



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2016 MAY 13 P 2: 36

HEARINGS OFFICE

HAWAII MEDICAL BOARD  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the	)	MED-2014-110-L
License to Practice	)	
Medicine of	)	
	)	
DANIEL C. SUSOTT, M.D.,	)	BOARD'S FINAL ORDER
	)	
Respondent.	)	
_____	)	

Board's Final Order

On January 25, 2016, the Hearings Officer in the above-referenced matter submitted his Findings of Fact, Conclusions of Law, and Recommended Order. Copies of the Recommended Order were transmitted to the Hawaii Medical Board (Board) and the parties involved. The parties were given an opportunity to file written exceptions. No written exceptions were filed, and oral arguments were not requested.

Upon review of the record of this proceeding, the Board adopts the Hearings Officer's Findings of Fact and Conclusions of Law to find and conclude that Respondent Daniel C. Susott, M.D. (Respondent), violated Hawaii Revised Statutes (HRS) §§

453-8(a)(6), 453-8(a)(7), 453-8(a)(8), 453-8(a)(11), 453-8(a)(14), and 436B-19(17).

For the violations found, the Board orders that Respondent's license to practice medicine in the State of Hawaii be revoked and that Respondent immediately submit all indicia of licensure to practice medicine in the State of Hawaii to the Executive Officer of the Board. Indicia of licensure includes all certificates and pocket identification cards.

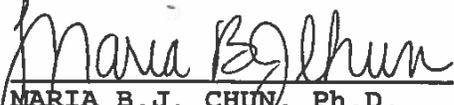
The Board further orders that Respondent pay a fine in the amount of \$1,000.00 for the violation of HRS § 453-(a)(14). Said fine shall be paid within sixty (60) days of the Board's Final Order. Respondent shall send a certified check or money order for the amount of his fine, made payable to the DCCA Compliance Resolution Fund, to the Regulated Industries Complaints Office, 235 South Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813 within the specified time. Payment of this fine shall be a condition for licensing should Respondent ever apply in the future for a license to practice medicine in the State of Hawaii.

DATED: Honolulu, Hawaii, May 12, 2016.

  
\_\_\_\_\_  
NIRAJ S. DESAI, M.D.  
CHAIRPERSON

  
SHARON BINTLIFF, M.D.  
Vice-Chairperson

  
GERARD K. AKAKA, M.D.  
Physician

  
MARIA B.J. CHUN, Ph.D.  
Public Member

  
DARREN K. EGAMI, M.D.  
Physician

  
JONE GEIMER-FLANDERS, D.O.  
Osteopathic Physician

  
PETER D. HOLT, M.D.  
Physician

  
PETER HALFORD, M.D.  
Physician

  
THOMAS S. KOSASA, M.D.  
Physician

  
PALASI PULETASI  
Public Member

  
KAREN E. SEPT, D.O.  
Osteopathic Physician



HAWAII MEDICAL BOARD  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the ) MED-2014-110-L  
License to Practice )  
Medicine of )  
)  
DANIEL C. SUSOTT, M.D., ) BOARD'S PROPOSED FINAL ORDER  
)  
Respondent. )  
\_\_\_\_\_ )

Board's Proposed Final Order

On January 25, 2016, the Hearings Officer in the above-referenced matter submitted his Findings of Fact, Conclusions of Law, and Recommended Order. Copies of the Recommended Order were transmitted to the Hawaii Medical Board (Board) and the parties involved. The parties were given an opportunity to file written exceptions. No written exceptions were filed, and oral arguments were not requested.

Upon review of the record of this proceeding, the Board adopts the Hearings Officer's Findings of Fact and Conclusions of Law to find and conclude that Respondent Daniel C. Susott, M.D. (Respondent), violated Hawaii Revised Statutes (HRS) §§

453-8(a)(6), 453-8(a)(7), 453-8(a)(8), 453-8(a)(11), 453-8(a)(14), and 436B-19(17).

For the violations found, the Board proposes to order that Respondent's license to practice medicine in the State of Hawaii be revoked and that Respondent immediately submit all indicia of licensure to practice medicine in the State of Hawaii to the Executive Officer of the Board. Indicia of licensure includes all certificates and pocket identification cards.

The Board further proposes to order that Respondent pay a fine in the amount of \$1,000.00 for the violation of HRS § 453-(a)(14). Said fine shall be paid within sixty (60) days of the Board's Final Order. Respondent shall send a certified check or money order for the amount of his fine, made payable to the DCCA Compliance Resolution Fund, to the Regulated Industries Complaints Office, 235 South Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813 within the specified time. Payment of this fine shall be a condition for licensing should Respondent ever apply in the future for a license to practice medicine in the State of Hawaii.

DATED: Honolulu, Hawaii, March 14, 2016.

