

BEFORE THE  
OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

David A. Steenblock, D.O.  
26381 Crown Valley Parkway, #130  
Mission Viejo, CA 92691

Osteopathic Physician's & Surgeon's License  
No. 20A4160

Respondent

Case No. 00-2011-3259

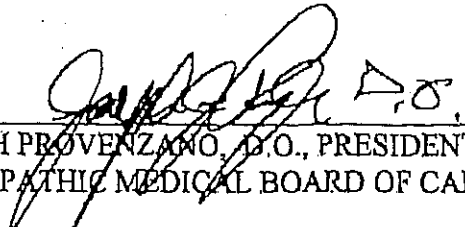
OAH No. 2011120869

NOTICE OF DECISION AND ORDER

No action having been taken on the attached Proposed Decision, pursuant to  
Government Code section 11517(c)(2) it is hereby deemed adopted.

Pursuant to Government Code section 11519, this Decision shall become  
effective on 3-27-2013.

Date: 2-25-2013

  
\_\_\_\_\_  
JOSEPH PROVENZANO, D.O., PRESIDENT  
OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

BEFORE THE  
OSTEOPATHIC MEDICAL BOARD  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

DAVID A. STEENBLOCK, D.O.

Osteopathic Physician and Surgeon License  
No. 20A4160

Respondent.

Case No. 00-2011-3259

OAH No. 2011120869

**PROPOSED DECISION**

Administrative Law Judge Vallera J. Johnson, State of California, Office of Administrative Hearings, heard this matter in San Diego, California, on October 21, 2012.

Peggi Bradford Tarwater, Deputy Attorney General, represented Complainant David J. Krpan, Executive Director of the Osteopathic Medical Board.

Carlos F. Negrete, Esq., represented Respondent David A. Steenblock, D.O.

The matter was submitted on October 21, 2012.

**FACTUAL FINDINGS**

1. Donald J. Krpan, D.O. (Complainant), filed Petition to Revoke Probation, dated November 9, 2011, Case 00-2011-3259, against David A. Steenblock, D.O. (Respondent), in his official capacity as the Executive Director of the Osteopathic Medical Board (Board), Department of Consumer Affairs. In the Petition to Revoke Probation, the Executive Officer alleged that Respondent did not comply with certain terms and conditions of probation.

Respondent filed a timely Notice of Defense, requesting a hearing in this matter.

2. On August 3, 1977, the Board issued Osteopathic Physician and Surgeon License No. 20A4160 (License) to Respondent. At all times relevant herein, said License was in full force and effect and will expire on January 31, 2013, unless renewed.

3. In a disciplinary action entitled, *In the Matter of Accusation Against David Steenblock, D.O.*, Case No. 00-2005-001536 (Decision), effective October 5, 2009, the Board issued a Decision in which Respondent's License was revoked; the revocation was stayed, and Respondent's License was placed on probation for five years with terms and conditions.

4. At all times after the effective date of Respondent's probation, Condition 2 stated:

**"2. Quarterly reports**

Respondent shall submit to the Board quarterly declaration under penalty of perjury on the Quarterly Report of Compliance Form, OMB 10 (5/97) which is hereby incorporated by reference, stating whether there has been compliance with all the conditions of probation."

Respondent has not complied with Condition 2. Other than a quarterly report, dated January 7, 2010, Respondent has filed no others.

- A. On August 13, 2009, the Board served Respondent with a copy of the Board's Decision. The cover letter informed Respondent of his responsibility to comply with the terms and conditions of probation and stated when the quarterly reports were due. Enclosed with the letter was a copy of quarterly report forms.
- B. Respondent submitted a quarterly report, dated January 7, 2010, for the quarter ending December 2009, signed under penalty of perjury, stating that he was not in compliance with the terms and conditions of probation. Respondent's explanation for not being in compliance was that he had filed a petition for writ of administrative mandate to San Francisco County Superior Court challenging the Board's Decision and seeking a stay of the Decision. The Superior Court did not and has not stayed the Board's Decision.
- C. On December 22, 2010, the Board sent a letter to Respondent informing him that he was in violation of certain terms of his probation, including that he had not filed quarterly reports after the January 7, 2010 quarterly report.
- D. On February 21, 2011, Carlos F. Negrete, Esq., Respondent's attorney, sent a letter to the Board stating that Respondent had filed a Petition for Writ of Mandate in the Superior Court of San Francisco on November 4, 2009 (San Francisco appeal) challenging and seeking to set aside the Board's Decision

