connected therewith;

* * *

(3) Been convicted of a felony in the courts of this state or any other state, territory, country, or of the United States. As used in this paragraph, the term “conviction of a felony” shall include a conviction of an offense which if committed in this state would be deemed a felony under either state or federal law, without regard to its designation elsewhere. As used in this paragraph, the term “conviction” shall include a finding or verdict of guilt, a plea of guilty resulting in first offender status, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon;

(4) Committed a crime involving moral turpitude, without regard to conviction; the conviction of a crime involving moral turpitude shall be evidence of the commission of such crime. As used in this paragraph, the term “conviction” shall have the meaning prescribed in paragraph (3) of this subsection. For the purpose of this chapter, a conviction or plea of guilty or of nolo contendere to a charge or indictment by either federal or state government for income tax evasion shall not be considered a crime involving moral turpitude;

* * * *

(7) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which need not have resulted in actual injury to any person. As used in this paragraph, the term “unprofessional conduct” shall include any departure from, or failure to conform to, the minimum standards of acceptable and prevailing medical practice and shall also include, but not be limited to, the prescribing or use of drugs, treatment, or diagnostic procedures which are detrimental to the patient as determined by the minimum standards of acceptable and prevailing medical practice or by rule of the board;

* * * *

(10) Violated or attempted to violate a law, rule, or regulation of this state, any other state, the board, the United States, or any other lawful authority without regard to whether the violation is criminally punishable, when such law, rule, or regulation relates to or in part regulates the practice of medicine, when the licensee or applicant knows or should know that such action violates such law, rule, or regulation; or violated a lawful order of the board previously entered by the board in a disciplinary hearing;

O.C.G.A. § 43-34-8(a)(2), (3), (4), (7), (10).

5.

In this case, the Board proved by a preponderance of the evidence that Respondent pleaded guilty to and was convicted of the felony offense of False Statements Relating to Health Care Matters. Further, the uncontradicted evidence established that according to the Plea Agreement, Respondent had knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of medicine, or in a document connected therewith, in stating that he had examined a patient and found certain medical equipment was necessary, when in fact he had not examined the patient beyond a brief telephone conversation, and that such statements involved health care benefits, items, and service involving the Medicare Program. The above-

referenced representations constitute unprofessional conduct under O.C.G.A. § 43-34-8(a)(7).

6.

In considering the sanctions authorized as a result of the above-referenced conviction, O.C.G.A. § 43-1-19(q) offers the following guidance:

(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or any other provision of law, and unless a felony or crime involving moral turpitude directly relates to the occupation for which the license is sought or held, no professional licensing board shall refuse to grant a license to an applicant therefor or shall revoke the license of an individual licensed by that board due solely or in part to such applicant's or licensee's:

- (A) Conviction of any felony or any crime involving moral turpitude, whether it occurred in the courts of this state or any other state, territory, or country or in the courts of the United States;
- (B) Arrest, charge, and sentence for the commission of such offense;
- (C) Sentence for such offense pursuant to Article 3 of Chapter 8 of Title 42 or another state's first offender laws;
- (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section 16-13-2;
- (E) Sentence for such offense as a result of a plea of nolo contendere; or
- (F) Adjudication of guilt or sentence was otherwise withheld or not entered.

(2) In determining if a felony or crime involving moral turpitude directly relates to the occupation for which the license is sought or held, the professional licensing board shall consider:

- (A) The nature and seriousness of such felony or crime involving moral turpitude and the relationship of such felony or crime involving moral turpitude to the occupation for which the license is sought or held;
- (B) The age of the individual at the time such felony or crime involving moral turpitude was committed;
- (C) The length of time elapsed since such felony or crime involving moral turpitude was committed;
- (D) All circumstances relative to such felony or crime involving moral turpitude,

including, but not limited to, mitigating circumstances or social conditions surrounding the commission of such felony or crime involving moral turpitude; and

- (E) Evidence of rehabilitation and present fitness to perform the duties of the occupation for which the license is sought or held.

O.C.G.A. § 43-1-19(q).