DANIEL C. SUSOTT, M.D.  
MED-2014-110-L  
Board's Proposed Final Order

*Ahlani K. Quiogur*

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AHLANI K. QUIOGUR  
Executive Officer

DANIEL C. SUSOTT, M.D.  
MED-2014-110-L  
Board's Proposed Final Order



*Ahlani K. Quiogue*

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Ahlani K. Quiogue  
Executive Officer  
Hawaii Medical Board



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2016 JAN 25 A 10: 50

HEARINGS OFFICE

HAWAII MEDICAL BOARD  
OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the	)	MED-2014-110-L
License to Practice Medicine of	)	
DANIEL C. SUSOTT, M.D.	)	FINDINGS OF FACT, CONCLUSIONS OF
	)	LAW, AND RECOMMENDED ORDER
Respondent.	)	Senior Hearings Officer:
	)	David H. Karlen
	)	
	)	

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND RECOMMENDED ORDER**

**I. INTRODUCTION**

On November 13, 2015, in MED-2014-110-L, the Department of Commerce and Consumer Affairs, through its Regulated Industries Complaints Office (hereafter "Petitioner"), filed a petition for disciplinary actions against the license to practice medicine of Respondent Daniel C. Susott, M.D. ("Respondent").

A Notice of Hearing and Pre-Hearing Conference was filed on November 23, 2015, and served on Respondent on November 25, 2015.

A prehearing conference was held on December 11, 2015. Petitioner was represented by Marc T. Nakamura, Esq. Respondent was present and represented himself. At that conference, the hearing date was confirmed to be December 23, 2015.

The hearing did commence on December 23, 2015. Petitioner was again represented by Marc T. Nakamura, Esq. Respondent was present and again represented himself.

Petitioner's Exhibits 1 through 5 were admitted into evidence without objection. Respondent did not submit any proposed exhibits.

Petitioner relied upon its exhibits and presented no witnesses. Respondent testified on his own behalf.

At the conclusion of the hearing, the Hearings Officer proposed to continue the matter until January 13, 2016, in order to allow Respondent additional time to produce exhibits and/or witnesses on his behalf. The Petitioner had no objection to this continuance.

The matter reconvened on January 13, 2016. Respondent was represented by Marc T. Nakamura, Esq. Respondent did not appear. The Hearings Officer thereupon telephoned the Respondent and asked if he was going to appear. During this telephone conversation, Respondent stated that he would not appear and that he had no additional witnesses or exhibits.

The matter was thereupon taken under advisement. Having reviewed and considered the evidence and arguments presented at the hearing on December 23, 2015, together with the entire record of the proceeding, the Hearings Officer renders the following Findings of Fact, Conclusions of Law, and Recommended Order.

## **II. FINDINGS OF FACT**

To the extent that any Findings of Fact are more properly construed as Conclusions of Law, they shall be so construed.

1. Respondent was issued a license to practice medicine in the State of Hawaii under License Number MD3858. The license was initially issued on or about March 7, 1980. At the time of the first hearing herein, the license had an expiration date of January 31, 2016.
2. On October 18, 2013, the Medical Board of California revoked Respondent's California medical license by a written Decision issued that day in case number 03-2011-

214323; OAH No. 2013050823. The revocation of Respondent's California medical license became effective on November 15, 2013. Petitioner's Exhibit 5.

3. In its Decision, the Medical Board of California made the following factual findings and legal conclusions in support of revocation:

- a. Respondent engaged in unprofessional conduct;
- b. Respondent engaged in gross negligence;
- c. Respondent engaged in repeated negligent acts;
- d. Respondent knowingly signed any certificate which falsely represented a state of facts;
- e. Respondent failed to maintain accurate records;
- f. Respondent engaged in dishonesty;
- g. Respondent aided and abetted the unlicensed practice of medicine;
- h. Respondent failed to use a proper name; and
- i. Respondent disseminated false or misleading information.

4. Respondent failed to notify the Hawaii Medical Board, in writing, of the revocation of his California medical license within thirty (30) days after the issuance of the California decision on October 18, 2013.

5. Respondent notified the Hawaii Medical Board, in writing, of the revocation of his California medical license when he submitted his renewal application to the Hawaii Medical Board on January 29, 2014. Petitioner's Exhibit 2.

6. During the course of the hearing on December 23, 2015, Respondent expressed dissatisfaction with the manner in which the California proceedings took place as well as what he viewed as a political motivation behind the attempt to revoke his California license on account of his advocacy of the medical use of cannabis.

7. At the December 23, 2015 hearing, Respondent testified that he had retained an attorney in California in order to try and vacate the revocation decision of the California Medical Board. Respondent further testified that he believed his attorney in California would be imminently successful so that his California license would be restored that month.

8. During his telephone conference with the Hearings Officer on January 13, 2016, Respondent reported that there were still no results to report from California regarding the efforts to reinstate Respondent's California medical license.