and that the San Francisco appeal was pending and awaiting trial; that the Board and Respondent entered into a Settlement Agreement and Release (Agreement) whereby the Board agreed that no disciplinary proceeding would be brought against Respondent unless it was first reviewed by an osteopathic physician member of the Board and by means of a special procedure; based upon the San Francisco appeal and Agreement, Respondent justifiably believed the Board's Decision would be stayed by the San Francisco Superior Court; and requested clarification.

- E. On February 23, 2011, the Board sent Respondent's attorney a letter, informing him that the issue regarding the Agreement had been determined in the Board's Decision, that the Board's Decision had not been stayed by the San Francisco Superior Court, and that Respondent was required comply with the terms of his probation.
- F. During the hearing, it was established that the San Francisco Superior Court has issued no decision on the San Francisco appeal.
- G. During the hearing, it was established that, with the exception of the quarterly report, dated January 7, 2009, Respondent has filed no quarterly reports.

5. At all times after the effective date of Respondent's probation, Condition 5 stated:

**"5. Cost Recovery**

The respondent is hereby ordered to reimburse the Board the amount of \$25,166.60 within 180 days of the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

Respondent has not complied with Condition 5. He has not reimbursed the Board \$25,166.60 for its investigative and prosecution costs within 180 days of the effective date of the Decision or at any time.

6. At all times after the effective date of Respondent's probation, Condition 8 stated:

**"8. Medical Record Keeping Course**

Within 60 calendar days of the effective date of this decision, respondent shall enroll in a medical record keeping, at respondent's expense, approved in

advance by the Board. Failure to successfully complete the course during the first 6 months of probation is in violation of probation.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board be accepted towards the fulfillment of this condition if the course could have been approved by the Board had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later."

Respondent has not complied with Condition 8. He has not enrolled in a Board-approved medical recordkeeping course within 60 days of the effective date of the Board's Decision or at any time.

7. At all times after the effective date of Respondent's probation, Condition 9 stated:

**"9. Medical ethics course**

Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course in medical ethics which respondent shall successfully complete during the first year of probation."

Respondent has not complied with Condition 9. He has not enrolled in a Board-approved medical ethics course within 60 days of the effective date of the Board's Decision or at any time.

8. In response to the facts of this case, Respondent provided a number of reasons for his failure to comply with the terms and conditions of probation. He testified that he relied on advice from his attorney; and, he believed that by complying that he would be admitting guilt to the findings in the Decision and that his appeal would be adversely impacted by his compliance with the terms and conditions of probation. Albeit implausible, his testimony regarding his belief was credible. Repeatedly he testified that he did not understand the legal process, and it was clear from his overall testimony that he did not. Further, he truly believes that he did nothing wrong in the underlying case. Nevertheless, he testified that if he was given another chance, he would be willing comply with the prior terms of probation or any modified terms of probation.

9. Despite Respondent's failure to comply, there is no evidence that any member of the public has been harmed.

## LEGAL CONCLUSIONS

### *Purpose of Administrative Disciplinary Proceedings*

1. A board's authority to take disciplinary action against a licensee derives from the state's inherent power to regulate the use of property to preserve public health, morals, comfort, order and safety. Administrative proceedings to revoke, suspend, or impose discipline on a professional license are noncriminal and nonpenal; they are not intended to punish the licensee, but rather to protect the public." (*Sulla v. Board of Registered Nursing* (2012) 205 Cal.App.4th 1195, 1206.)

