

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Modification and Termination of Probation
of:

PAUL A. SLIDDERS,

Acupuncture License Number AC 12278

Petitioner.

Case No. PETP-1A-2010-145

OAH No. 2017060436

DECISION

This matter was heard on August 4, 2017, before a quorum of the Acupuncture Board (Board), Department of Consumer Affairs, State of California, in Sacramento, California. Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, presided.

John S. Gatschet, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Petitioner Paul A. Slidders represented himself.

Evidence was received, the record was closed, and the matter was submitted for decision on August 4, 2017.

FACTUAL FINDINGS

Licensure by the Board

1. On March 17, 2008, the Board issued Acupuncture License Number AC 12278 to petitioner Paul A. Slidders. The license expires January 31, 2018, unless renewed or revoked.

2. On April 3, 2012, the Executive Officer of the Board filed an Accusation seeking to discipline petitioner's license based on his convictions of two crimes that are substantially related to the qualifications, functions, or duties of an acupuncturist.

Specifically, petitioner has felony convictions for battery inflicting serious bodily injury and making criminal threats.

3. On October 24, 2013, petitioner signed a Stipulated Settlement and Disciplinary Order admitting the truth of each allegation in the Accusation and agreeing to his license being placed on probation for five years. The terms and conditions of probation included the requirements that petitioner participate in psychotherapy and pay the Board's costs of investigation and enforcement in the total amount of \$10,000. The Board issued a Decision and Order adopting the Stipulated Settlement and Disciplinary Order on December 16, 2013, which became effective on January 16, 2014.

Petition for Penalty Relief

4. On April 23, 2017, petitioner signed a Petition for Penalty Relief requesting modification and termination of probation, which the Board received on April 27, 2017. He explained that the terms and conditions of his probation require him to pay the entire amount of the Board's costs prior to termination of probation. Therefore, he is requesting that his probation be modified to waive or reduce that term and condition and that his probation be terminated.

5. Petitioner provided a narrative statement in support of his petition, in which he described the factual basis for his criminal convictions as follows:

I had recently graduated from the Acupuncture and Integrative Medicine College in Berkeley and was struggling to establish an Acupuncture practice or find a job. I was under immense financial stress and had literally no money to my name and increasing debts. Additionally, I had experienced a very stressful breakup with my girlfriend months before the incident as she decided to have an abortion.

Around that time I found a job in San Francisco but quickly my life began to unravel. Two of my friends who were involved in the incident knew that I was not feeling myself and thought a walk in nature might help. This is when the violent event occurred. For no apparent reason I went off the rails, striking my friends and making violent threats. During that event I had no ability to control my body, mind, or actions. Later, I was taken to Marin county [*sic*] jail and booked. After being released on bail, my parents and I decided it was best if I booked myself into a psychiatric hospital so I can get appropriate treatment and begin to recover. During that time a friend and colleague referred me to Dr. Singh. I have now been under Dr. Singh's care for almost seven years.

6. Petitioner wrote the following regarding his present financial condition:

In regards to the modification of probation I request that the financial penalty be waived or reduced due to financial hardship. At this time I have outstanding debts in the amount nearing \$200,000. Some of my debts are in collection, some are outstanding, such as lawyers bills, Dr. Singh's bill, and my student loans. I am at the point where I am seriously considering bankruptcy. The financial stress is constant even though I am doing my very best to live a healthy life being in service and integrity. The financial penalty with the CAB was set at \$10,000 and I have only been able to pay approximately 25% of that amount at this time. I have on numerous times not been able to maintain the payment plan I set up with the board because of priority expenses such as rent, food and gas. I am enclosing my bank financials with my petition which will show that I am in dire need of help.

Additional Evidence at Hearing

7. Petitioner spoke openly and candidly about his criminal conduct that led to his two felony convictions. He explained that three different mental health professionals told him he was suffering a manic episode which resulted in psychosis when he threatened and attacked his two friends in Muir Woods.

8. Khenu Singh, M.D., began treating petitioner on August 6, 2010, shortly after his manic episode. Dr. Singh continued treating petitioner through June 23, 2017. Petitioner has not suffered any subsequent mental health crises, and has formed a strong support network of family, close friends, and physicians to ensure he does not have another crisis and to provide support if he does.

9. Petitioner explained he is grateful he was allowed to continue practicing acupuncture despite his two criminal convictions. However, he believes having his license on probation is affecting his career. For example, he would like to teach continuing education courses on acupuncture, but cannot under a probationary license. Additionally, he believes he has lost prospective patients who have researched the status of his license on the Board's website. He has been unable to develop a reliable network of referrals because he has to explain his prior criminal conduct each time he meets someone new.

10. Petitioner reiterated that he remains in financial dire straits, and stated he has not been able to make some of his monthly cost payments to the Board. In addition to owing the Board money, he owes Dr. Singh \$6,025. He estimated his monthly expenses to be \$3,500 to \$4,000, but his gross monthly income is only \$2,000 to \$2,500. His family makes up the difference.

Summary

11. Petitioner admitted the stress of his then-financial situation and the termination of a romantic relationship caused him to suffer a manic episode and physically threaten and attack two of his friends in Muir Woods. His conduct resulted in two felony convictions. Since then, he has undergone extensive psychotherapy, not suffered any subsequent manic episodes, and put together a strong support network. But his financial situation has not improved and is the reason he is seeking modification of probation. He did not produce sufficient evidence of how he intends to manage his stressful financial condition to provide the Board assurances he is not likely to suffer another manic episode. When all the evidence is considered, petitioner did not provide sufficient evidence of his ability to perform the duties of an acupuncturist in a manner consistent with public health, safety, and welfare on an unrestricted basis. Therefore, his petition should be denied.

LEGAL CONCLUSIONS

Applicable Burden/Standard of Proof

1. Petitioner has the burden of proving his entitlement to modification and termination of probation, and he must do so by clear and convincing evidence. (*In re Menna* (1995) 11 Cal.4th 975, 986.) “The courts have defined clear and convincing evidence as evidence which is so clear as to leave no substantial doubt and as sufficiently strong to command the unhesitating assent of every reasonable mind. [Citations.] It has been said that a preponderance calls for probability, while clear and convincing proof demands a *high probability* [citations].” (*In re Terry D.* (1978) 83 Cal.App.3d 890, 899; italics original.)

Applicable Law

2. Business and Professions Code section 4960.5, subdivision (a)(2) and (3), allow a person whose license has been placed on probation for three years or longer to petition the Board to modify and terminate probation after two years have elapsed since the effective date of the decision placing the license on probation. Government Code section 11522 requires the Board to give notice of the filing of a petition to modify and terminate probation to the Attorney General’s Office, and further provides that the Attorney General and the person seeking modification and termination may present oral or written argument to the Board.

3. Business and Professions Code section 4928.1 provides:

Protection of the public shall be the highest priority for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Conclusion

4. Petitioner did not establish by clear and convincing evidence that he is entitled to modification or termination of probation for the reasons explained in Factual Finding 11. Therefore, his petition for modification and termination of probation is denied.

ORDER

The Petition for Modification and Termination of Probation of Paul A. Slidders is DENIED.

This Decision shall become effective on November 15, 2017.

IT IS SO ORDERED this 16th day of October, 2017.



AMY MATECKI, M.D., M.Sc., L.Ac.
President
Acupuncture Board