9. Petitioner did not introduce any factual evidence concerning any actions of Respondent related to his conduct in Hawaii or his practice of medicine in Hawaii.

### **III. CONCLUSIONS OF LAW**

If any of the following Conclusions of Law shall be deemed to be a Finding of Fact, the Hearings Officer intends that every such Conclusion of Law shall be construed as a Finding of Fact.

Petitioner has charged Respondent with violating the following provisions of the Hawaii Revised Statutes ("HRS"):

**HRS §453-8(a)(6):** Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license.

**HRS §453-8(a)(7):** Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery.

**HRS §453-8(a)(8):** Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary.

**HRS §453-8(a)(11):** Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege for reasons as provided in this section.

**HRS §453-8(a)(14):** Failure to report to the board, in writing, any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days after the disciplinary decision is issued.

**HRS §436B-19(17):** Violating this chapter, the applicable licensing laws, or any rule or order of the licensing authority.

The basic facts were undisputed, and the existence of violations of the above statutory provisions was similarly not disputed.

Respondent is not entitled in this proceeding to challenge the appropriateness of the California Medical Board revocation decision. Any such challenge must be brought in California. Respondent has done so but has not yet achieved any positive results. Until and unless the California Medical Board revises or revokes its decision in Respondent's case, the decision of the California Medical Board is final insofar as the Respondent and the Medical Board are concerned and cannot be collaterally attacked in this proceeding.

#### **IV. RECOMMENDED DECISION**

For the reasons set forth above and herein, the Hearings Officer recommends the following:

1. That the Medical Board find that Respondent violated HRS §§453-8(a)(6), 453-8(a)(7), 453-8(a)(8), 453-8(a)(11), and 436B-19(17). These are serious violations based upon the decision of the California Medical Board and the factual basis for that decision as set forth in Petitioner's Exhibit 5. The fact that Petitioner has not raised any complaints regarding the treatment of patients in Hawaii does not mitigate the seriousness of the events in California. The Hearings Officer therefore recommends that Respondent's license to practice medicine in the State of Hawaii be revoked and that Respondent be ordered to immediately submit all indicia of licensure to practice medicine in the State of Hawaii to the Executive Officer of the Medical Board.

2. That the Medical Board find that Respondent violated HRS §453-8(a)(14)(failure to report to the Board, in writing, of any disciplinary decision issued against the licensee within thirty days of its issuance).

At the hearing, the Petitioner calculated the thirty day period set forth in this statute as beginning on the effective date of the California decision. The Hearings Officer disagrees with that interpretation, as the statute refers to the starting date as the date of “issuance.” Such an interpretation furthers the purpose behind the statute—prompt reporting to the Medical Board of the basic facts behind the disciplinary action provides more prompt information and protection to the public even though the disciplinary action itself may not take effect immediately.

Petitioner admitted at the hearing that a violation of this statute is not considered sufficiently serious, in and of itself, to warrant revocation of a license. At the hearing, Petitioner stated that the standard fine for violation of this statute is in the range of \$500.00 to \$1,000.00.

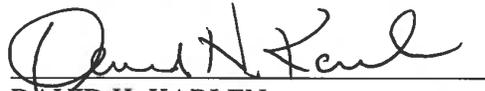
In this case, Respondent made the necessary report to the Medical Board 70 days after the reporting deadline. This is evidence that Respondent did not seek to hide or otherwise “cover up” the California disciplinary proceedings. However, being late by over two months speaks of negligent inattention to Respondent’s licensing obligations, a conclusion reinforced by Respondent’s testimony that neither he nor some other physicians he consulted were aware of the thirty day reporting requirement. For these reasons, the Hearings Officer recommends imposition of a \$1,000.00 fine in this case for the violation of HRS §543-8(a)(14).

3. The Hearings Officer further recommends that Respondent be ordered to pay the above-recommended fine within sixty (60) days of the Medical Board’s Final Order. Respondent shall send a certified check or money order for the amount of his fine, made

payable to the DCCA Compliance Resolution Fund, to the Regulated Industries Complaints Office, 235 South Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813 within the specified time. The Hearings Officer also recommends that payment of the fine shall be a condition for licensing should Respondent ever apply in the future for a license to practice medicine in the State of Hawaii.

4. Because the statutory violations warranting a recommendation that Respondent's license be revoked are based solely upon the disciplinary action in California, the Hearings Officer recommends that Respondent be allowed to reapply for a license to practice medicine in the State of Hawaii without any further delay otherwise imposed by statute or regulation on such an application if that California disciplinary action is completely vacated or reversed.

DATED: Honolulu, Hawaii, JAN 25 2016



DAVID H. KARLEN  
Senior Hearings Officer  
Department of Commerce and Consumer Affairs