### *Burden of Proof*

2. The standard of proof required to revoke a professional license is clear and convincing evidence. While a board is required to prove the allegations in an accusation by clear and convincing evidence, it is only required to prove the allegations in a petition to revoke probation by a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1441-1442.)

### *Analysis*

3. Complainant seeks termination of probation and revocation of Respondent's license because he failed to comply with the terms of probation. The evidence established several violations of probation by a preponderance of the evidence. There is no evidence that Respondent has harmed the public since he was placed on probation or that permitting Respondent to remain on probation would result in harm to the public. Respondent offered relevant evidence that explained his violations of probation, which constituted evidence in defense and mitigation. Respondent expressed his intent to comply with the terms and conditions of probation if probation is extended.

Complainant's request to terminate probation should be granted, but only upon a showing that permitting Respondent to remain on probation would be contrary to the public interest. In this case, revocation of his license would be punitive and the outright revocation of Respondent's license is not necessary to protect the public. It is more appropriate to extend the period of probation on modified terms and conditions.

## ORDER

Osteopathic Physician and Surgeon License No. 20A4160 issued to David A. Steenblock, D.O. is revoked. However, revocation is stayed, and Respondent is placed on probation for five years from the effective date of this Decision on the following terms and conditions.

### **1. Obey all laws**

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

### **2. Quarterly reports**

Respondent shall submit to the Board quarterly declaration, under penalty of perjury, on the Quarterly Report of Compliance Form, OMB 10 (5/97) which is hereby incorporated by reference, stating whether there has been compliance with all conditions of probation.

### **3. Probation surveillance program**

Respondent shall comply with the Board's probation surveillance program. At all times, Respondent shall keep the Board informed of his addresses of business and residence, which shall serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Board. Under no circumstances shall a post office box serve as an address of record.

Respondent shall immediately inform the Board, in writing, of any travel to any areas outside the jurisdiction of California that lasts, or is contemplated to last, more than 30 days.

### **4. Interviews with medical consultants**

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

### **5. Cost recovery**

Within **60** days from the effective date of this Decision, Respondent shall reimburse the Board \$25,166.60 for its costs of investigative and prosecution. Failure to reimburse the Board's costs of investigation and prosecution shall constitute a violation of this probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

### **6. License surrender**

Following the effective date of this Decision, if Respondent ceases practice due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, he may voluntarily tender his License to the Board. The Board reserves the right to evaluate the 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.

**7. Tolling for out-of-state practice or residence, or in-state non-practice (inactive license)**

If Respondent leaves the State of California to reside or to practice outside the State of California or should Respondent stop practicing medicine in California, he shall notify the Board or its designee, in writing, within 10 days of the dates of departure and return or the dates of non-practice within the State of California.

Non-practice is defined as any period of time exceeding 30 days during which Respondent does not engage in any activities defined in Section 2051 and/or 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Board (or its designee) in or out of the State of California 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.

**8. Medical recordkeeping course**

Within 30 days of the effective date of this Decision, Respondent shall enroll in a course in medical recordkeeping, approved in advance by the Board and shall be at Respondent's expense. Failure to successfully complete the course during the first six months of probation is a violation of probation.

Respondent shall submit a certificate of successful completion to the Board not later than 15 calendar days after successful completion of the course or not later than 15 calendar days after the effective date of this Decision, whichever is later.

**9. Medical ethics course**

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board for its prior approval a course in medical ethics which Respondent shall successfully complete during the first year of probation.

**10. Actual Suspension**


Respondent shall be suspended from the practice of medicine for 60 days, beginning the effective date of this Decision.



**11. Probation violation/completion of probation**

If Respondent violates probation in any respect, the Board may revoke probation and carry out the disciplinary order that was stayed after giving Respondent notice and the opportunity to be heard. If an Accusation and/or Petition to Revoke Probation is filed against Respondent during the probationary period, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. Upon successful completion of probation, Respondent's License certificate will be fully restored.

DATED: November 3, 2012

  
VALLERA J. JOHNSON  
Administrative Law Judge  
Office of Administrative Hearings