7.

Respondent's arrest, charge, and sentence for False Statements Relating to Health Care Matters directly relates to his occupation as specified by O.C.G.A. § 43-1-19(q)(1). The activity involves the Respondent's false and misleading representations involving medical necessity of equipment provided by Medicare, which is directly related to the practice of medicine.

8.

As set forth above, Respondent did not appear, and there is no evidence in mitigation in the record. Moreover, the criminal conduct directly relates to the Respondent's profession and the nature of the felony is serious. At the time of the offense, Respondent had been practicing medicine for approximately eighteen years, and there is no evidence presented regarding rehabilitation or present fitness to engage in his occupation. *See* O.C.G.A. § 43-1-19(q)(2) (A), (B), (C), (D), (E).

III. SANCTION

Georgia Code section 43-34-8(b) authorizes the Board to discipline a licensee upon a finding that the licensee has engaged in unprofessional conduct or has violated the Board's rules. When the Board finds that a physician should be disciplined, it may, among other things, suspend for a definite or indefinite period. Finally, the Board may impose a fine or fee of up to \$3,000.00 for each violation of law, rule or regulation, or in a reasonable amount to reimburse the Board for administrative costs. O.C.G.A. § 43-34-8(b)(1)(G), (H). Respondent's conduct constitutes sufficient grounds to sanction Respondent's medical license. Moreover, in the

absence of any evidence of mitigation, the Court concludes that an indefinite suspension, with conditions set forth below, is the appropriate sanction given the nature and severity of the violation and its direct relationship with the practice of medicine.

IV. DECISION

For the above and foregoing reasons, Respondent's medical license is hereby **INDEFINITELY SUSPENDED**. Respondent shall be eligible to petition to lift said suspension upon showing the Board documentation of completion of the following terms:

- 1) Fine. The Respondent shall submit to the Board a fine in the amount of three thousand dollars (\$3,000.00), payable by cashier's check or money order, to the Georgia Composite Medical Board, 2 Peachtree St. NW, 6th Floor, Atlanta, GA, 30303, attn.: Executive Director.
- 2) Continuing Medical Education. The Respondent shall complete ten (10) hours of continuing education approved by the Board in the area of ethics. Such coursework and hours shall be in addition to, and shall NOT be used to satisfy, continuing education hours for license renewal purposes.

SO ORDERED, this 22nd day of July, 2022.



Kimberly W. Schroer
Administrative Law Judge



NOTICE OF INITIAL DECISION

Attached is the Initial Decision of the administrative law judge. A party who disagrees with the Initial Decision may file a motion with the administrative law judge and/or an application for agency review.

Filing a Motion with the Administrative Law Judge

A party who wishes to file a motion to vacate a default, a motion for reconsideration, or a motion for rehearing must do so within 10 days of the entry of the Initial Decision. Ga. Comp. R. & Regs. 616-1-2-.28, -.30(4). All motions must be made in writing and filed with the judge's assistant, with copies served simultaneously upon all parties of record. Ga. Comp. R. & Regs. 616-1-2-.04, -.11, -.16. The judge's assistant is Devin Hamilton - 404-657-3337; Email: devinh@osah.ga.gov; Fax: 404-657-3337; 225 Peachtree Street NE, Suite 400, South Tower, Atlanta, Georgia 30303.

Filing an Application for Agency Review

A party who seeks review by the referring agency must file an application for agency review within 30 days after service of the Initial Decision. O.C.G.A. §§ 50-13-17(a), -41. **In nearly all cases, agency review is a prerequisite for judicial review.** O.C.G.A. § 50-13-19(a).

The application for agency review must be filed with: . Copies of the application for agency review must be served upon all parties of record and filed simultaneously with the OSAH Chief Clerk at 225 Peachtree Street NE, Suite 400, South Tower, Atlanta, Georgia 30303. If a timely application for agency review is not filed and the referring agency does not review the Initial Decision on its own motion, the Initial Decision will become the Final Decision of the referring agency by operation of law. O.C.G.A. §§ 50-13-17(a), -41.