STATE OF RHODE ISLAND
PROVIDENCE, SC.

RHODE ISLAND :
DEPARTMENT OF HEALTH :
:
IN RE: LONG V. MAI, D.A. :

ADMINISTRATIVE DECISION

This matter came on for hearing before a Hearing Officer for the Division of Health Services Regulation within the Department of Health (hereinafter "State") upon the denial of an acupuncture license application submitted by Long V. Mai. The hearing was conducted on October 3, 2007. Dr. Mai appeared pro se and indicated on the record that he was desirous of proceeding to hearing without the assistance of counsel.

TRAVEL AND FINDINGS OF FACT

The Defendant had been licensed as an acupuncturist in Rhode Island prior to the year 2000. In December 2000, the Defendant's license to practice acupuncture and oriental medicine was revoked due to findings of negligence in the practice and fraud in the procurement of money from patients for the provision of unwarranted services and/or sale of unwarranted and, in some cases, harmful drugs and oriental herbs and medications. In that case, it was determined that the Defendant had purposely lied to patients and charged them great sums of money for the purchase of products and services that he promised would cure terminally ill patients. The Defendant appealed the Administrative Decision through the Rhode Island state courts wherein the decision was upheld. Thereafter, the Defendant left the State of Rhode Island.

Following the Rhode Island revocation, the State of Virginia took reciprocal action to revoke the Defendant's license in that state.

In June 2007, the Respondent sought reinstatement of his license in Rhode Island (State's 11). As part of the process, the Respondent filled out an application form wherein he stated that he did not hold a current license in any other state (State's 12, response to #9). The State produced evidence at the hearing that demonstrated that at the time of his application for reinstatement in Rhode Island, the Respondent was, in fact, licensed in the State of Florida. The State learned about Respondent's Florida license when the Florida Board contacted Rhode Island seeking information about a billing complaint. Upon further investigation, the State noted that on his application for licensure in Florida, the Respondent indicated in writing that he had not been the subject of prior discipline in any state (State's 9). When confronted with this evidence, the Respondent admitted that he had lied to the Florida Board because he feared that Florida would not give him a license unless he was first reinstated in Rhode Island. He further stated that he has been engaged in the practice of acupuncture and oriental medicine in Florida since 2005, whereas his letter requesting reinstatement in Rhode Island indicates that he has not practiced since the date of his revocation in 2000 (State's 11). He also admitted that he made that statement in order to deceive the State into believing that he had not been working. The Respondent's deception was discovered only upon the receipt of a patient complaint by the Florida Board, thus prompting their inquiry in Rhode Island.

In his own defense, the Respondent testified and submitted a package of documents including testimonials from patients (Respondent's A). The first testimonial was from a patient who stated that he was seen in the Respondent's Washington office

for problems relating to the health of his mother, a domiciliary of Vietnam. The testimonial sets forth the premise that the Respondent had provided his mother with medicine that cured her State 3 liver cancer.[1] The Respondent also showed the Hearing Officer a video presentation wherein at least one other patient from the State of Washington extolled the Respondent's skills.[2] When asked whether he had ever possessed a license to practice acupuncture in the State of Washington, he replied that he had been denied licensure and was told that he would need to be reinstated in Rhode Island before Washington would consider his application there. The Respondent admitted that he practiced acupuncture and oriental medicine in the State of Washington without being licensed to do so.

The Respondent stated that he "erred" in lying on his applications and that he used poor judgment in practicing without a license, but that he returned to Rhode Island in an effort to "be in compliance". (Respondent's A)[3]

CONCLUSION

The Respondent's license in Rhode Island was "permanently revoked" in 2000 (State's 4,5,6,7). Notwithstanding the use of the term "permanent", some courts have interpreted that word to mean for a term not less then 5 years in cases involving licensee discipline. Therefore, the Respondent's application may be viewed as properly before this Hearing Officer. However, it is also established that in the case of revocation, the

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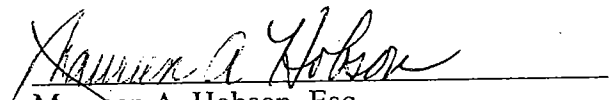
[1] This is the same conduct for which the Respondent was disciplined in Rhode Island in the year 2000.
[2] At the conclusion of the video, the Hearing Officer asked Respondent to enter it into the record. The Respondent said he could not do so since he had not obtained the patients' permission to release their confidential information. However, the existence of the video can be used for the limited purpose of establishing that Respondent was practicing in the State of Washington without a valid license.
[3] The Respondent practiced acupuncture in the State of Florida for nearly 2 full years prior to applying for reinstatement in Rhode Island. Though not specifically set forth on the record, a fair inference may be drawn that the Respondent was prompted to return to Rhode Island when the Florida Board began its investigation into the complaint filed there.

reinstatement of the licensee is within the sound discretion of the trier of fact. In this case, it is clear that the Respondent has not been deterred from practice nor has he been rehabilitated as a result of his license revocation in 2000. Rather, he continues to engage in the very conduct for which his license was revoked. Further, he has added fraud in the procurement of a license and practicing without a license to the activities that dictate against his reinstatement.

ORDER

The application of Long V. Mai for reinstatement of his license to practice acupuncture and oriental medicine in Rhode Island is hereby **DENIED.**

Entered this 12TH day of October, 2007.



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If you are aggrieved by this final agency order, you may appeal this final order to the Rhode Island Superior Court within thirty (30) days from the date of mailing of this notice of final decision pursuant to the provisions for judicial review established by the Rhode Island Administrative Procedures Act, specifically, R.I. Gen. Laws § 42-35-15.

CERTIFICATION

I hereby certify that I have mailed a copy of the within Administrative Decision to Long V. Mai, D.A., 8724 Nathan's Cove Court, Jacksonville, FL 32256 on this 12th day of October 2007.

Carole Albsworth